

AMERICAN STATE PAPERS.

CLAIMS.

1st CONGRESS.]

No. 1.

[2d SESSION.

INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 5, 1790.

WAR OFFICE, *January 25, 1790.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Ruth Roberts, reports:

THAT the petitioner represents her late husband to have been a captain of militia from the State of Connecticut, and employed in service about New York in the year 1776; that during the said service he was attacked with sickness, the effects of which ever afterwards prevented his pursuing his customary occupation of a farmer; that the great length of his disorder compelled him to expend the principal part of his property in the ineffectual pursuit of remedies; that he applied in vain to the Superior Court of Connecticut to be placed on the invalid list of the United States; that he had prepared a petition to be presented to Congress at their present session, praying for relief, but that during the month of December last he came to his death by falling down a flight of stairs, which fall was occasioned by his infirmities.

The petitioner, therefore, being poor, and having a large family, prays that she may receive such pension as Congress may judge her late husband to have merited, to commence with the time of his disability, and to continue until his death; or in some other way to grant her relief.

In addition to this summary statement of the purport of the petition, it appears by the papers that the petitioner's husband arrived with his company at or near New York about the 14th day of August, 1776, and that he was discharged on account of his sickness on the 6th day of September of the same year; having served for the period of twenty-three days.

The following general observations are submitted as applicable to this and all similar petitions:

1st. That Congress, by a liberal and honorable conduct, by their resolves of the 7th of June, 1785, transferred to the several States the right of judging who of their citizens respectively were entitled to be placed on the list of invalid pensioners of the United States, and of ascertaining the sum that each should receive.

2d. That, by thus transferring the mode of obtaining compensation for disabilities received in public service to the doors of the claimants, and stationing the same there for several years, every facility has been offered which could be required of national justice or national humanity.

3d. If, under the circumstances of local information, all the supposable degrees of local influence, and the provision being made at the expense of the United States, claimants have failed of success, it is most reasonable to conclude that their claims have not been well founded; especially when it shall be considered that claimants, unsuccessful in their first application, generally appealed to the State Legislatures.

4th. To suppose that the Congress of the United States, removed at a distance, and from the nature of things acting under more partial information, could equitably reverse the judgments made in the respective States, is to suppose that they possess a greater portion of intuition than has been assigned the human race.

If any decision made in the States should be reversed or modified by Congress, unless for powerful and conspicuous reasons, such an inundation of applications would follow as to constrain a new inspection or examination of all the invalids throughout the United States. Although such a measure might be favorable to some, it would probably occasion disgust and applications from a greater number; as it would be difficult, if not impossible, to devise a mode for a new inspection which would be entirely free from exceptions and the causes of future complaints.

The Secretary of War, therefore, on mature consideration, humbly conceives that it is the wisest conduct to adhere to the decisions made in the respective States with respect to the proper subjects of invalid pensions, and that it is also important to adhere generally to the limitation for applications of this nature established by the resolve of Congress of June 11, 1788. It is possible that cases may be brought forward, accompanied by such strong and decisive circumstances, as to require a remedy; but these must be few, and will depend on their own particular merits.

That it appears by the papers that the case of Captain Roberts, the petitioner's husband, was examined in the year 1787 by the judges of the Superior Court of the State of Connecticut, who, by law, were empowered to decide on claims of invalids, and who did not think proper to give the petitioner's husband a certificate for a pension.

That the opinion of the said court on the case is strongly implied by a certificate signed by one of the judges thereof, which states that "the judges of the Superior Court have given certificates to disabled officers and soldiers in but few instances except such as have been wounded in service, and in no cases but such wherein it appeared that the *disability was the immediate effect* of some exertion or suffering in the line of their duty."

That an examination made by so respectable a tribunal ought to be decisive, unless new evidence should be adduced to support the claim, which does not appear to be the case.

That, although the situation of the petitioner may entitle her to the assistance of all humane persons, yet the circumstances of the case do not appear to be such as to constrain the United States to depart from the principles, practice, and limitations established by the late Congress on the subject of invalids. The following resolve is therefore reported:

Resolved, That the petition of Ruth Roberts, praying that her late husband might be considered as a pensioner of the United States from the year 1776 to December, 1789, cannot be granted.

All which is humbly submitted to the House of Representatives of the United States.

H. KNOX, *Secretary of War*.

WAR OFFICE, *February 5, 1790.*

The SECRETARY OF WAR, to whom was referred the petition of Ezra Smith, reports:

That the petitioner states that he was a lieutenant at the battle of Monmouth, the 28th of June, 1778; that his health was extremely injured by the heat of the said day; that he was left sick near the said place; and that he was compelled to expend a considerable sum for the support of himself and son, and for physicians and medicines.

That his sickness debilitated him in such a manner as to incapacitate him from obtaining his livelihood by labor; that on application to the judges of the Superior Court of Connecticut he obtained a certificate to entitle him to receive as an invalid pensioner of the United States, the sum of six dollars and two-thirds of a dollar per month; but that he had not been able to avail himself of said certificate, as he had received, and had been constrained to sell, the commutation of his half pay, and his poverty has hitherto continued to prevent his replacing the same, agreeably to the resolve of Congress of June 7, 1785. That he humbly conceives the said judges ought to have allowed him an invalid pension, equal to half of his monthly pay as a lieutenant.

That he has not yet received any sums on the certificate given him by the judges aforesaid. He prays that he may be entitled to receive thirteen dollars and one-third of a dollar per month, being half the monthly pay to which he was entitled as a lieutenant, to commence from the 1st of January, 1781, the time at which his pay as an officer ceased; or that he may receive the compensation certified by the judges aforesaid, upon his discounting such proportion of the said pension as shall be found equal in value to sixteen hundred dollars in final settlements, the sum he received for the commutation of his half-pay; or that he may be placed on an establishment of invalids in garrison for life, entitled to pay and rations from the aforesaid 1st of January, 1781.

On this petition it may be remarked, that the judges of the Superior Court of Connecticut were the best qualified to decide the amount of the pension the petitioner should receive as an invalid, and therefore no alteration ought to be made in that respect.

But the petitioner and several other meritorious officers labor under a real grievance which appears to require a remedy. The grievance alluded to has arisen from a rigid construction of the following clause of the resolve of Congress of the 7th of June, 1785, respecting invalids: "*Provided*, That no officer who has accepted his commutation of half-pay, shall be entered on the list of invalids unless he shall first have returned his commutation.

It may be necessary to premise, that all officers who were deranged after the 31st of December, 1780, as well as those who continued to the end of the war, were entitled to half-pay for life, or the commutation thereof. It has, therefore, occurred, in many cases, that officers entitled by *their sufferings* to be placed on the invalid list, have been at the same time entitled by *their services* to the commutation of half pay, and it has happened that several of this class have not been allowed the amount of half their monthly pay as invalids; and yet have been constrained by the construction aforesaid, either to leave the whole of their commutation in the hands of the public, or if received to return it.

It is evident, by the aforesaid resolve of the 7th of June, 1785, that invalid officers entitled to receive a pension equal to half their monthly pay, were to return their commutation, and *no more*. Hence it is fair to infer that those officers to whom a less allowance than half-pay was made, ought to have been obliged to return only a just proportion of the commutation of the pension received as invalids.

It may perhaps be objected to the claims of this class of officers, that it was optional whether they received the commutation, in a gross certified sum, or an annual pension as invalids.

But it is to be observed, that previously to the said resolve of the 7th of June, 1785, many officers, entitled by their wounds and disabilities to be placed on the list of invalids, and at the same time entitled by the length of their services, to the commutation of half pay for life, received the certificates of the latter, under the belief that they were also to enjoy the provision for the former. Acting under this persuasion, the distresses of themselves and families compelled them to sell the commutation certificates, at the current low price. Although the actual money arising from the said sale was inconsiderable, the poverty of some prevented their replacing the commutation, or availing themselves of the provision made by the aforesaid resolves of Congress of June 7, 1785, and of this depressed number happens to be the petitioner.

The Secretary of War is strongly impressed with the conviction, that the aforesaid class of officers have a well-founded claim on the justice of their country to be reimbursed such proportion of their commutation certificates as would place them on an equality with other pensioners who receive the full amount of their half pay. He, therefore, with great deference, submits to the House of Representatives the propriety of Congress passing an act authorizing the commissioner of army accounts to ascertain the said difference to the officers entitled thereto, or their legal representatives, and to issue his certificates for the amount.

Such an act would afford relief to the petitioner, and several others, whose complaints upon this subject will probably be made to Congress.

All of which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary for the Department of War*.

OFFICERS NOT ALLOWED PAY FOR THE TIME EMPLOYED IN THE FINAL SETTLEMENT OF THEIR ACCOUNTS—PUBLIC STOCK NOT RECEIVABLE IN PAYMENT OF BALANCES IN THE HANDS OF AGENTS—MEDICAL ASSISTANCE TO AMERICAN PRISONERS ON LONG ISLAND—INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 8, 1790.

TREASURY DEPARTMENT, *March 8, 1790.*

The SECRETARY OF THE TREASURY, on the petitions of William Mumford and Samuel Armstrong, and of the weighers, measurers, and gaugers of the district of Portsmouth and Falmouth, in the State of Massachusetts, referred to him by an order of the House of Representatives of the 26th of February, past, respectfully reports:

That the claim of William Mumford is of a nature not warranted by usage in like cases, and leading to inconvenient consequences. The duty he performed was that of his principal, as necessary towards his own exoneration after his service and salary had expired. It would be an inconvenient general rule that an officer, in winding up his affairs with the treasury, is to receive a compensation for the time spent in it; and if it would not be a proper one with regard to a principal, it consequently could not be so with regard to his agent. Here appear no peculiar circumstances; and the principal has been settled with. That as to the petition of Samuel Armstrong, the circumstances he mentioned respecting his forage account must stand on general principles. Being too late in his application for settlement, he is, of course, precluded by the existing regulations. Nor can this circumstance be a consideration (in which light it seems chiefly to have been mentioned) for the offset or discount prayed for. The propriety of this must depend on what would be proper as a general rule. And it is not admissible as a general rule that the stock or debt of a nation should be received in discharge of balances in the hands of public agents. There has been a provision for admitting a discount in certain cases by a resolution of Congress of the 3d of June, 1784. If the petitioner's case should fall within the intent of that provision, there will be no need of a special interposition in his favor. If it should not, such interposition would not be, in the opinion of the Secretary, advisable. The balance due from the petitioner is for moneys put into his hands in the year 1783, for the pay and subsistence of the regiment of which he was paymaster; the persons to whom it was due not having been found. That the object of the petition from the weighers, measurers, and gaugers of the district of Portland and Falmouth will be included in the report which the Secretary will, as speedily as possible, lay before the House in conformity to their order, respecting the operation of the present impost and tonnage laws.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

WAR OFFICE, *March 5, 1790.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of John Ely, reports:

That the petitioner was the colonel of a State regiment raised by Connecticut, in which capacity he was taken prisoner on the 9th day of December, 1777, and remained as such until the 25th of December, 1780.

That the petitioner was admitted to his parole on Long Island, and having been a physician previously to the war he humanely attended as such the sick American officers who were prisoners; and faithfully and almost exclusively performed that service until he was exchanged in December, 1780.

That, in performing the said service, he encountered great fatigues and troubles, and incurred considerable expenses for horse hire and other objects in visiting the officers, whose residences were dispersed and at considerable distances from each other.

That for his services and assistance, so rendered, there is reason to believe that he received no private compensation, and it is well ascertained that he has not been compensated by the public.

That he petitioned the late Congress for compensation and obtained a favorable report, but from some circumstances it appears that it was never acted upon.

On this statement of facts, which are supported by the evidence of the papers herewith submitted, the Secretary of War observes—

1st. That it is clearly proved that Colonel John Ely did faithfully perform the service of a physician to a numerous body of American officers, who were prisoners on Long Island.

2d. That the said service was entirely an extra service, and altogether unconnected with the petitioner's duty as a colonel.

3d. That had not the petitioner humanely performed the said extra service, either application for assistance must have been made to some physician within the British lines at a great expense to the United States; or an American physician must have been sent within the British lines solely for this purpose; or the sick officers must have suffered for want of advice and assistance.

4th. That application for compensation was made in due time and a favorable report obtained, but which was never acted upon, owing, as the Secretary of War is informed by respectable authority, to the want of nine States being represented in Congress.

That, in consideration of the above recited circumstances, and giving due weight to the general principles of sound policy, which dictate in cases of evident and considerable services having been voluntarily performed for the public, which otherwise would have suffered injury, that the party who performed the same should be compensated in proportion to the value of the service, and perhaps the trouble in performing it, the Secretary of War is of opinion that Colonel Ely ought to be compensated for performing the office of physician in the manner and under the circumstances before recited.

That it might be proper to ascertain the rate of his compensation by the rate of the pay of a regimental surgeon during the said period, which was sixty dollars per month.

That the commissioner of army accounts should be authorized by law to settle with the said Colonel Ely at the rate of sixty dollars per month, from the 9th day of December, 1777, to the 25th day of December, 1780; and that the said commissioners should issue a certificate for the amount, in the same manner as certificates were issued for the arrearages due to the late army of the United States.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Jeremiah Ryan, reports:

That the petitioner states, that he served in the army of the United States from the year 1775 to the year 1780, when he was discharged from the hospital laboring under a debility of nerves, which has continued ever since in such a degree as utterly to incapacitate him from obtaining a livelihood by his labor.

That he would have applied for relief at an earlier period, but his situation prevented his having information of the existing provision for invalids, until it was too late to apply to the State in which he resided; he therefore prays that, notwithstanding his late application, he may be placed on the invalid list of the United States, with such provision as may be judged proper.

On this petition the Secretary of War observes—

1st. That the evidences produced of the petitioner's faithful services are explicit and honorable.

2d. That it is proved by evidence that his present extreme disability arose while in the army, and probably in consequence of the hardships he sustained.

3d. That his said disabilities have continued upon him without intermission, and in such degree as entirely to incapacitate him from labor.

4th. That it does not appear he ever applied for relief to the judges of Connecticut; but there is respectable evidence tending to prove to the contrary.

5th. That there is evidence produced, strongly tending to prove that the retired situation of the petitioner prevented his knowing of the existing provision for the invalids.

The Secretary of War is of opinion that the evidence produced would have fully entitled the petitioner to be placed on the invalid list, had the same been brought forward previously to the expiration of the time limited by the resolve of Congress of the 11th of June, 1788, for producing claims of this nature.

On this point the Secretary of War begs leave, with great deference, to observe,

That while it is highly proper the said resolve should be rigidly adhered to by the several States and the public servants, yet that it ought not to preclude Congress from making such special exceptions thereto, as, in their judgments, particular cases may require.

That while Congress reserve to themselves the right of judging on the merits of each case, it is not probable there will be any considerable addition to the list of invalids, as the proofs required will be difficult to be produced.

That, although the consideration of the petitions of invalids will occupy some portion of the time of Congress, yet were the power of judging of claims of this nature, delegated at this period, and under present circumstances, to persons in the respective States, it is exceedingly probable that the expense attending the measure would be greatly enhanced, besides the disgust which might arise in consequence of impositions.

That it is most probable that Congress will not have much trouble on this subject after their next session, as it may reasonably be expected that all persons inclining to petition will bring them forward by that time.

That should Congress be pleased to grant the prayers of several invalids, they might be comprehended in one general act to be passed towards the close of each session; which would save the perplexity arising from a multiplicity of acts of the same nature.

That if Congress should be pleased to grant the prayer of Jeremiah Ryan, the present petitioner, it might be proper to allow him a pension at the rate of five dollars per month, to commence the 9th of July, 1780, being the time of his discharge from the army.

That the said pension to be paid from the 4th of March, 1789, agreeably to the law passed the 29th of September, 1789, and that the arrearages due previously to the said 4th of March, 1789, to be paid in the same manner which the arrearages due to the other invalids previously to the said period shall be paid.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 3.

[2d SESSION.]

INTEREST ON CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 19, 1790.

TREASURY DEPARTMENT, *March 18, 1790.*

The SECRETARY OF THE TREASURY, on the memorial of the late officers of the South Carolina line on continental establishment, respectfully reports:

That it is true, as suggested in substance in the said memorial, that Congress, in consideration of payments in specie which had been made to other parts of the army, did recommend to the State of South Carolina to pay to the officers of its line a sum equal to six months pay; which recommendation is contained in a resolution of the 10th of October, 1786, in the words following: *Resolved*, That it be, and it is hereby, recommended to the State of South Carolina to pay to the officers of their late line and hospital department, the said sum of \$10,276¹²/₁₀₀ mentioned to be due to them by the said report, the said sum to be paid to the said officers agreeably to a return of the late paymaster general, and for which the said State shall have credit on the specie proportion of the last requisition."

That warrants or draughts on the commissioner of loans for the said State, payable to the bearer, were accordingly issued by the late Board of Treasury to the respective officers for the sums to them severally due in conformity to the said resolution; which draughts, for want of money in the hands of the commissioner, were not paid.

That arrangements were afterwards taken by the said Board towards the payment of those draughts, if retained, and consequently no further provision is now necessary, except with regard to the claim of interest.

That the claim of interest may have reference to the time preceding the issuing of the draughts, and the time subsequent to it. That, with respect to the first period, had the accounts of the said officers been adjusted in the ordinary mode, and certificates granted, they would have borne interest from the time the pay became due; but

Congress, in directing the payment of the principal only, as was the case by the resolution recited, appear to have decided against the allowance of that which had previously accrued. That, with respect to the period subsequent to the issuing of the draughts, it would be contrary to the practice of the Treasury to allow interest, which has not been usual upon warrants or draughts, issued for payments of moneys due.

That an innovation upon a practice, which has governed in a great extent and variety of cases, would, of course, be productive of much inconvenience and embarrassment, and, in many instances, would have an improper operation, as the negotiations of such draughts between individuals have been without a view to interest.

That similar draughts, excluding interest, were issued to the lines of Virginia and North Carolina, and though attended with a delay of payment, were afterwards taken up without allowance of interest; as is also daily the case in respect to warrants issued by the late Board of Treasury, for which an appropriation was made during the last session.

That, from the foregoing facts and considerations, the Secretary is of opinion that the claim of the memorialists to interest ought not to be admitted. The past situation of public affairs has unavoidably given too much occasion for complaints of individual hardship; but, in most instances, they are rather to be regretted than redressed. Confusion would ensue from a departure from former decisions and established usages, where the cases are not very peculiar and very clearly distinguishable as such.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

1st CONGRESS.]

No. 4.

[2d SESSION.]

APPLICATION OF THE OFFICERS OF THE REGIMENT OF ARTILLERY ARTIFICERS
FOR HALF-PAY, OR THE COMMUTATION THEREOF.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 19, 1790.

WAR OFFICE, *March 19, 1790.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Alexander Power and others, late officers of the regiment of artillery artificers, reports:

That the claim of the late officers of the regiment of artillery artificers for half-pay, or the commutation thereof, granted to the officers of the late army, was several times submitted to the United States in Congress assembled, and received their decision on the 19th day of October, 1785.

That the principles whereon the said decision was founded will fully appear by the reports of the late commissioner of army accounts and a committee of Congress, both of which are herewith submitted. (Nos. 1 and 2.)

That the said decision being against the claim of the said officers of artillery artificers, the same was referred to the commissioners of army accounts to take order.

That the said decision appears to the Secretary of War to have been conformable to the several previous resolves of Congress relative to the object of half-pay, and that the same ought to be final.

That the petitioners again brought forward their claim to Congress in the year 1788, which was referred to the subscriber, whose report is herewith submitted, (No. 3,) but which was never acted upon.

The Secretary of War embraces this occasion respectfully to observe, that it is of high importance to adhere generally to the decisions of the late Congress on the subject of claims against the United States.

That he conceives no judgment of this nature should be reversed but on the most ample proof that the same was formed on a misrepresentation of facts; but that, while such judgments are reversed with great caution, constructive judgments made on previous resolves of Congress ought to remain fully established.

That if a contrary conduct should be admitted, the accounts hitherto settled by the United States, and by the respective States, with individuals, would be liable to revision and unlimited confusion.

That when the abilities, integrity, and liberality of the former Congresses be considered, it may be justly presumed that individuals experienced the fairest investigation of their claims, and that upright decisions were formed thereon.

That, with respect to the present petition, the Secretary of War is unable to perceive any new facts or circumstances of such a nature as to require a repeal of the former decision of Congress on the subject; he therefore reports the following resolve:

Resolved, That the petition of the late officers of the artillery artificers for the commutation of the half-pay cannot be granted, the United States in Congress assembled having decided against the same on the 19th of October, 1785.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

[Papers referred to in the foregoing report.]

No. 1.

NEW YORK, *August 9, 1785.*

The commissioner for settling the army accounts, to whom was referred the petition of John Jordan and Thomas Willey, late captains in the Pennsylvania corps of artillery artificers, begs leave to report:

That there are no existing resolutions of Congress, in his opinion, on which the petitioners can found a claim of the commutation in lieu of half-pay for life; and, therefore, if such a grant should be made, it will be necessary to adopt a new principle respecting the corps of artificers.

The principles on which Captains Jordan and Willey appear to found their claim of commutation in lieu of half-pay, are, 1st, That Congress have considered them in sundry resolutions, as on the establishment of the army; and as part of the quota of the several States. 2d. That on the 11th of February, 1778, they had granted them the same pay, clothing, and benefits as the artillery; and on the 9th of February, 1780, were directed to be provided for, deemed and treated in the same manner as the several State lines. 3d. That on the 3d of October, 1780, Congress directed the artificers to be formed into one corps, and promised to the supernumeraries half-pay for seven years, and on the 21st of the same month extended the half-pay for life to the reduced officers and those who continued in service to the end of the war. As the former resolutions included the corps in express terms, it may be supposed it was intended to be comprehended in the latter. 4th. That they had been obliged to receive for their services the same kind of certificates with the military officers; being subjected, therefore, to their disadvantages, it is no more than reasonable that they should also have their privileges.

It may be necessary to premise, that it appears to be the intention of Congress to retain the allowance of commutation as much as possible; and, of course, where the clear intention of an act is not to be discovered in its words, the grant is not to be made by implication.

The commissioner, therefore, having founded his opinion on the following reasons, humbly submits the same to the consideration of Congress:

1st. That the assigning these corps as part of the State's quota was to determine the numbers of men who were to be furnished by each State, and to give their officers and men the advantages of the lines deserved immediately from the States, but cannot be construed to extend to any demands the military officers, as such, may have upon the Union.

2d. That the resolution of February 11, 1778, and February 9, 1780, ought not to extend to this allowance, because the words "benefits or emoluments" appear reasonably to include the usual pay, subsistence, forage, and servants of an officer only; more especially as at the time of passing these acts the grant of half-pay for life was not in existence, and as the last-mentioned resolution has included the exceptions that had heretofore been made respecting the artificers, which undoubtedly refers to the special exception in the resolve of November 16, 1779.

3d. That the resolve of October 3, 1780, granting the seven years' half-pay to the officers then deranged, having never been put into execution in respect to this corps, there can arise no question whether the officers are entitled to its benefits; but that the one of the 21st of October should be construed as comprehending the corps is very doubtful, as Congress, in their first promise of half-pay, confined it to military officers only, and have granted commissions to the artificers for the sole purpose of rank in their own corps, and to hold courts-martial; and Congress have also expressly, in a resolution recommending this corps to their States, excepted the allowance of half-pay; and when Colonel Baldwin's corps was reduced in 1781, the officers retired without a promise of it, which would have been necessary to have entitled even the military to such an allowance. It therefore appears to be the uniform intention of Congress, through their several acts before and after October, 1780, to exclude this corps from the half-pay; which furnishes sufficient foundation, with the nature of this promise, to conclude that the general term of the officers in the act of October 21, 1780, comprehends the military only.

4th. Whether it may be proper and reasonable to grant the commutation to these officers, in consideration of their being paid in the securities of the United States, or whether it will be just, in consideration that they are not entitled to the commutation, to pay them for the years 1782 and 1783, in specie, are questions that the commissioner cannot determine.

Resolves of Congress referred to in the foregoing.

- A.—Resolve of February 11 and June 26, 1784.
- B.—Resolve of February 11, 1784.
- C.—Resolve of May 15, 1788.
- D.—Resolve of February 11, 1788, and November 12, 1799.
- E.—Resolve of November 11, 1779.
- F.—Resolve of March 29, 1781.

No. 2.

Copy of a report of a committee of Congress of the 19th October, 1785, sent to the commissioner of army accounts to take order, it respecting the claims of Captains Jordan and Willey, and other officers of the corps of artificers, for commutation, of which committee Mr. Ellery was chairman.

The committee, consisting of Mr. ELLERY, Mr. GARDNER, and Mr. WILLIAMSON, to whom were referred the memorials of several officers of the late corps of artificers, praying that, in settling their accounts, they be allowed the commutation of half-pay, as founded on justice, or on the acts of Congress, beg leave to report:

That the claims of those officers do not appear to be founded on the usage of nations, nor in equity; they believe that half-pay has been allowed to military officers, partly to a regard to the hardships and personal dangers to which they were exposed, but chiefly from a consideration that, by a long continuance in the military line, they may have lost those habits by which they had formerly been enabled to provide for themselves or families, which reasons do not apply so fully to the officers of artificers.

Your committee are of opinion that their sole rule on the occasion must be the acts of Congress respecting the officers in the corps of artificers, and they do not find any resolution by which they are entitled to half-pay or commutation, on the contrary, they seem to be expressly cut off from any such claim.

The original act of Congress of May 15, 1778, by which half-pay was promised for seven years, confines the same to *military officers*, which certainly did not include the artificers; and your committee are of opinion that in all subsequent acts, which relate to the half-pay, the same denomination of officers must be intended, unless where other officers are expressly mentioned. Surely the act of October 2, 1780, promising half-pay to officers who might be deranged, never could be construed as giving pay to any class of officers who had no claim to half-pay, had they continued in service to the end of the war. If any doubts could have arisen whether the artificers were intended in the promise of half-pay, it must be fully removed by the act of the 16th November, 1779. It was then resolved that it be recommended to the several States to allow the corps of artificers established by Congress the 12th instant, all the benefits provided for officers in the line of their quotas of the continental battalions, *except the half-pay*. After this pointed and express exclusion of those officers from the allowance of half-pay, your committee are of opinion that nothing but a subsequent promise, equally pointed and express, can give them a title to the same. None such has been made; wherefore they submit the following resolve:

That the officers of the late corps of artificers in the service of the United States are not entitled to half-pay, or the commutation of half-pay.

The above is a true copy of an original referred to me by Congress to take order.

JOHN PIERCE, *Commissioner of army accounts.*

The Hon. the SECRETARY OF WAR.

No. 3.

WAR OFFICE, *July 30, 1788.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the memorial of Alexander Powers, attorney for a number of the officers of the late regiment of artillery artificers, claiming the commutation of the half-pay granted to the late officers of the army of the United States, reports:

That the claim of the late officers of the regiment of artillery artificers for half-pay, or a commutation thereof, has been several times submitted to Congress, and received their decision on the 19th October, 1785, as will more fully appear by the copy of a report of a committee of Congress, herewith submitted, which was referred to the commissioner of army accounts to take order.

That this decision respecting artificers was conformable to the several resolves of Congress respecting the objects of the half-pay.

But the memorialist assumes another principle, and asserts that he and his constituents were commissioned as artillery officers, disciplined as such, and performed duty accordingly; that their services and promises were equal to other officers of artillery, and their reward ought to be the same. As this is an appeal to the justice of the sovereign for the performance of a public contract, it may be necessary to state the following circumstances to show that it is unsupported by proper facts.

1st. The artificers were established as a part of the civil branch of the ordnance department, as will appear by the resolves of Congress of the 11th February, 1778. The rank which was given to the officers was necessary for the government of the workmen, and the relative pay with the officers of artillery was the rule of pay to the officers of artificers; but no stipulation was then made, or at any subsequent period, that the officers of the artificers should have the same rewards as the officers of the army.

2d. The establishment of the battalions which formed the corps of artillery from time to time will prove that the officers were not at any period considered as artillerists.

3d. The artificers did not, in any instance, act in the field as artillerists; they were mostly stationed at the arsenal at Carlisle, and employed in making carriages of various kinds for the use of the artillery in the field.

But there are two circumstances on which the memorialist and his constituents seem to place great confidence, viz: that their commissions expressed officers of "*artillery and artificers*," and that the surgeon of the regiment was allowed by the resolve of Congress of the 5th May, 1782, all the emoluments heretofore allowed to reduced regimental surgeons.

The manner of filling up the commissions must have been an error, as it was not authorized by any act of Congress.

It would appear by the resolve of the 3d May, 1782, that Congress considered the surgeon differently circumstanced from the officers of the artificers, as the corps had been previously reduced by the resolve of Congress of the 29th March, 1781, and all the officers, except two, *discharged without any specification of rewards.*

On the whole, your Secretary is of opinion that it would be proper, in order to prevent further applications, for Congress to pass a resolution on the subject, as the report of the committee of the 19th October, 1785, has not been published. On this principle the following resolve is submitted:

Resolved, That the claim of the late officers of the artillery artificers for the commutation of the half-pay granted to the late officers of the army of the United States cannot be allowed.

1st CONGRESS.]

No. 5.

[2d SESSION.

CLAIM OF THE BARON DE STEUBEN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 6, 1790.

TREASURY DEPARTMENT, *March 29, 1790.*

The SECRETARY OF THE TREASURY on the memorial of the Baron de Steuben, referred to him by an order of the House of Representatives, of the 25th of September last, respectfully reports:

That it appears from the papers accompanying the said memorial that the memorialist grounds his present claim on the United States upon a contract which he alleges to have been made with Congress, at York, in the year 1777, previous to his joining the American army.

That the transaction respecting this alleged contract is stated by the memorialist in the following words: "At the arrival of the Baron de Steuben, in the year 1777, he was received by Congress with marks of distinction, and, the day after his arrival, was waited on by a committee of Congress, composed of Dr. Witherspoon, Mr. Henry, of Maryland, and a third, whom at this time he cannot recollect. This committee demanded of the baron the conditions on which he was inclined to serve the United States, and if he had made any stipulations with the commissioners in France. He replied that he had made no agreement with them, nor was it his intention to accept of any rank or pay; that he wished to join the army as a volunteer, and to render such services as the commander-in-chief should think him capable of, adding that he had no other fortune than a revenue of about six hundred

guineas per annum, arising from places and posts of honor in Germany, which he had relinquished to come to this country; that, in consideration of this, he expected the United States would defray his necessary expenses while in their service; that if, unhappily, this country should not succeed in establishing their independence, or if he should not succeed in his endeavors for their service, in either of those cases he should consider the United States as free from any obligations towards him; but if, on the other hand, the United States should be happy enough to establish their freedom, and that he should be successful in his endeavors, in that case he should expect a full indemnification for the sacrifice he had made in coming over, and such marks of their generosity as the justice of the United States should dictate; that, if these terms were agreeable to Congress, he waited only their orders to join the army without delay. The committee were pleased to applaud the generosity of his propositions, in thus risking his fortune on that of the United States. The committee then left him, in order to make their report. The next day, Congress gave him an entertainment; after which, the President, Mr. Laurens, told him it was the desire of Congress that he should join the army immediately, which he did."

That the evidence adduced by him in support of it consists principally of these documents: a certificate from John Witherspoon, dated November 1, 1785, another from Elbridge Gerry, dated the 23d November, 1785, and a third from William Duer, without date, which several certificates are annexed to the statement above recited, and refer to it; also, two letters, one from Thomas McKean, dated 11th September, 1788, and another from Francis Lightfoot Lee, dated 25th September, in the same year; all which gentlemen were, at the time of the transaction, members of Congress, and three of them, viz: John Witherspoon, Francis Lightfoot Lee, and Thomas McKean, members of the committee mentioned in the said statement.

That the certificate from the said John Witherspoon is as follows:

PRINCETON, *November 1, 1785.*

I can recollect very distinctly that I was one of the committee who waited on Baron Steuben, on his arrival at Yorktown. He then could speak no English, and I believe I was the only member of the committee who could speak French, and was therefore obliged to be his interpreter to the other members, as well as to make the report to Congress. I am sensible that the above is a just and fair account of what passed on that occasion, and that we were all sensible that the baron's proposals were honorable and generous; and accordingly he was sent to General Washington, to receive his directions from him.

JOHN WITHERSPOON.

That the certificate from the said Elbridge Gerry is as follows:

NEW YORK, *November 23, 1785.*

The subscriber certifies that, having a seat in Congress at the time of the Baron de Steuben's arrival at Yorktown, he well remembers the facts herein stated, excepting what relates to the entertainment, which he doubts not was provided, and to the time of the baron's arrival at that place, which was in the beginning of the year 1778. The subscriber further certifies that, in questions agitated in Congress while he has been a member, respecting the allowance that should be made in pursuance of the within stipulation, he has considered the claim of the baron for a full indemnification and compensation as a claim of justice founded in the verbal contract of the parties.

E. GERRY.

That so much of the certificate of the said William Duer as relates to the fact is as follows:

"I was a member of Congress, and of the Board of War, when the Baron de Steuben arrived at Yorktown, and, though I was not present at that place when the baron had his first interview with the committee of Congress, being absent for a few days on a visit to Manheim, I perfectly remember that the account I received on my return to Yorktown, of the engagements entered into with the Baron Steuben by the honorable Congress, was perfectly similar to that which the Baron had stated."

That the material part of the letter of the said Thomas McKean is as follows:

"My memory enables me to say that you came to Yorktown, in the beginning of February, 1798; that the Congress being informed of it proceeded to name a committee (of which I was one) to wait upon you, learn the object of your visit, and to confer with you about entering into the service of the United States. They might have received further instructions, but I do not remember them. The committee (of which Doctor Witherspoon was chairman) called upon you the next morning at your lodgings, when a conversation was had between the doctor and you in French, which he interpreted to his brethren; part of what was thus communicated was, that you came to America with a view to tender your services to Congress; that you had made no stipulations with their commissioners in France, and was desirous to join the army as a volunteer, and to act there in such situation as the commander-in-chief should think you best qualified to fill; that you had held posts of honor and profit in the army of the King of Prussia, and afterwards (I think) of the Prince of Baden, which last you had relinquished in order to embark in the American cause, whose fortunes you were willing to partake; that if it failed you asked nothing but a support, according to your condition, while you served, and if it succeeded, and your services were approved, you would expect compensation for the sacrifices you had made, and the rewards commonly bestowed by a happy and grateful people on faithful and successful servants. This, sir, is the amount of what I recollect."

That the material part of the letter of the said Francis Lightfoot Lee is as follows:

"I was one of the committee appointed by Congress to wait upon you on your arrival at Yorktown, and understood French sufficiently to comprehend pretty fully all that you said to the committee.

"You informed them that you held considerable military rank in Europe, with posts and emoluments to the amount, I think, of five or six hundred guineas; that your great desire of being serviceable to the American cause had induced you to relinquish these, and offer your service to Congress; that you asked for neither rank nor pay, but expected your expenses in the army to be defrayed; and if America should be successful in her contest, you depended upon the justice and generosity of Congress to make you amends for your losses, and reward your services; if unfortunate, you were willing to share her fortune. I do not recollect any particular stipulation for reimbursing the specific sum of money; but it was, most certainly, well understood by the committee and Congress that, if our contest ended happily, and your services were approved, you would have a just claim to very liberal compensation for what you had sacrificed, and for your services.

Congress was very much pleased with your generous proposals when reported to them, as their consequent behaviour to you sufficiently verified."

That besides the foregoing document, there are two letters accompanying the said memorial, one from Horatio Gates, dated the 6th of December, 1785; the other from Richard Peters, dated the 30th of October, 1785; the former of whom was President, and the latter, member of the Board of War, at the time of the said transaction.

That the letter from the said Horatio Gates contains the following passage:

"When I was President of the Board of War, I very well remember your coming to Yorktown, and being most honorably received by Congress. A committee was immediately appointed to wait on you, and after they had conferred with you, you were invited to an elegant entertainment, and every mark of distinction was shown that could be shown to an officer of the first rank, into whose hands the inspection and discipline of the army was to be intrusted. With regard to pecuniary matters, I always understood they were to be settled upon the most liberal and generous plan, regard being had, not only to the high station you were to fill, but the sacrifice you had so generously made in coming to serve this country."

That the letter from the said Richard Peters contains the following passages:

SIR:

BELMONT, October 30, 1785.

In answer to your inquiries respecting my recollection of what passed at Yorktown relative to your affairs, at your arrival at that place, I will state such circumstances as I became acquainted with. They are chiefly such as I understood from members of Congress, some of whom were appointed to assist the Commissioners of the Board of War, and to explain and communicate such matters as were necessary for our information in the business of our Department.

You were received by Congress with every mark of distinction their situation admitted; and had more particular attention paid to you than I had known given to any foreigner. Much pleasure was expressed at the arrival of a person of your military knowledge and experience, at a time when the want of discipline in our army, and the economy it produces, were severely felt and regretted. You were waited upon by a committee appointed for that purpose, from some of whom, as well as the other members of Congress, I was informed that you had conducted yourself, as to the manner in which you agreed to enter our service, with much generosity and disinterestedness, having made no terms either as to rank or pay, leaving it to Congress, after experience of your talents and usefulness as a volunteer in our service, to fix such as your merits and exertions entitled you to. Your having made no contract with our ministers in France was mentioned as a circumstance which prevented embarrassments, as some terms had been made with gentlemen, which did not meet the approbation of Congress. You agreed to take the risk of our affairs; if we were unsuccessful, you would of consequence be deprived of any means of compensation for the sacrifices you had made of a handsome revenue in Europe, and must have suffered the loss of military reputation generally attendant on unsuccessful service. But I always understood and believed that in case our cause issued happily, and your conduct was approved, Congress deemed it a matter of obligation on the United States to indemnify you for the losses and expenses you had sustained, as well as to compensate you for services, in common with other officers. Precedents for such indemnification having been established even antecedent to experience in service, I never looked upon this as a claim upon the generosity, but as a demand upon the justice of this country. And although there was no written agreement to this purpose, there was clearly an implied contract. Your situation being fully stated, and your expectations explained, Congress desired you, through their President, to repair to camp and join the army; and the Board of War were directed to assist you for this purpose in such matters as were requested."

That the following documents have been supposed to militate against the admission of the contract relied upon by the memorialist:

First. A letter from him to Congress, dated Portsmouth, December 6, 1777, in the following terms:

HON. GENTLEMEN:

The honor of serving a respectable nation, engaged in the noble enterprise of defending its rights and liberty, is the only motive that brought me over to this continent. I ask neither riches nor titles; I am come here from the remotest end of Germany at my own expense, and have given up an honorable and lucrative rank; I have made no condition with your deputies in France, nor shall I make any with you. My only ambition is to serve you as a volunteer, to desire the confidence of your general-in-chief, and to follow him in all his operations, as I have done during seven campaigns with the King of Prussia; two-and-twenty years passed at such a school seem to give me a right of thinking myself in the number of experienced officers; and if I am possessor of some talents in the art of war, they should be much dearer to me if I could employ them in the service of a republic, such as I hope soon to see America. I should willingly purchase at my whole blood's expense the honor of seeing one day my name after those of the defenders of your liberty. Your gracious acceptance will be sufficient for me, and I ask no other favor than to be received among your officers. I dare hope you will agree with this my request, and that you will be so good as to send me your orders to Boston, where I shall expect them, and accordingly take convenient measures.

I have the honor to be, with respect, honorable gentlemen,

Your most obedient and very humble servant,

STEUBEN.

Secondly. A report on the files of Congress, of the committee which conferred with the memorialist at Yorktown, in these words: The Baron Steuben, who was a lieutenant general, and aid-de-camp to the King of Prussia, desires no rank; is willing to attend General Washington, and be subject to his orders; does not require or desire any command of a particular corps or division, but will serve occasionally as directed by the general; expects to be of use in planning encampments, &c. and promoting the discipline of the army. He heard before he left France of the dissatisfaction of the Americans with the promotion of foreign officers; therefore, makes no terms, nor will accept of any thing but with general approbation, and particularly that of General Washington.

Thirdly. A letter from the memorialist to the President of Congress, dated in December, 1782, and containing this passage:

My demands were these; to join the army as a volunteer, that I wished to be known by the commander-in-chief, and to leave it to the officers of the army if my capacity entitled me to hold a commission in it; that the general would employ me in such a branch, where he thought my services the most useful; that I was determined not to ask a favor or reward previous to having deserved it; that, however, I expected from the generosity of Congress, that, in imitation of all European Powers, they would defray my expenses, although a volunteer, according to the rank which I held in Europe, as well for myself as my aids and servants. That the Secretary, desirous of knowing what explanation of these documents the memorialist might have it in his power to give, did, on the 26th of January past, write to him a letter in the following words:

Among the documents which relate to the circumstances of your entrance into the service of the United States, are a letter from you to Congress, dated at Portsmouth, the 6th of December, 1777; a report of the committee which conferred with you at Yorktown; and a letter from you to the President of Congress, dated in December, 1782. Enclosed you will find copies of the two first, and an extract from the last. As these may seem to militate against your claims as founded in contract, I think it proper, before I report to the House of Representatives upon

your memorial, to afford you an opportunity of making such remarks upon those documents as may appear to you advisable.

That to this letter the Secretary received an answer, dated the 27th of the same month, of which the following is a translation:

SIR:

NEW YORK, *January 27, 1790.*

The letter which you did me the honor of addressing to me yesterday I have received; and am indebted to you for affording me an opportunity to elucidate the nature of my engagement with the United States.

From the information I received of the minister of France, that the preferment of foreigners to military employments had been a cause of discontent in the American army, I foresaw the necessity of pursuing measures different from those which had been adopted by my predecessors, in order to gain admission into your army.

Being sure of success in my enterprise as soon as the commander-in-chief and the army should be convinced of the advantages of my military arrangements, there was but one difficulty to surmount, and, from the complexion of the times, that difficulty was of the greatest magnitude. It depended upon obtaining such a post in the army as would enable me to make use of the knowledge of my profession, and to render it beneficial to the interest of the United States, without exciting the dissatisfaction and jealousy of the officers of your army. Any conditions proposed by me under these circumstances; tending to ensure me a recompense proportioned to my sacrifices and my services, would not have failed to render all negotiations abortive. But proposals to serve the United States as a volunteer, without rank or pay, could give no umbrage; and surely the proposition was a generous one.

Suppose, however, I had added that, for the honor of serving the United States, I had resigned in my native country honorable and lucrative employments; that I had come to America at my own expense, for the purpose of fighting her battles; and that, after she should have obtained her independency, I would decline all compensation for the services I had rendered. I would ask, sir, in what light would such a proposition have been received by so enlightened a body as the Congress of the United States. To me it appears that common sense would have declared the author of such a proposition to be either a lunatic or traitor. The former, for his coming from another part of the globe to serve a nation unknown to him; at the same time renouncing all his possessions for a cause to which he was an utter stranger, without having in view the gratification of ambition or the advancement of interest. The latter, as it might appear that his making such generous proposals to introduce himself into your army was with the most dangerous views, for which he probably received compensation from the enemy.

In either of these aspects, would the person making similar propositions have been admissible?

What measures, then, were necessary to be pursued to enable me to render those services to the United States which I had proposed to myself.

Having made these observations, sir, I entreat you to read my letter to Congress of January, 1778; badly translated as it is, it will be intelligible to you, as being one of those who are particularly informed of the critical situation of Congress and of the army at that period of the revolution.

You will easily discover, sir, that this letter was dictated by no other motive than to facilitate my reception into your army. The effect has answered my conjectures and my desires. If, however, I should be charged with having made use of illicit stratagems to gain admission into the service of the United States, I am sure I have obtained my pardon of the army, and I flatter myself of the citizens of this republic in general. In consequence of this letter, I was directed by a resolution of Congress to join the army; notwithstanding which, I judged it necessary to proceed first to Yorktown, as well to pay my respects to that august body who presided over a nation whom I was going to serve, as to learn the advantage or disadvantage which might result to me from so hazardous an enterprise. At my arrival the Congress did me the honor of appointing a committee to confer with me. If my first letter and the answer to it had been considered by them as a sufficient engagement, was there any occasion for this committee? Was there any necessity for this conference? All that passed in this conversation is sufficiently proved, and needs no further repetition.

If, on impartial examination of the subject, it should appear that my propositions to this committee were incompatible with my first letter to Congress, I confess that my judgment misleads me.

I represented to the gentlemen of that committee that I had not entered into any agreement with the American commissioners in France; that I would not insist upon making any at present, but would serve the United States as a volunteer, without rank or pay, on condition, notwithstanding, that my expenses in the army should be defrayed. I declared to them that I had no other fortune than a revenue of about six hundred louis-d'ors, arising from a post I held in my native country, which I was going to resign, to serve the United States being disposed to hazard the whole on the event; and that not until I had succeeded in my undertakings, and the United States had obtained their liberty by a satisfactory peace, would I ask an indemnification for my sacrifices and disbursements, and for such other marks of acknowledgment and generosity as in the justice of Congress should be deemed adequate to my services.

It appears that the committee reported to Congress I had made no conditions, and that I would not accept of any thing without general approbation, and particularly that of General Washington; although I do not allow that report to be exact in its literal sense, yet I do not find it so extraordinary, that expectations founded upon the event of a revolution of this nature should be represented as making no stipulations. Besides, it seems probable that the politics of the times made it necessary to give such a complexion to the report as would remove all jealousy.

Permit me, sir, to suggest here a question: Why was not this report (like all other reports of committees) entered upon the journals of Congress? I doubt whether it would have been contradicted by me; but at least it would have afforded me an opportunity of taking precautions. I assure you, sir, upon my honor, that this report was never brought into view previous to the year 1788, and that I did not see it until General Washington had the goodness to send me a copy of it. But be this as it will, no person, sir, is better informed than yourself how difficult it was at that time to introduce a foreigner into your army, even without any condition whatever.

With regard to my second letter of December, 1782, I confess I do not find in that any contradiction of the facts represented to have taken place in the conference at Yorktown.

In this letter I state that my desires were to join your army as a volunteer; that I did not ask any employ, until the approbation of the commander-in-chief, and the opinion of the army, should assign me a place in which I could be useful; that I asked no compensation until it was merited, provided, however, that my expenses for my own person as well as my suite were defrayed by the United States, agreeably to the usage of European Powers. I perceive that it may be asked, why I did not at that time insist upon my contract. I answer, that it was my wish never to mention it, as it appeared to me more honorable to the United States, and more flattering to myself, to receive a recompense dictated rather by generosity than by conditions, and that it was with reluctance, and through urgent circumstances upon that stipulation which was the basis of my engagement at Yorktown. But there is another reason why this contract was not mentioned in my letter immediately after the conclusion of the war.

The Congress were besieged by a crowd of foreign officers, who were as little satisfied as the national troops, which was a circumstance, that, probably, induced some respectable persons, then members of Congress, (in whom I place the greatest confidence,) to advise me to pass over in silence all that related to a former contract, and to rest my pretensions solely on the merit of my services, and the generosity of the United States. If my memory is faithful, yourself, sir, were of the number of those by whose opinion I was governed.

Once more I assure you, sir, that it is with regret I have recourse to that contract; but there remains no other resource to obtain that justice which is due to me.

These, sir, are all the explanations I can give you; if they are not sufficient, I submit to the consequences. All that I ask of you is, to accelerate the decision; no event can render my situation more unhappy—in fact, it is insupportable.

There must always remain one consolation; the truth of the facts stated in my memorial to Congress cannot be disputed without raising a doubt of the veracity of some of the most worthy and respectable characters in the United States, several of whom have held, or now hold, the highest places in the Government of their country.

Having no secretary, you will please, sir, to excuse my addressing you in a language which is more familiar to me than the English.

I have the honor to be, &c.

The Secretary further reports:

That on the 5th of May, 1778, the memorialist was appointed by Congress inspector general, with the rank and pay of major general, to which was afterwards added a further allowance for the extra service and expense incident to the office of inspector general.

That there appears on the journals of Congress a report of a committee of the 30th of December, 1782, stating, 1st. That the Baron de Steuben was in Europe possessed of respectable military rank, and different posts of honor and emolument, which he relinquished to come to America, and offer his services at a critical period of the war, and without any previous stipulations. 2d. That on his arrival, he actually engaged in the army in a very disinterested manner, and without compensations similar to those which had been made to several other foreign officers. 3d. That under singular difficulties and embarrassments in the department in which he had been employed, he has rendered very important and substantial services, by introducing into the army a regular formation and exact discipline, and by establishing a spirit of order and economy in the interior administration of the regiments; which, besides other advantages, have been productive of immense savings to the United States; that in the commands in which he had been employed, he has, upon all occasions, conducted himself like a brave and experienced officer. The committee are, therefore, of opinion, that the sacrifices and services of the Baron de Steuben justly entitle him to the distinguished notice of Congress, and to a generous compensation, whenever the situation of public affairs will admit. The committee further report, that the Baron de Steuben has considerable arrearages of pay due to him from these States, on a liquidated account, and that, having exhausted his resources, it is now indispensable that a sum of money should be paid him for his present support, and to enable him to take the field another campaign; and propose that the sum of two thousand four hundred dollars be paid to him for that purpose, and charged to his account aforesaid; whereupon, Congress resolved

That the foregoing proposal of the committee be referred to the Superintendent of Finance to take order. That on the 15th of April, 1784, Congress did also resolve

That the thanks of the United States, in Congress assembled, be given to Baron Steuben, for the great zeal and abilities he has discovered in the discharge of the several duties of his office; that a gold-hilted sword be presented to him as a mark of the high sense Congress entertain of his character and services; and that the Superintendent of Finance take order for procuring the same; that the proper officers proceed to the liquidation of moneys due from the United States to Major General Baron Steuben; that the Superintendent of Finance report to Congress his opinion of the most speedy and efficacious means of procuring and paying the same, either here or in Europe; that Baron Steuben be assured that Congress will adopt these or such others as shall appear most proper and effectual for doing him that justice which the peculiarity of his case authorizes.

That on the 27th of September, 1785, Congress did further resolve

That, in full consideration of the Baron de Steuben's having relinquished different posts of honor and emolument in Europe, and rendered most essential services to the United States, he be allowed, and paid out of the Treasury of the United States, the sum of seven thousand dollars, in addition to former grants; that the Baron de Steuben has received at different times sums equal to the amount of the pay and emoluments annexed to his station in the American army, to the commutation of a major general, and to the sum expressed in the resolution last recited.

A question arises whether the acceptance of these appointments, emoluments, and allowances, did not virtually supersede the antecedent contract relied on by the memorialist, admitting it to have existed. To which he answered, "that it cannot be presumed that an individual, in accepting from a Government the emoluments annexed to a station to which he is appointed for the service of that Government unsolicited by him, could renounce a prior and more beneficial contract.

"That the more natural presumption is, that Congress, by conferring those emoluments, meant to ascertain and limit the expenses they had stipulated to bear, and to support the respectability of the office they had thought proper to create.

"That, as a major general, he received the pay and other emoluments allowed to other major generals of the army; as inspector general, he received an extra allowance in consideration of extra trouble and expense.

"That the emoluments allowed to an officer in service can only be referred to the services he renders; they can have nothing to do with an indemnity for revenues relinquished, and can never be deemed, by mere inference and implication, to extinguish a contract founded on that principle.

"That with regard to the acceptance of the last grant, it was a matter of pure necessity proceeding from a situation absolutely indigent; and that the reverse of a disposition to acquiesce in it has been uniformly manifested on his part."

Having stated the foregoing particulars, which are the most material that have come under the observation of the Secretary, relating to the claim of the memorialist, he proceeds to remark:

That the statement made by the memorialist of what passed in the conference at Yorktown is authenticated by such strong, direct, and collateral evidence, as ought, in the opinion of the Secretary, to secure full credit to the existence of the fact. Waiving the regard due to the memorialist's own assertion, it is not supposable that if his representation had been ill-founded, it could have obtained the sanction of so many disinterested persons, agents in or witnesses to the transaction. That notwithstanding this, it may be inferred, as well from the written report of the committee, as from other circumstances, that the idea of a precise contract did not generally prevail. It is probable that as the indemnity and reward for the sacrifices and services of the baron were by him made to depend on the success of a national revolution, the mention of them was viewed rather as a suggestion of expectations than

as a stipulation of terms. This might the more easily have happened, as it is presumable that the situation of affairs at the time must have disposed Congress to consider an officer who had had the opportunities of the memorialist, as a valuable acquisition to the service, and to regard a compliance with the expectations intimated by him, in the event of success, as too much a matter of course to need a stipulation. That this view of the affair appears to the Secretary to afford a satisfactory solution of any difficulties which might result from seemingly discordant circumstances, and to place all the parts of the transaction in a simple and consistent light.

Upon the whole, therefore, as it cannot with propriety be questioned that a conversation of the kind stated by the baron did take place at the conference at Yorktown; as the services rendered by him to the United States are acknowledged to have been of a very signal and very meritorious nature; as the expectations alleged to have been signified by him, in the conference, are all of them reasonable in themselves, being nothing more than that his necessary expenses, while in the service of the United States, should be defrayed by them; and that, in case they should establish their independence, and he should be successful in his endeavors to serve them, then he should receive an indemnification for the income he had relinquished in coming to this country, and to such marks of the generosity of the Government as its justice should dictate. The Secretary is of opinion that, whether the transaction relied upon by the baron be deemed to have the force of a contract or not, it will be most consistent with the dignity and equity of the United States to admit it as the basis of a final adjustment of his claims.

Should this opinion appear well founded, it will remain to designate the rule by which the necessary expenses of the memorialist are to be adjusted. Taking it for granted that his actual expenses will not be deemed a proper one, there occurs to the Secretary no better criterion than the current allowances annexed to the stations he filled. This excludes the half-pay or commutation. It is presumed that the current allowances to the officers of the American army, in general, were regulated wholly with a view to their present support, according to their respective situations, and the half-pay granted as a future reward.

According to this principle, the Secretary has caused an account to be stated, which is hereunto annexed, in which the memorialist is credited with his emoluments as major general and inspector general, (exclusive of half-pay or commutation,) and with an annuity of five hundred and eighty guineas, (being the amount of the income stated to have been relinquished by him,) from the time he left Europe to the last of December, 1789, with interest at six per cent. per annum; and is charged with all the moneys, under whatever denomination, received by him from the United States, with interest at the like rate; upon which statement there is a balance in his favor for seven thousand three hundred and ninety-six dollars and seventy-four ninetieths.

In addition to this, he would be entitled, for the remainder of his life, to the yearly sum of five hundred and eighty guineas, as a continuation of the indemnity for the income relinquished; and to such reward as the Government, in its discretion, should think fit to allow; for which purpose a moderate grant of land, if deemed expedient, would suffice.

The Secretary begs leave further to state, that there is good ground to believe that the above-mentioned balance will be short of a sufficient sum to discharge the debts now owing by the memorialist, and contracted partly to enable him to come to this country, and partly for his subsistence here; and, in the last place, to observe that the situation of the memorialist, who (being a foreigner) voluntarily came to offer his services to the United States in a critical and perilous moment, and who, from the circumstance of his having been a foreigner, is less likely to participate in the collateral rewards which in numerous instances await those who have distinguished themselves in the American revolution, (while he cannot, like many other foreign officers, look for rewards elsewhere,) gives a peculiarity to his case which strengthens his other pretensions. That it appears unequivocally that his services have been of a nature peculiarly valuable and interesting to the American cause, and such as furnish weighty considerations, as well public as personal, for rescuing him from the indigence in which he is now involved, and from the still greater extremities with which he is threatened. A settlement on the principles suggested in this report will terminate all the claims of the memorialist on the United States in a manner equally satisfactory to him and honorable to them.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

[1st CONGRESS.]

No. 6.

[2d Session.]

CLAIMS FOR EXPENSES IN SETTLING ACCOUNTS, DEPRECIATION, AND BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 12, 1790.

TREASURY DEPARTMENT, *April 10, 1790.*

The SECRETARY OF THE TREASURY, on the petition of William Finnie, referred to him by an order of the House of Representatives, of the 25th of September last, respectfully reports:

That the relief sought by the petitioner relates to the following objects:

First. An allowance for expenses incident to his attendance at the seat of Government, for the settlement of his accounts.

Secondly. A compensation for a loss sustained on the sale of a certificate issued to him for the balance which appeared due to him on that settlement.

Thirdly. Depreciation and pay, in the capacity of a commissary of military stores, from the 1st of January, 1777, to the 1st of January, 1781.

Fourthly. An allowance of land, as a colonel of the army, in virtue of a commission from Congress appointing him deputy quartermaster general with the rank of colonel.

That, as to the first article, the allowance claimed would, contrary to general usage, the reverse of which would be productive of considerable expense to the public, and would often (though not in the present instance)

reward delinquency, by indemnifying individuals for delays occasioned in the settlement of their accounts, by their own mismanagement.

That, as to the second article, it is the common case of every person who has received a certificate for money owing to him from the public, and parted with it for less than its nominal value; and cannot, therefore, be discriminated by particular relief.

That, as to the third article, the facts are as follow:

The memorialist, being deputy quartermaster general, had frequent calls to perform services not properly appertaining to his office; in consideration of which, the Board of War, in a letter to him dated the 23d of October, 1779, after charging him with the care of all military and other stores belonging to the United States, which then were, or should afterwards arrive, in the State of Virginia, proceed thus: As you have made large purchases of clothing and military stores, and taken charge of them until forwarded by you, the Board agree that you shall be allowed the pay of a commissary of military stores, to wit: fifty dollars per month; from the 1st of January, 1777, to the 11th of February, 1778; and the pay and subsistence of a commissary of military stores from the 11th of February, 1778, viz: ninety dollars per month, until the 1st day of July last; and one hundred and eighty dollars per month from that day, in compensation for your past and future services in the business before mentioned, and now committed to your direction; payment was accordingly made to the memorialist on this account to the 1st of October, 1779, and on the 20th of October, 1780, an order was drawn in his favor by Samuel Hodgdon, assistant commissary general of military stores, on William Thorne, paymaster to the department, for eight hundred and ten pounds, being the amount of one year's pay, at one hundred and eighty dollars per month, which sum has never been paid. It appears by a report of John D. Mercier, the then auditor, dated the 28th of August, 1786, that the petitioner had exhibited a claim for pay, rations, and depreciations, as a commissary of military stores, from the 8th January, 1777, to the 1st of January, 1781, amounting to three thousand four hundred and seventy dollars, which claim was rejected by the auditor on these grounds, as stated in substance by him: "That to support a claim on the principle of a compensation for extra service, it ought to be shown that such service had been performed* after the period to which payment had been made by the Board of War, that is, the 1st of October, 1799."

That as a claim to a stipend attached to an office, it was inadvisable, because contrary to a regulation of Congress prohibiting the enjoyments of the emoluments of two offices by one person. It further appears, that on a submission of the same claim to the Board of Treasury on the 25th of April, 1789, that Board decided against it. From which, the Secretary is of opinion that a revision of the matter would be inexpedient.

That, as to the fourth article, the claim is founded upon a commission from the President of Congress, dated the 28th of March, 1776, appointing the memorialist deputy quartermaster general in the southern department, with the rank of colonel; but it does not appear to be warranted either by the resolutions of Congress respecting bounties of lands to officers and soldiers, or by the practice upon those resolutions. Nor does any circumstance occur to justify the allowance to the memorialist, without extending it to a number of other persons in a like situation.

That, upon the whole matter, though the misfortunes of the petitioner, added to the zeal manifested by him in the public service, appeared to the Secretary to entitle his case to as favorable a consideration as a due attention to general principles would permit; yet he has not been able to discover sufficient and unexceptionable ground upon which, in his opinion, any part of the prayer of the petitioner may with propriety be granted.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *April 12, 1790.*

THE SECRETARY OF THE TREASURY, on the memorial of James Warren, to him referred by an order of the House of Representatives of the 3d instant, respectfully reports:

That it appears, upon examination of the case of the memorialist, that in the years 1777 and 1778 several cargoes of merchandise, which had been imported for the use of the United States, were consigned to his care; and that, in the settlement of his accounts concerning those cargoes by the Commercial Committee, he was allowed only the nominal amount of his expenditures and commissions.

That this settlement took place on the 28th of November, 1780, (at which time there was no authority to make an allowance for depreciation;) and that, on the 31st of January, 1781, a warrant was drawn by the President of Congress on the Treasurer of the State of Massachusetts for \$32,553²/₅₀, being the liquidated balance of the memorialist's account.

That the said warrant was, some time in the year 1782, discharged in specie by the State of Massachusetts, at the rate of one dollar for seventy-five of the sum expressed upon the face of it.

That the claim of the memorialist is, first, for an allowance of depreciation on the items of the account settled by the Commercial Committee, (alleging, as a peculiarity in his case, that the settlement was made by an agent, not by himself; and that there was a demand for depreciation at the time, though not admitted for want of authority.)

Secondly, for the difference between the established rate of old emission money, when the warrant was issued to him, and that at which it was discharged in specie, which he computes to amount to £115 19s. 6d., lawful money of Massachusetts.

In relation to which facts and circumstances the Secretary begs leave to observe, that it is an important general rule, that regular settlements, in the established course, involving general principles, should remain untouched. That this rule, in reference to transactions during the late war, derives peculiar force from the then peculiar situation of public affairs. That in no respect is its observance more necessary than in whatever regards questions of depreciation. That every precedent of an admission of a claim upon that ground, beyond the limits now observed at the Treasury, must be more or less dangerous. That, in particular, it seems necessary to adhere to this as a principle, that when an account has been adjusted and a balance discharged, no claim for depreciation ought afterwards to be admitted.

That the circumstance of the settlement having been made by an agent is no uncommon one. Nor does the demand stated to have been made at the time for an allowance for depreciation appear to the Secretary of any material weight. It is naturally to be presumed that the interest of applicants must have rendered such demands frequent, and the completion of the settlement without it shows that it was not persisted in.

The Secretary, however, thinks it incumbent on him to state to the House that, as far as regards the mode of payment, there is something distinguishable in the case. He does not find, on inquiry, that it can have had place in many instances in the precise form; nevertheless, the degree of force which this circumstance may be supposed

*Whereas it did not appear in the case, that any extra service had been performed.

to have is overruled, in his judgment, by the danger of a precedent for a new species of claim for depreciation. The allowance of it, too, on this ground, would seem to involve this principle: that for depreciation which may have accrued between the time an order for payment may have been given and the time of actual payment, compensation is to be made—a principle which, it is to be apprehended, might have extensive consequences.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

1st CONGRESS.]

No. 7.

[2d SESSION.

INCREASE OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 23, 1790.

WAR OFFICE, *April 23, 1790.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Thomas Simpson, reports:

That the petitioner states that he served as an officer in the New Hampshire line from an early period of the late war until the year 1779, when, by his wounds being rendered unfit for further duty, he was honorably discharged as a captain lieutenant.

That, while in service, he lost an eye by the small-pox; that he was badly wounded in two separate actions, and that a musket ball still remains in his body; and that he is entirely incapacitated from obtaining his livelihood by labor.

That, notwithstanding his sufferings, he has been allowed by the State of New Hampshire only one-quarter, instead of one-half, of his full pay, to which he is of opinion he is entitled.

That, besides the low rate of his pension, it has been paid to him in a species of depreciated certificates, for which he has not received more than five shillings in the pound.

He therefore prays that Congress would direct that he should receive the amount of his half-pay from the 21st day of September, 1782, or such part thereof as they may think just, making a reasonable deduction for the sums he has already received.

On this petition the Secretary of War observes, that the case of the petitioner, as stated by himself, appears to be a hard one indeed; but as it has been considered and decided upon by the Legislature of New Hampshire, who had completely the power to increase the pension, if they conceived the petitioner entitled thereto, it would be improper to form a judgment upon an *ex parte* hearing, especially to disapprove the conduct of a State upon the allegation of an individual.

If the petitioner could demonstrate to the Legislature of New Hampshire that his pension has been only one-half of the sum he ought to have received, it is fairly to be presumed the justice of the State would dictate that compensation should be made for the deficiency.

The Secretary of War apprehends that it would operate perniciously for the United States to increase or modify the pensions which have been assigned to the invalids by the respective States, or under the authority of the same; that, if a precedent of such modification should be once established by Congress, it would most probably involve applications from every individual receiving a less pension than the amount of half-pay.

That the principles submitted in the report, on the petition of Ruth Roberts, the 25th of January last,* against reversing the judgments made by the respective States on the cases of invalids, apply to the present petition, and to which report, in order to avoid repetitions, the Secretary of War begs leave to refer.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 8.

[2d SESSION.

CLAIMS FOR EXPENSES, AND COMMUTATION OF HALF-PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 20, 1790.

WAR OFFICE, *May 20, 1790.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Henry Emanuel Lutterloh, reports:

The petitioner prays that he may have the following allowances:

- 1st. The commutation of half-pay, for life, of a colonel, and the lands allowed to officers of that grade.
- 2d. The payment of an account for travelling and passage expenses from Europe to America, amounting to one hundred and sixty guineas.

*See No. 1.

The petitioner, in support of his claim, states that he was attached to the cause of freedom, and understanding, in the early stages of the late war, that officers of experience were desired in America, he resigned his commission of major in the Duke of Brunswick's guards, under whom he had served with reputation for twenty-four years.

That Doctor Franklin, in the month of January, 1777, approved and encouraged his design; he having known the petitioner in the capacity of the Duke of Brunswick's resident in England.

That, on his arrival in America, he proposed to raise a legion of five hundred horse and foot, but that he was dissuaded therefrom by his excellency General Washington, under the idea that he might be more useful in the quartermaster general's department.

That he was introduced in the orders of the commander-in-chief of the 7th of June, 1777, as first deputy quartermaster general.

That he served in said capacity until the month of May, 1780, when he received the appointment of commissary general of forage, which office he held until the end of the war.

That, in consequence of his first appointment in 1777, as also of his second in 1780, he held the rank of a full colonel, and he doubts not but his long labors, and, he begs leave to say, useful services, would have fully entitled him to the allowance made by Congress for officers of that rank in the line; but, upon application to the Board of War, he received for answer "that no provision had been made by Congress for any person who had served in the staff department, a few of the medical line excepted."

But, however proper the general rule, the petitioner prays he may be considered as an exception thereto, for the following reasons:

1st. His rank in a foreign army, of great discipline, added to the high recommendations under which he arrived in America, would probably have entitled him to a considerable rank as a military character, had he thought proper to decline the appointment marked out for him by the commander-in-chief.

2d. Had the petitioner first received an appointment in the military line, and been drawn thence to the commissary's department, he is led to believe he would have been entitled to the commutation of five years' pay and the lands.

That the former Congresses having allowed foreign officers, who came to America under similar circumstances, travelling and passage expenses, the petitioner hopes the same favor will be allowed him.

On this petition the Secretary of War observes, that the petitioner's rank of a colonel in 1777 was consequent on his appointment as deputy quartermaster general, agreeably to the arrangement of the quartermaster general's department of the 14th of May, 1777.

That on the subsequent arrangement of the quartermaster general's department, no military rank was attached to the subordinate officers of that department, as will appear by the resolve of Congress of the 29th of May, 1778; and no rank was afterwards attached to the staff appointments of the army.

Hence it appears that the petitioner's rank, having been derived from his first appointment in 1777, ceased under his new appointment in 1778, and was not renewed by his appointment of commissary of forage in 1780; that, therefore, the petitioner is not of right entitled to the commutation of half-pay for life, by virtue of his military rank, according to the general principles established by Congress; that it would be improper at this period, and contrary to the declarations of Congress, to grant the commutation upon any other principle than a contract, as it would create a precedent for innumerable claims for the same object. In the quartermaster's line Congress have at different times rejected several petitions for the commutation, under similar circumstances of rank with the petitioner.

That the petitioner was an officer of reputation in the Duke of Brunswick's service, and confidentially employed by him, are facts, it is presumed, that could be well established; and that he served honorably in the American army, as herein stated, is well known, and could also be amply substantiated by written testimonials.

These circumstances, added to the consideration that several foreign officers, whose services were shorter and greatly inferior to those of the petitioner, have, without previous stipulations, had gratifications granted them by Congress for defraying their passages to America and equipments for the field, induce the Secretary of War to be of opinion that the petitioner's account of expenses would have been paid had the claim been preferred previously to the expiration of the time limited by the resolve of Congress of the 2d of November, 1785.

But it is questionable whether the petitioner's account was involved in the claim made to the Board of War, as stated in his petition. If it should be decided that the account of expenses was comprehended in the said claim, it is the opinion of the Secretary of War that the petitioner's services and precedent would dictate the payment of the said account of 160 guineas, or \$746³/₄.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 9.

[2d SESSION.]

CLAIM OF THE PROPRIETOR OF WEST POINT, FOR THE USE AND OCCUPATION THEREOF BY THE UNITED STATES AS A FORTIFICATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 10, 1790.

TREASURY DEPARTMENT, June 3, 1790.

On the petition of Stephen Moore, of the State of North Carolina, referred to the Secretary of the Treasury by order of the House of Representatives of the 4th of May, 1790, the said Secretary respectfully reports:

That it is the opinion of the Secretary for the Department of War, that it is expedient and necessary that the United States should retain and occupy West Point as a permanent military post; the principal reasons for which opinion, as stated by him in a report to Congress of the 31st of July, 1786, are as follow:

That in case of an invasion of any of the Middle or Eastern States by a marine Power, the possession of Hudson river would be an object of the highest importance, as well to the invader as to the United States.

That the reciprocal communication of the resources of the Eastern and Middle States, so essential to a well-combined resistance, depends entirely on the possession of the said river by the United States.

That West Point is of the most decisive importance to the defence of the said river, for the following reasons:

1st. The distance across the river is only about fourteen hundred feet, a less distance by far than at any other part.

2d. The peculiar bend or turn of the river, forming almost a re-entering angle.

3d. The high banks on both sides of the river, favorable for the construction of formidable batteries.

4th. The demonstrated practicability of fixing across the river a chain or chains at a spot where vessels, in turning the point, invariably lose their rapidity, and of course their force, by which a chain at any other part of the river would be liable to be broken.

These circumstances combined render the passage of hostile vessels by West Point impracticable.

That the fortifications of West Point and its dependencies are extremely difficult to be invested and besieged. This circumstance, which greatly enhances the value of the place, arises from the broken and mountainous grounds and narrow passes which surround the fortifications.

A regular siege of West Point, properly garrisoned and furnished, would require a large army, vast warlike apparatus, and much time. The States, therefore, in its vicinity would have sufficient time to draw forth their utmost force for its relief.

That however West Point may be regarded by some persons as an interior place, yet the reverse is a fact, as may be proved by a slight consideration of the facility with which it can be approached by water. It is quite practicable for vessels coming in from sea, and arriving at Sandy Hook at the close of day, to reach West Point before the next morning. The navigation of the river is known to be so bold that the passage could be easily performed during the night.

That the said Secretary of the Treasury, impressed with a persuasion that the said opinion is well founded, conceives it to be just and proper that a purchase should be made, on account of the United States, of so much of the tract of land called West Point as shall be necessary for the purpose contemplated; and this for the following reasons:

First. That where the public safety requires the permanent occupancy of the property of an individual for the public use, it is just that compensation should be made for its entire value, either by purchase with consent of parties, or by some equitable mode of appraisement. Temporary or periodical compensations, unless with the concurrence of the proprietor, are liable to this objection—that they oblige the individual to content himself with less than the full use or value of his property, by sale or otherwise, as his interest or necessities may require.

Secondly. These temporary compensations, for various obvious reasons, will be likely, in the end, to prove more expensive to the public than an absolute purchase in the first instance.

Wherefore the said Secretary is of opinion that it will be advisable that provision should be made by law for the purchase of so much of the tract of land called West Point, as shall be judged requisite for the purpose of such fortifications and garrisons as may be necessary for the defence of the same.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

[1st CONGRESS.]

No. 10.

[2d SESSION.]

SEVEN YEARS' HALF-PAY ALLOWED TO THE WIDOWS AND CHILDREN OF OFFICERS WHO DIED IN THE SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 21, 1790.

WAR OFFICE, June 21, 1790.

THE SECRETARY OF THE UNITED STATES FOR THE DEPARTMENT OF WAR, to whom were referred the petitions of the children, respectively, of the late Lieutenant John Harris, the late Captain Robert Lewis, the late Doctor David Gould, and also of Hannah Douglas, the widow of the late Colonel William Douglas, reports:

That it appears from the muster-rolls, that John Harris was a lieutenant in the second Connecticut regiment, and that he was killed in action with the enemy in the month of December, 1777.

That there being no widow, the children of the said Lieutenant John Harris are justly entitled to seven years' half-pay of their late father, by the following resolve of Congress of the 24th of August, 1780:

"That the resolution of the 15th day of May, 1778, granting seven years' half-pay to the officers of the army who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service, to commence from the time of such officers' death, and continue for the term of seven years; or if there be no widow, or in case of her death or intermarriage, the said half-pay be given to the orphan children of the officers dying as aforesaid, if they should have left any; and that it be recommended to the Legislatures of the respective States, to which such officers belong, to make provision for paying the same, on account of the United States."

That it does not appear that any application has been previously made in this case, either to the State of Connecticut, or to the United States.

The Secretary of War conceives, that the resolve of Congress of the 2d of November, 1785, limiting the claims for military services, and the resolve of the 11th of June, 1788, limiting the claims for invalid pensions, ought not to be construed to comprehend cases of this nature. The interests of orphan children are too often sacrificed to the negligence or bad conduct of those who ought to assist them. But the petitioners, young and helpless, were at once, by the sudden death of their fathers, involved in obscurity and poverty, without a friend to guide or protect them; and, of course, no person to apply in their behalf for the benefit of the aforesaid resolve.

The Secretary of War, therefore, is humbly of opinion that this is a case in which justice, policy, and humanity unite to dictate that the original stipulations of Government should be faithfully performed, and, to this

end, that there should be a provision made for paying to the children of the late Lieutenant John Harris, deceased, who was killed in the service of his country, during the late war, the sum of one thousand one hundred and twenty dollars, being the amount of a lieutenant's half-pay for seven years, agreeably to the resolve of Congress of the 24th day of August, 1780.

That it appears from the evidence herewith submitted, marked No. 1 to 7 inclusively, that Captain Robert Lewis was an officer in the service of the United States, during the years 1775 and 1776; and that he was appointed in Colonel Charles Webb's regiment, on the establishment of 1777, and recruited soldiers for the service; and that he died on the 22d day of March, 1777, without having been mustered, or having joined his new regiment.

The doubt which might be suggested on this case is, whether the evidence produced is sufficient to supply the place of the muster-rolls, as to the fact of Captain Robert Lewis being in actual service at the time of his death, the regiment not having been mustered until an after-period.

On this point the Secretary of War observes, that the commission of Captain Lewis, dated the 1st day of January, 1777, herewith submitted, must be considered as strong evidence, and but little inferior to the muster-roll, as to the fact of his having been on the establishment of 1777. This evidence is supported and explained by the certificate of Colonel Charles Webb, a man of respectable character, and by such affidavits and collateral evidence as convince the Secretary of War that the late Captain Robert Lewis was at the time of his death an officer in the service of the United States.

That it appears by the evidence, that the Legislature of Connecticut have petitioned on this subject, and that the lower House granted the prayer of the petition, but that the upper House refused their concurrence.

The Secretary of War is of opinion, that the children of the late Captain Robert Lewis are entitled to the benefits pointed out by the resolve of Congress of the 24th of August, 1780, and that accordingly it would be proper to make provision for paying to the said children the sum of one thousand six hundred and eighty dollars, being the amount of a captain's half-pay for seven years, agreeably to the said resolve.

That Doctor David Gould was appointed a surgeon in the hospital department in Virginia, on the 11th of October, 1779; and that it appears he died on the 12th of July, 1781, while on his way to Philadelphia to settle his accounts, agreeably to the resolve of Congress of the 6th of February, 1781.

That the petitioner, son of the said Doctor David Gould, prays—

1. That he may have allowed certain sums charged by his late father, but for which no regular vouchers can be found.

2. That the commutation of half-pay for life may be granted him, to which his father would have been entitled, had he lived and continued in service.

On these specified objects of the petition, the Secretary of War observes:

1. That, in his opinion, the charges which are unsupported by vouchers are not attended with such peculiar circumstances, as to require, justly, an interference of the Legislature of the United States, but that they ought to be adjusted in the usual mode at the Treasury.

2. That the petitioner's father, having died previously to the end of the war, was not entitled, by any stipulations of the public, to half-pay for life.

But the Secretary of War conceives, that if the fact be fully established, that the late Doctor David Gould was in the service of the United States at the time of his death, the petitioner would be entitled to the seven years' half-pay, stipulated by the resolve of the 24th of August, 1780.

In support of this point, the following evidence is herewith submitted:

1. The appointment of the petitioner's father, as senior surgeon, on the 11th of October, 1779, by Doctor Rickman, deputy director general; he having authority to make such appointments, by the resolve of Congress of the 10th of May, 1776.

2. The resolve of Congress of the 6th of February, 1781, "That Thomas Bond, Jun., purveyor to the general hospital, be, and he is hereby authorized and directed to settle the accounts for 'salaries and pay of the officers of the hospital department, established in Virginia, under the direction of Doctor Gould, *which have accrued since the new arrangement of the medical department;* and that Doctor William Rickman, *late* deputy director, settle and return the salaries due the officers of the said hospital, prior to that date, to the present purveyor."

3. The leave of absence obtained by Doctor Gould from Major General the Marquis de Lafayette, dated the 20th of June, 1781, for the purpose of repairing to Philadelphia, in order to settle his accounts.

4. The certificate of General Muhlenberg, that the petitioner's father was in service the latter part of the year 1780, and in 1781.

5. The evidence that the State of Virginia made up the depreciation of Doctor Gould's pay to the 11th of July, 1781, the day previously to which it is stated that he died.

But the new arrangement of the hospital department, on the 30th of September, 1780, and the election of the officers in consequence thereof, on the 7th of October following, may, in a degree, be considered as opposed to the before-recited evidence, as the said arrangement and election specify the number and names of hospital physicians and surgeons to be employed, among whom the name of the petitioner's father does not appear.

But, notwithstanding the said arrangement and election of officers therein, it is decisively proved by the before-recited evidence that Doctor David Gould was in service on the 20th day of June, 1781, when he obtained permission to repair to Philadelphia to settle his accounts.

The Secretary of War, on duly weighing the circumstances of the evidence, is of opinion that it would be just to consider the petitioner's father as in public service at the time of his death; and that, in pursuance of this opinion, it would be proper to make provision for paying to such of the orphan children of the late Doctor David Gould, who died in service during the late war, as were living at the time of his death, or their legal representatives, the sum of one thousand six hundred and eighty dollars, being the amount of the half-pay of a captain for seven years, the same being the ratio established as the half-pay of a surgeon by the resolves of Congress of the 17th of January, 1781.

In delivering this opinion, the Secretary of War is aware that there are two other circumstances which may be stated as objections to the adoption thereof. The first of which may arise from a construction of the resolve of Congress of the 15th of May, 1778, originally stipulating the seven years' half-pay, which seems to confine the service to "military officers." But, as the subsequent resolves of Congress extended the half-pay for seven years to half-pay for life, and as the resolve of the 17th of January, 1781, expressly embraces and defines the officers of the hospital department, it may be fairly inferred to have been the full intention of Congress that the said officers should be placed on an equal footing with the officers of the army, in respect to those distinct rewards which were held out as inducements to continue in service; and, accordingly, the same sort of provision appears justly to have been made in several instances, by the States, for the widows and orphans of the officers of the hospital department, as for widows and orphans of the military officers.

Another objection to the adoption of the opinion contained in this report may arise from the construction of the resolves of Congress of the 2d of November, 1785, and of the 11th of June, 1781, limiting claims for military services, and for persons as invalids. But the minority of the petitioner at the time of his father's death, and the omission of those intrusted with his father's estate, may be mentioned as reasons why a proper application has been delayed until the present period.

It, however, appears that the petitioner, in the year 1786, as soon as he came to the age of manhood, endeavored to avail himself of the sums due his late father, and for that purpose made application to the commissioner for settling the accounts of the hospital department, and to the commissioner of army accounts; but, for want of sufficient information, he failed in directing his inquiry to the proper object.

That by the evidence hereinafter specified, it will appear that the late William Douglas was appointed, on the 11th day of October, 1776, a colonel in the continental army, on the arrangement of 1777, agreeably to the resolves of Congress of the 16th of September, 1776.

That it appears the said Colonel Douglas died in the month of May, 1777, without having been mustered.

That the following evidence is produced in order to supply the deficiency of the muster-rolls:

1st. His commission, signed by the President and Secretary of Congress, and issued at New Haven, the 11th of October, 1776.

2d. A letter from the commander-in-chief, dated Morristown, the 12th of March, 1777.

3d. A certificate from David Humphreys, who was a captain in Colonel Douglas's regiment in 1777.

4th. A certificate from the pay table of Connecticut, stating that an allowance has been made by the said State of the pay of the said Colonel William Douglas, from the 1st day of January to the 27th of March, 1777.

That, in the opinion of the Secretary of War, the said evidence proves that the petitioner's husband was a colonel in the service of the United States at the time of his death; and that, therefore, it would be proper to make provision for paying to Hannah Douglas, the widow of the late Colonel William Douglas, who died in the service of the United States, during the late war, the sum of three thousand one hundred and fifty dollars, being the amount of a colonel's half-pay for seven years, agreeably to the resolve of Congress of the 24th day of August, 1780.

That it appears, by the papers which accompany the petition, that application was made to the Legislature of Connecticut on the subject, in the year 1786, and that the lower House granted the prayer of the petition, but that the upper House refused its concurrence.

That it also appears by the said papers, that in the year 1787 a petition was preferred to Congress, on the same case, and a report made thereon, but on which there was no decision.

That it appears to be the opinion delivered in the said report, that the resolve of Congress of August 24th, 1780, being founded on the resolve of the 15th of May, 1778, confers no right to the widows or orphans of any officers who were not in service on or after the said 15th day of May, 1778.

But the Secretary of War conceives that the true intent and meaning of the said resolve of August 24, 1780, was to extend the seven years' half-pay to the widows and orphans of all continental officers who had died, or should thereafter die, in the service; and that the reference to the resolve of the 15th of May, 1778, was principally, if not entirely, to establish the ratio of the widows' and orphans' pensions.

And this just construction appears to have governed the conduct of the States, respectively, in complying with the aforesaid resolve of Congress of the 24th of August, 1778, as will more fully appear by the list accompanying this report.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

[1st CONGRESS.]

No. 11.

[2d Session.]

STATE TROOPS NOT ENTITLED TO HALF-PAY FOR LIFE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 22, 1790.

WAR OFFICE, June 21, 1790.

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred a second time the petition of John Rogers and others, for the commutation of half-pay for life, reports:

That he is unable to perceive any just cause to depart from the opinion delivered in the former report on the claim of the petitioners, dated the 26th day of March last.

That a certain letter of the petitioner, dated the 7th of April, 1790, hereunto annexed, containing remarks on the said report, appears to be the foundation on which the petition is again referred.

That the said letter mentions certain acts of the Legislature of Virginia as the foundation of the petitioners' claim, which acts were passed during the late war, and embrace the cavalry, infantry, and navy, raised and employed particularly by the orders of the said State, as well as the petitioner and his officers.

The Secretary of War conceives it entirely unnecessary to enter into the merits of the claims of the petitioners, or any of the other officers of the above-mentioned corps, as they may relate to the said acts of Virginia. It is sufficient to observe, that the said State has not considered the said officers as entitled to the half-pay for life.

The petitioner, however, conceives the case otherwise; and that the State, by the said act, stipulated the half-pay to the officers of the corps therein mentioned; and that, by the terms of the cession of the country northwest of the Ohio, the obligation of the State by the said stipulation is virtually transferred to the United States.

But the Secretary of War conceives the petitioner has no just claim on the United States; for, although the State brought into view certain charges as "necessary or reasonable expenses" incurred in making certain expeditions and maintaining certain posts in the country northwest of the Ohio, yet the charge of half-pay to the officers of any troops employed on that occasion does not appear even to have been contemplated or specified.

But the agreement between the United States and the State of Virginia, made by their respective commissioners on the 25th day of May, 1788, must be considered as conclusive on the subject of the claim of the petitioners, or any other officer similarly circumstanced. The said agreement stipulates an allowance to Virginia of the sum of \$500,000, for all expenses in acquiring the said territory; in which allowance are included the expenses of Captain Rogers's cavalry, and the troops of all other denominations or descriptions whatever.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

WAR OFFICE, *March 26, 1790.*

THE SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of John Rogers, in behalf of himself, James Merriwether, and John Throuston, reports:

That it appears the petitioners were officers of a troop of State cavalry, raised in Virginia, during the late war, and employed by the said State in the Illinois country.

That the petitioners conceive they have a right to claim of the United States half-pay for life, or a commutation thereof; and they found their claim on the following circumstances:

1st. That by an act of the State of Virginia, passed October, 1780, the officers of that State in the continental service, who should continue therein to the end of the war, were entitled to receive half-pay for life.

2d. That all engagements, by which the public faith of Virginia was pledged to the petitioners, were, by the act of cession of the said State of the country northwest of the Ohio, transferred to the United States.

On this petition the Secretary of War observes:

1st. That, by a recurrence to the before-recited act of Virginia, the petitioners do not appear to be comprehended therein. The act promises half-pay to "the officers of this State in continental service, who should continue therein to the end of the war." The petitioners were State officers, and employed on State service, and it does not appear that Virginia herself has considered them in any other light.

2d. That the reasonable expenses of the expedition into the Illinois country have been mutually settled between commissioners of the United States and Virginia, at a certain sum.

3d. That, on inquiry, it does not appear that Virginia has, in consequence of the cession and stipulation aforesaid, ever brought into view any charge against the United States of the half-pay for life of any officers employed in the Illinois expedition.

That, independent of these facts, which exclude the petitioners' claim, the United States never promised or granted half-pay to officers raised and employed as State troops.

The Secretary of War, being of opinion that the claim of the petitioners is utterly inadmissible, reports the following resolve:

Resolved, That the petition of John Rogers and other officers of a Virginia State troop of cavalry for the allowance of half-pay for life cannot be granted, the same being incompatible with the system relative to that subject established by the United States in Congress assembled.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 12.

[2d SESSION.

CLAIMS FOR EXPENSES, WITH INTEREST, AND PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 23, 1790.

WAR OFFICE, *June 21, 1790.*

THE SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Caleb Brewster, reports:

That the petitioner was a lieutenant of artillery during the late war, and was confidentially employed in an armed boat by the commander-in-chief, to keep open the communication from Connecticut to Long Island, for the purpose of obtaining intelligence.

That the petitioner performed the said hazardous service with "fidelity, judgment, and bravery," and the approbation of the commander-in-chief, as appears by his certificate herewith submitted, dated the 10th day of June, 1784; that, by the execution of the trust reposed in him, the petitioner became peculiarly obnoxious to the enemy, who made many attempts to take or destroy him; that, in an effort of this nature, in the month of December, 1782, the petitioner, and those under his command, behaved with the highest gallantry in an engagement with three of the enemy's armed boats, the largest of which, with the commanding officer, he captured, after an obstinate resistance; that in the said action the petitioner was dangerously wounded, and carried into Connecticut, at a distance from any hospitals or public assistance; that the petitioner long languished under the pain of his wounds, the cure of which, and the expenses attendant thereon, appear to have amounted to the sum of \$241 57, for which he has not received any compensation.

That, besides the said wounds, it appears, from the certificate of the Director General of Hospitals, dated the 15th day of June, 1786, herewith submitted, that the petitioner was ruptured while employed in the service, which likewise renders him an invalid, and that he is incapacitated from obtaining his livelihood by labor.

On this petition it may be observed, that the petitioner, by having submitted his case to Congress on the 13th of April, 1785, does not appear to be involved in the exclusion of the resolve of the 11th of June, 1788; that a copy of the said petition, and a report thereon by a committee of Congress, is herewith submitted, although it does not appear that the said petition was ever acted upon.

The Secretary of War submits it as his opinion, 1st, That the petitioner is justly entitled to have the sum of \$241 57, being the amount of the expenses attendant on the cure of his wound, and the further sum of \$86 94,

being the interest thereon from the 1st of July, 1784, to the 1st of July, 1790, amounting, in the whole, to the sum of \$328 51, reimbursed to him by the United States.

2d. That the petitioner is entitled, by his wounds, to be placed on the pension list of the United States from the 3d of November, 1783, (the day his pay as an officer of the army ceased,) at the rate of \$16 $\frac{2}{3}$ per month, being the half-pay of a lieutenant of artillery during the late war; and that he ought to be paid the said pension from the 5th of March, 1789, agreeably to the act of the 29th of September, 1789; and that the sum due on the said pension previously to the said 5th of March, 1789, be paid, as other arrearages of a similar nature shall be paid, provided that the petitioner shall first return the amount of the certificates of his commutation of half-pay for life, which he received from the Office of Army Accounts.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

[NOTE.—The papers referred to in this report are not now to be found.]

1st CONGRESS.]

No. 13.

[2d SESSION.]

CLAIMS FOR CONSULAR AND OTHER SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JULY 24, 1790.

Mr. CLYMER, from the committee to whom was recommitted the memorial of Thomas Barclay, made the following report:

That, in conformity to the design of the recommitment, they have endeavored to value, severally, the services performed in Europe by Mr. Barclay, under his various appointments.

And, first, they state that he held the office of consul general to France for three years, for which he will be entitled to receive the salary of \$1,500 per annum, allowed by Congress.

They further state that he purchased and shipped from Holland for the United States articles to the amount of between 300,000 and 400,000 livres; that he repacked and shipped from Holland, and from various ports in France, supplies which had been lying there for several years, to the amount of about 3,000,000 livres.

For these services the committee think Mr. Barclay entitled to receive, viz: on the amount of the goods purchased and shipped, a commission of 2 $\frac{1}{2}$ per centum; and on the amount of the supplies repacked and shipped, a commission of 1 per centum.

That, as commissioner for settling the accounts of receipts and expenditures in Europe, under which appointment accounts to a vast amount were examined and passed, Mr. Barclay they conceive to be entitled to receive, for four years, at the rate of \$1,500 per annum.

That, for his services in negotiating the treaty with Morocco, to have a compensation of \$2,000.

That Mr. Barclay having, in an account exhibited to the Treasury, charged his private expense, equal to £545 6s. 3d. sterling per annum, during the time he was abroad, the committee do not mean to deduct any part of the said charge from the allowances and compensations here proposed; the committee having had regard to them in the moderate rewards they propose for services and trusts of such great extent and importance. They therefore submit the following resolution, viz:

That, in the settlement of the accounts of Thomas Barclay, he be allowed, exclusive of expenses charged by him in his said account, ———, as consul in France for three years, the salary appointed by Congress to that office.

That on all goods purchased and shipped by him in Holland for the United States, he be allowed a commission of 2 $\frac{1}{2}$ per centum.

That on the value of all the supplies of goods for the United States, repacked and shipped by him in Holland, and in various ports in France, he be allowed 1 per centum.

That, as commissioner for settling the accounts of receipts and expenditures of public moneys in Europe, he be allowed, for four years, at the rate of \$1,500 per annum.

That, as agent for negotiating and concluding a commercial treaty with Morocco, he be allowed \$2,000.

[NOTE.—See No. 183.]

1st CONGRESS.]

No. 14.

[3d SESSION.]

INTEREST ON THE CLAIM OF THE HEIRS OF COLONEL JOHN LAURENS REFUSED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 28, 1791.

Mr. SMITH, of South Carolina, from the committee to whom was referred the petition of Henry Laurens, in behalf of the orphan daughter of the late Colonel John Laurens, made the following report:

That they have examined into the subject of the said petition, and find that the late Congress did, on the 1st of March, 1785, resolve, that in settling the accounts of the said Colonel Laurens, as special minister to the court of Versailles, he should be allowed the same pay that was given at that period to the minister plenipotentiary of

the United States at foreign courts, from the time of his appointment to his return; and that the balance remaining due for his services should be paid to his representatives.

That no provision was made for the said balance until the last year, when the accounts of the said Colonel Laurens were liquidated at the Treasury, and the balance due thereon ready for payment.

With respect to the claim of interest on his compensation as special minister, your committee being informed that the general usage of the Treasury has been not to allow interest on specie payments, unless specially stipulated or directed by a particular act of Congress, have cause to apprehend that an admission of the claim, in this instance, would not only justify a revision of all cases of deferred payment, (where strict justice would equally require an allowance of interest,) but would at the same time establish a precedent likely to be attended with considerable inconvenience to the Government.

However reluctant your committee feel themselves to recommend a decision in any degree injurious to the interests of an orphan, of whose father's eminent services they can never be forgetful, they cannot indulge an inclination which would result in placing his case on a footing different from those of many others, and which would either occasion manifest injustice to them, or involve a re-examination of a multitude of settled claims.

From these considerations, your committee are of opinion that the prayer of the petition ought not to be granted.

1st CONGRESS.]

No. 15.

[3d SESSION.

SEVEN YEARS' HALF-PAY TO WIDOWS AND CHILDREN OF OFFICERS WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1791.

WAR OFFICE, *February 14, 1791.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom were referred the petitions of Anne Roberts and of the orphan children of the late Major Andrew Leitch, and of the late Captain William White, reports:

That it appears upon examination that the late Owen Roberts was a colonel of the South Carolina continental regiment of artillery, and that he was mortally wounded in the service of his country on the 20th day of June, 1779.

That Andrew Leitch was a major of the first Virginia continental regiment, and that he was killed in the service of his country the 16th day of September, 1776.

That William White was a captain in the Massachusetts line, and that he was killed in the service of his country in October, 1781.

That conformably to the resolve of Congress of the 24th of August, 1780, the widow of the late Colonel Owen Roberts was entitled to the half-pay for seven years of a colonel of artillery.

That the orphan children of the late Major Andrew Leitch were entitled to the half-pay of a major for seven years.

That the children of the late Captain William White, the widow having intermarried, were entitled to the half-pay of a captain for seven years.

That, conformably to the said resolve, the widow and children aforesaid ought to have had the said half-pay advanced to them, on behalf of the United States, by the States to which the aforesaid officers respectively belonged.

That it appears from the returns and examinations of the accounts of the States of Virginia and Massachusetts, that the said half-pay has not been advanced the orphans of the beforementioned deceased officers, Major Andrew Leitch and Captain William White. That the accounts of South Carolina for the sums advanced the widows and orphans of that State have not yet been produced, but it is highly probable there will not be any charge for the object of the present petition. But it will be proper to take all due precautions on this subject, as hereinafter mentioned.

That it is most probable, from the information received, that the non-payment of the said half-pay has not been owing to any disinclination of the said States, but to the want of proper application.

On this statement the Secretary of War observes, that the only circumstance which is opposed to granting the prayers of the aforesaid petitions, would be a rigid construction of the resolves of the late Congress, limiting the time for producing claims against the United States.

While the Secretary of War is deeply impressed with the importance of a firm adherence, generally, to the resolves of limitation, he is inclined to the opinion that the claims of the aforesaid widow and orphans cannot with justice be considered as involved in the beforementioned resolves of limitation.

The resolves of the 2d of November, 1785, and 23d July, 1787, relate to persons having unliquidated demands for military services, and for claims in the several staff departments, and in the marine; that they were to produce their claims to the commissioners of the United States.

But the widows or orphans claiming pensions were, by the arrangement of Congress, to apply to the States to which the deceased officers belonged. Had the widow or orphan children of any officer who died in the service, and who belonged to any individual State, applied to Congress in consequence of the aforesaid resolves, they would have been referred to the said State, in the same manner as before the said resolves were passed.

The resolve of the 11th of June, 1788, relates solely to the claims of invalids, and cannot, in any manner, be construed to comprehend the case of the widows and orphans. It is most probable that Congress considered any resolve upon this sort of claims unnecessary, as it was supposed that the widows and orphans entitled to pensions by the acts of Congress had received the same, annually, of the respective States. But it has appeared that there are a few existing, and probably but a few, well-founded claims of this nature.

Applying these general ideas to the claims of the petitioners, the Secretary of War is of opinion that the cause of justice and the dignity of the United States require that the prayers of the beforementioned petitioners should be granted; and that therefore it would be proper by law to direct and authorize the Comptroller of the Treasury to adjust the accounts of the widow of the late Colonel Owen Roberts, who was killed in the service of his country,

for the amount of seven years' half-pay of a colonel of artillery, upon the principles directed by the act entitled "An act for the relief of the persons therein mentioned or described," passed the 11th of August, 1790; and that the Register of the Treasury issue his certificate for the amount accordingly: provided it shall be first made to appear that the State of South Carolina has not paid the said widow the pension to which she is entitled by the resolves of Congress.

That the Comptroller, in like manner, adjust the account of the orphan children of the late Major Andrew Leitch, who was killed in the service of his country, for the amount of seven years' half-pay of a major of infantry; and that the Register of the Treasury issue his certificate accordingly.

That the said Comptroller adjust, in like manner, the account of the children of the late Captain William White, who was killed in the service of his country, for the amount of seven years' half-pay of a captain; and that the Register of the Treasury issue his certificate accordingly.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 16.

[3d SESSION.

CLAIMS OF OFFICERS IN CAPTIVITY NOT BARRED BY THE STATUTE OF LIMITATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1791.

WAR OFFICE, *February 14, 1791.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Samuel Buffington, attorney to Francis Suzor Debevere, reports:

That it appears by the muster-roll of the 7th Massachusetts regiment, that Francis S. Debevere was appointed a surgeon's mate to the said regiment on the 20th of August, 1778, and that he was made a prisoner by the enemy on the 10th of November following.

That he continued a prisoner until the end of the war, and that then he embarked from Canada for France, the place of his nativity.

That, according to the rule adopted by the pay officer, persons remaining in captivity have not been considered as subjects of the limitation prescribed by the resolve of Congress of the 2d of November, 1785.

That, therefore, it would be proper to empower and direct the Comptroller to adjust the account of the pay due the said Francis S. Debevere, as a surgeon's mate, until the 3d of November, 1783; and that the Register of the Treasury issue his certificate accordingly.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 17.

[3d SESSION.

DAMAGES CLAIMED FOR BREACH OF CONTRACT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1791.

TREASURY DEPARTMENT, *February 24, 1791.*

The SECRETARY OF THE TREASURY, pursuant to the order of the House of Representatives of the 20th of January last, referring to him, among other things, a petition from Comfort Sands and others, respectfully reports:

That it is true, as represented by the said petitioners, that some time in the year 1782, they contracted with the Superintendent of the Finances, for the supply of rations for the use of the garrison of West Point and its dependencies, and also for the use of the main army.

That it is likewise true, that before the expiration of the term of their contract, it was deemed proper or necessary, by the said Superintendent, that the business of supply should be withdrawn from them, and placed in other hands.

That a claim to be indemnified for damages and losses alleged to have been sustained was made on the part of the said contractors; in consequence of which, the several resolutions recited in the said petition were passed, and nearly at the times therein specified.

That it further appears, that four of the referees appointed by and in pursuance to the said resolutions, namely, Isaac Roosevelt, William Malcolm, Elbridge Gerry, and Henry Remsen, did, in the year 1787, make an award or report, expressive of their decision or opinion, that the United States ought to pay to the said contractors the sum of forty thousand two hundred and ninety-seven dollars, and four ninetieth parts of a dollar.

That it is also true, as stated in said petition, that the said award or report was, by Congress, referred for examination to a committee, who reported in favor of its being confirmed; but that report was afterwards committed

to another committee, who never, as far as can be traced, made any report; neither has there been any decision of Congress on the subject. That the reasons which induced the reference to a second committee do not appear; but it is within the recollection of the Secretary, who was then a member of that body, that it was not attended with any circumstances indicating an opinion either favorable or unfavorable to the merits of the award, but was done for the sake of further inquiry.

That it is likewise true, that application having been made to the accounting officers of the Treasury for a determination on the said award, it has been concluded that they were not competent to the same, without the special authority of the Legislature.

That in judging of the light in which this transaction ought to be viewed, the following particulars seem to claim attention:

That the course pursued was similar to that which is usual in the submission of controversies between individuals to arbitration.

That there was a mutual election and consent in the appointment of the persons who were to make the investigation.

That they were expressly denominated referees.

That they acted *under oath*.

That the proper officer representing the Government was empowered to *employ counsel*, if necessary.

That the referees are authorized, by the first resolution, to *determine* what damages, if any, were sustained by the contractors; and by the last resolution, their duty or business is designated to be to "*decide certain controversies*" between the United States and the contractors.

That these characteristics, and the general spirit of the transaction, appear to the Secretary, to denote, that the report of the referees in the case ought to be considered as equivalent to an award between individuals, possessing the same validity, and equally open to exceptions.

That, as to the provision made by the several resolutions, that the referees should report their opinion to Congress; this, it is conceived, could only have been intended to reserve to Congress a right of reviewing the award on the same principles, *bona fide*, as would prevail in a court of justice.

That, entertaining a doubt how far Congress, under the present constitution of the United States, may think it advisable to exercise themselves the power so reserved, the Secretary forbears to enter into a detail of the circumstances which attended the award; desirous of submitting, in the first instance, to the consideration of the House, whether it will not be expedient to repose elsewhere the exercise of that power.

Two modes of doing this have occurred, which are also respectfully submitted:

One is to authorize the *accounting officers* of the Treasury, on the application of the parties, to decide upon the award, on principles similar to those which would prevail in a controversy concerning it at law.

The other is to authorize its being made, with consent of the parties, a rule of the Supreme Court of the United States, for the determination of the said court; in which case it will, of course, be determined according to those principles.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

[NOTE.—Sec Nos. 25, 131, 133.]

1st CONGRESS.]

No. 18.

[3d SESSION.

REWARDS TO DESERTERS FROM THE ENEMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1791.

THE SECRETARY OF STATE, having had under consideration the petition of Nicholas Ferdinand Westphal, to him referred by the House of Representatives, and having made such inquiry into the facts alleged as the case admits, makes thereon the following report:—

It appears by the affidavit of the petitioner, (the best evidence the nature of the case admits,) that he was a sergeant-major in the British service in the earlier part of the late war; that he was induced by certain handbills, dispersed in their camp, to desert from Fort Edward, and to bring off his whole picket, consisting of twelve men, which he did on the 8th of August, 1777; that, after great hardships and dangers, he arrived on the 17th of the same month at the American camp at Stillwater, with only five of his men, whom he presented with himself to the American commanding officer, by whose orders he brought the men on to Philadelphia, where they were permitted to disperse: the facts of his desertion and bringing to the American camp a part of a picket being confirmed by the certificate of General St. Clair.

It appears that the petitioner afterwards retired into the country and married; that, after the war, he sent his wife and two children to Hanover, by the way of Hamburg, to endeavor to recover his property there, from whence they returned without having been able to do it; that he is, by an accident, disabled permanently from labor, and is, with his wife and three children, in a very indigent and helpless condition.

It appears, by a resolution in the printed journals of August 27, 1776, that Congress promised to every non-commissioned officer, who should leave the service of the enemy and become a citizen of these States, one hundred acres of unappropriated lands; and, moreover, that where officers should bring with them a number of foreign soldiers, they would (besides the lands promised to the said officers and soldiers) give "to such officers further rewards proportioned to the numbers they should bring over, and suited to the nature of their wants;" which resolution was translated into German, printed in handbills, sent into the enemy's camp, and there circulated.

The Secretary of State, seeking for principles whereon to estimate the further reward promised by the said resolution of Congress; considering that a soldier withdrawn from an enemy saves the necessity, and consequently the expenses, of raising one on our part; that the first expenses of raising a soldier were, by the resolution of June

26, 1776, \$10 of bounty in money, and by that of September 6, 1777, a bounty of clothes, estimated in the resolution at \$47 67, and worth, at the then rate of depreciation, \$46 14 of silver, the two articles making together \$56 14 on each soldier; that the petitioner having brought five others with him, saved these first expenses on six men, amounting to \$336 84; that, in relinquishing this benefit to the officer, there will yet remain to the United States the saving of the subsequent expenses of annual pay, clothing, and subsistence:

Is of opinion that one hundred acres of unappropriated lands should be granted to the petitioner, free of all charges, and that there be paid to him, as a further reward, the sum of \$336 84, *with interest thereon, at the rate of six per cent. per annum, from the 17th of August, 1777, until paid.*

TH: JEFFERSON.

FEBRUARY 24, 1791.

[1st CONGRESS.]

No. 19.

[3d SESSION.]

INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1791.

WAR OFFICE, February 25, 1791.

During the last session of Congress, the Secretary of War submitted to the House of Representatives certain general reflections upon the subject of invalid pensions, which he begs leave to recapitulate, with such additional observations, arising from the great number of petitions presented during the present session.

The first provision for invalids was made so early as August the 26th, 1776, which was ordered to be published, and continued substantially during the war. On the 7th of June, 1785, Congress made further regulations relative to the invalids; and, on the 11th of June, 1788, Congress—"Resolved, That no person shall be entitled to a pension, as an invalid, who has not, or who shall not before the expiration of six months from this time, make application therefor, and produce the requisite certificates and evidence to entitle him thereto."

Thus Congress, by a liberal and honorable conduct, transferred to the several States the right of judging who of their citizens respectively were entitled to be placed on the list of invalid pensioners of the United States, and of ascertaining the sum that each should receive.

That, by thus transferring the mode of obtaining compensation for disability received in public service to the doors of the claimants, and stationing the same there for several years, every facility has been offered which could be required of national justice or national humanity.

If, under the circumstances of local information, all the supposable degrees of local influence, and the provision being made at the expense of the United States, claimants have failed of success, it is most reasonable to conclude that their claims have not been well founded, especially when it shall be considered that claimants, unsuccessful in their first application, generally appealed to the State Legislatures.

To suppose that the Congress of the United States, removed at a distance, and, from the nature of things, acting under more partial information, could equitably reverse the judgments made in the respective States, is to suppose that they possess a greater portion of intuition than has been assigned to the human race.

If any decision made in the States should be reversed or modified by Congress, unless for powerful and conspicuous reasons, such an inundation of applications would follow, as to constrain a new inspection or examination of all the invalids throughout the United States. Although such a measure might be favorable to some, it would probably occasion disgust and applications from a greater number; as it would be difficult, if not impracticable, to devise a mode for a new inspection, which would be entirely free from exception and the causes of future complaints.

The Secretary of War, therefore, on mature consideration, humbly conceives that it is the wisest conduct to adhere to the decisions made in the respective States, with respect to the proper subjects of invalid pensions, and that it is also important to adhere generally to the limitation for applications of this nature, established by the resolve of Congress of the 11th of June, 1788. It is, indeed, probable that cases may be brought forward, accompanied by such strong and decisive circumstances, as to require remedy; but these must be few, and will depend on their own particular merits.

The foregoing ideas arose upon a former consideration of this subject; but the numerous petitions which have been presented during the present session seem to require that some general principles should be adopted in order to prevent unnecessary applications and waste of public time.

On the one hand, national dignity, justice, policy, and the dictates of humanity seem to require that all persons, decidedly disabled in the late war, should be benefited by the provision originally established, the resolve of limitation notwithstanding; while, on the other, due care should be taken to prevent persons being placed on the pension list, who were not conspicuously entitled thereto.

A considerable number of the petitions presented this session state colds, rheumatism, or other disorders, caught ten or fifteen years ago, as the causes of a pension.

There are others who received flesh wounds as many years past, which they conceive entitle them, with the increase of years, to a pension.

And there are others, who were indeed badly wounded, but recovered, and were either not entitled to pensions in their own opinions, or in the judgments of the States, or, it is presumed, they would have received them; several of this class have produced sufficient testimony of their wounds, but not sufficient testimony of disability arising from said wounds.

But there are others, although but a few, who appear to produce certificates of real disability arising from wounds, but these are opposed by the before-recited resolve of the 11th of June, 1788.

Utter incapacity for labor or of obtaining a livelihood seems to be the criterion of the highest disability. But the grades of disability are several, until they are hardly perceptible.

It is to be remarked, that it is easy, from the influence of humanity, to obtain plausible certificates, even from men of good character.

These observations are humbly stated to the House of Representatives, in order to exhibit the perplexities of forming a judgment by such *ex parte* certificates as are generally produced; and in order further to submit to Congress some ideas upon the nature of the evidence which ought in future to accompany every petition, "provided it should be the judgment of Congress that the nature of the case requires any further time to produce claims."

That no petition for an invalid pension should be granted, unless it was attended with the following evidence:

1st. Decisive disability to be proved to have been the effect of wounds or some other known cause, while the petitioners were employed in the line of their duty in the public service.

2d. That all invalids shall be examined by three physicians, on oath, in the presence of the ———, or judge of the district in which such invalids may reside, or such other officer of the United States as Congress may direct; and all other evidence relative to such invalids should be taken on oath before the judge of the district, or such other officer, and certified by him.

3d. That proof should be made that the petitioners had not before been examined under the direction of any State.

4th. That no petition should be granted which had before been rejected by any individual State.

5th. That each petitioner should show a good and sufficient cause why he had not applied to the State in which he resided, within the time limited by the resolves of Congress.

That petitions attended by such evidence, and so circumstanced, might be presented for the consideration and decision of Congress.

But it would be attended with great public injury were Congress to divest themselves of the right of judging on claims of this nature, by transferring the same to any person or persons whatever.

These reflections have arisen from the view which the Secretary of War has recently taken of this subject, and he conceives it to be his duty respectfully to submit them to the superior wisdom of the House of Representatives.

H. KNOX, *Secretary of War.*

1st CONGRESS.]

No. 20.

[3d SESSION.

CLAIMS FOR PAY, DEPRECIATION, AND PENSIONS, FOR REVOLUTIONARY SERVICES.

COMMUNICATED TO THE SENATE, MARCH 3, 1791.

Mr. MONROE, from the committee to whom were referred the resolutions of the Assembly of Virginia upon the claims of sundry individuals, and the papers accompanying them, made the following report:

That the claims alluded to may be classed as follows:

1st. Ten claims for pay, and depreciation of pay, by persons who had left the service of the United States previous to the 10th day of April, 1780.

2d. Ten claims for pay, and depreciation of pay, by persons who left the service subsequent to the 10th of April, 1780.

3d. One claim for depreciation of pay, by a person who was not enlisted for three years, nor during the war.

4th. Two claims for military services, by persons who do not specify the period in which they were performed.

5th. Three claims for pensions, by persons wounded in the service of the United States.

6th. One claim for services performed in the quartermaster general's department.

7th. Ten claims for pay, and depreciation of pay, by persons employed in military services under the authority of the commonwealth of Virginia.

That, upon each of these claims, the Legislature of the commonwealth of Virginia have passed a resolution, referring some "to the proper officer under the Federal Government having cognizance of such cases;" on others, it has only been "resolved that they were reasonable;" on others, "that they were reasonable, and that the Auditor of Public Accounts be directed to adjust their claims, and issue certificates therefor." These last have probably been transmitted by mistake.

That those in the first class are not entitled to depreciation by any act of the late Congress; that, if any pay is still due to them, that can only be adjusted at the proper office.

That the States having been authorized to settle the depreciations of such as were in service on the 10th of April, 1780, and who were engaged for three years, or during the war, those claims ought to have been adjusted by the State; that an adjustment for pay can only be had at the proper office.

The claim mentioned in the third class is totally unfounded.

That those in the fourth class can only be adjusted at the proper office.

That the claims of those in the fifth class are foreclosed by the act of the late Congress. That cases may, however, arise, in which an adherence to the foreclosing act would be improper. That, if the suggestion contained in the resolution, with respect to one of those, can be substantiated, legislative provision ought to be made on a proper application to Congress.

The claim in the sixth class can only be adjusted at the proper office.

The claims in the seventh class ought to have been adjusted by the State of Virginia, and might have been a proper charge in its account with the United States, but cannot now be allowed by Congress.

That only thirteen of the thirty-seven claims are accompanied with any kind of vouchers, and these very deficient.

That it appears to your committee, if any person has a demand against the United States so circumstanced as that a legislative provision is requisite to obtain an adjustment, the claimant, his assignee, or legal representative, ought to prefer an immediate application to Congress. That a decision on a claim against the United States by the Legislature of any State tends to create embarrassments, and ought not to be countenanced by Congress.

That, therefore, it would be proper to permit the resolution of the Legislature of Virginia, of the 28th December last, with the particular resolutions and claims accompanying it, to be withdrawn.

2d CONGRESS.]

No. 21.

[1st SESSION.]

SEVEN YEARS' HALF-PAY TO WIDOWS AND CHILDREN OF OFFICERS WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 23, 1791.

WAR DEPARTMENT, *November 23, 1791.*

The SECRETARY OF WAR, to whom were referred the petitions of the widows, or the children, or the representatives of the children, of the commissioned officers hereinafter named, who were killed or who died in the service of the United States, during the late war, respectfully reports:

That having investigated the claims severally, and the evidence accompanying the same, as well as the evidence afforded by the public offices, the result is herein submitted:

1st. That it appears that William Bond, deceased, was commissioned by Congress as the colonel of the 25th regiment of foot, on the 1st day of January, 1776; and that he died while in public service, at Ticonderoga, on the 31st day of August of the same year. That the petitioner, Lucy Bond, was left the widow of the deceased, William Bond, with nine young children to support and educate; and that she still remains a widow. That the said widow has not received any compensation for the seven years' half-pay allowed in such cases by the United States.

2d. That it appears that Wadleigh Noyes, deceased, was a lieutenant in the 9th Massachusetts regiment; and that he was mortally wounded at Saratoga the 7th of October, 1777, of which wounds he died the 27th day of the same month and year. That the widow of the deceased lieutenant having intermarried, the present petition is presented in behalf of her three children, had by the said Wadleigh Noyes, deceased. That the said widow or children have not received any compensation for the seven years' half-pay in such cases allowed by the United States.

3d. That it appears Bernard Elliot, deceased, was a lieutenant colonel of the South Carolina regiment of artillery, on continental establishment; and that he died on the 25th of October, 1778, while in public service. That no compensation has been made for the seven years' half-pay in such cases allowed by the United States, either to the widow, who has since married, or to the only son of the deceased, in whose behalf the petition is presented.

4th. That it appears the late Samuel Wise, deceased, was major of the 3d South Carolina regiment of infantry, on continental establishment; and that he was killed while in public service, at the lines of Savannah, on the 9th day of October, 1779. That no compensation has been made for the seven years' half-pay. That the petition states that Jane Ann Ball, the wife of the petitioner, Joseph Ball, is the only child of the deceased Major Samuel Wise; and, from the register of her baptism, which is produced, it would appear that she was probably about the age of fourteen years at the time of her father's death; and that the petition further states, that the widow of the said deceased is dead.

5th. That it appears that Benjamin Huger, deceased, was major of the 5th South Carolina regiment on continental establishment; and that he was killed in the service of the United States, while on duty before the lines of Charleston, on the 11th day of May, 1779, leaving a widow and three children. That his said widow still remains such; and that she has not received any compensation for the seven years' half-pay in such cases allowed by the United States.

6th. That it appears John Bush, deceased, was a lieutenant in the 2d South Carolina regiment on continental establishment; and that he was killed in the service of the United States, at the lines of Savannah, the 9th day of October, 1779. That the petition states the deceased left three daughters, but it does not appear whether there was or is a widow; and it appears that no compensation has been made for the seven years' half-pay in such cases allowed by the United States.

7th. That it appears Charles Motte, deceased, was major of the 2d South Carolina regiment on continental establishment; and that he was killed in the public service, at the lines of Savannah, on the 9th day of October, 1779. That the petitioner states that there are two minor children, and that the widow of the deceased has since married. That it appears no compensation has been made for the seven years' half-pay in such cases allowed by the United States.

8th. That it appears that Richard Shubrick was a captain of the 2d South Carolina regiment on continental establishment; and that he died while in public service, on the 8th day of November, 1777. That the petitioner states the widow of the deceased to have since intermarried; and that the deceased left two daughters, who are now living. That it appears no compensation has been made for the seven years' half-pay in such cases allowed by the United States.

On due consideration, the Secretary of War is of opinion that each and every case hereinbefore recited was fully comprehended in the provision for the seven years' half-pay to the widows or orphans of deceased officers, established by the act of Congress of the 24th of August, 1780.

But the lapse of time and other circumstances since the decease of the said officers may possibly occasion some objections to the propriety of Congress complying with the prayer of the said petitions at this period.

First, from the consideration that this subject was recommended to the several States, who, it is presumed, would have made due provision for their own citizens, more especially as the allowance was to be at the general expense of the United States.

And, secondly, from the consideration that claims of this nature may be construed as involved in the general resolves of limitation, relatively to the services and supplies of the late war.

But it may be observed, with respect to the first objection, that it appears from unequivocal testimony, under the seal of the State of South Carolina, that the said State never in any instance made provision for the widows and orphans of officers who were killed or who died in the service during the late war.

Of the eight before-recited petitions, six of them are from the State of South Carolina; the other two are from Massachusetts. The reasons given why the widow of the late Colonel Bond and the children of the late Lieutenant Wadleigh Noyes were not provided for by Massachusetts, are obscure and unsatisfactory. The one, it seems from the evidence, because the colonel's commission was not produced at the time of application; and the other, because the lieutenant's rank and death were not fully established. But, whatever were the reasons which prevented the petitioners receiving compensation from their State, the subscriber is of opinion that the widow of the said Colonel Bond and the children of the said Wadleigh Noyes are entitled to the benefit of the provision established by the resolves of the 24th of August, 1780.

How far the second objection is well founded—that is, whether claims of this nature are involved in the limitation act—is submitted to Congress. The Secretary of War humbly offers it as his opinion, that the interest, dignity, and justice of the United States combine to oppose a rigid construction of the resolves of limitation, applying to the cases of widows and orphans, whose obscure and helpless situation prevented a proper application in due time. The reasons for this opinion are given at large in a report to the House of Representatives on the 14th of February last, in the case of sundry widows and orphans, to which, in order to prevent repetition, the subscriber humbly begs leave to refer. [See No. 15.]

But, if any doubts should be entertained upon this subject, the act of Congress passed the 11th of August, 1790, in favor of Frances Eleanor Laurens, the orphan daughter of the late Colonel John Laurens, who was killed while in the service of the United States, would seem to dissipate them; for the circumstances of that case differ in no essential particular from the cases herein reported, belonging to the State of South Carolina. And the case of Sarah, the widow of the late Major General Stirling, provided for by the said act, is similarly circumstanced to the claim of the widow of Colonel Bond and the children of the late Lieutenant Wadleigh Noyes.

If Congress, therefore, should please to grant the prayer of the before-mentioned widows and children of the said officers who were killed or who died in the service of the United States, it might be proper to direct that the Comptroller of the Treasury should adjust the claims for the seven years' half-pay stipulated by the resolve of Congress of the 24th of August, 1780, and the Register of the Treasury issue his certificates accordingly to the widows or orphan children, as the cases respectively may be, of the late Colonel William Bond, Lieutenant Wadleigh Noyes, Lieutenant Colonel Bernard Elliot, (of the artillery,) Major Samuel Wise, Major Benjamin Huger, Lieutenant John Bush, Major Charles Motte, and Captain Richard Shubrick, deceased, all of whom were either killed or died in the service of the United States.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

2d CONGRESS.]

No. 22.

[1st SESSION.]

CLAIMS OF A RECEIVER OF CONTINENTAL TAXES FOR FURTHER COMPENSATION,
AND INDEMNITY FOR MONEY STOLEN FROM HIM.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 12, 1791.

TREASURY DEPARTMENT, *December 9, 1791.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of George Webb, by an order of the House of Representatives of the 24th of February, 1791, respectfully submits the following report thereupon:

The prayer of the said petition has reference to two objects: one a further compensation for services rendered while the petitioner acted in the capacity of receiver of continental taxes for the State of Virginia; the other an allowance for a sum of 956 pounds, Virginia currency, being public money, which the petitioner alleges to have been stolen out of his possession.

In relation to the first point, the following facts appear:

That by a resolution of Congress of the 30th of October, 1781, the respective States were required to furnish their quotas of \$8,000,000 for the service of the year 1782, to be paid quarterly, in equal proportions; the first payment on the 1st day of April then next ensuing.

That by another resolution of the 2d of November following, the respective quotas of the States of the said \$8,000,000 are fixed; and it is, among other things, recommended to the States to cause their collectors to make payment to the Commissioners of Loans, or such other persons as should be appointed by the Superintendent of Finance to receive the same.

That, upon the strength of this resolution, the said Superintendent appointed receivers of continental taxes for the respective States, and, among others, the petitioner for the State of Virginia.

That the letters from the said Superintendent announcing these appointments inform the receivers that they are severally to be allowed, in lieu of all salary and expenses whatever, a certain rate per centum; but without designating any term of time for which this allowance shall be made, or whether the rate per centum is to be computed upon the actual receipts of each receiver, or upon the amount of the quota of each State.

That subsequent explanations established that the per centage was to be computed on the amount of each quota, but nothing was said with regard to the term of time for which the compensation was to be deemed applicable.

That, previous to these appointments, it had been the practice of Congress to assess, each year, quotas upon the several States; but no quotas were assessed after the one for the year 1782, until the 27th of September, 1785, except by a requisition of the 10th September, 1782, for \$1,200,000, towards payment of interest on the domestic debt, the application of which seems to have been left to the States themselves; and by another requisition of the 16th of October in the same year, for \$2,000,000 for the service of the year 1783.

That the receivers, and, among the rest, the petitioner, continued to act as such until the 1st of July, 1785, when they were discontinued by virtue of a resolution of Congress of the 15th of April preceding; that there is a letter from the Superintendent of Finance to the petitioner, dated 31st August, 1784, in the following terms:

"I have received your favor of the 23d instant. The account which was enclosed is transmitted to the Treasury. In my circular letter of the 5th of May, 1783, I sent to the several receivers a copy of my return to Congress of the 10th of March preceding, in which was mentioned the per centage to be allowed to those officers on the quotas assigned to the States.

"No alteration has taken place for or against them; they certainly are entitled to the benefit of their original engagement, and, no new quotas having been assigned, I am not in a capacity to stipulate compensation anew. The grand committee were disposed more to abridge than to extend the salary."

That the account referred to in the said letter contains charges of per centage for the years 1783 and 1784, computed upon the sum which constituted the quota of 1782.

That, in the settlements which have been made with these officers at the Treasury, they have been allowed nothing more than the stipulated per centage upon the quota of 1782, though the claims of all of them have extended to further compensation; and some of them retain balances in their hands as a security for those claims.

That there is ground to believe that in certain cases the compensation allowed by this rule of settlement has been adequate to the services rendered; but that this appears not to have been universally the case, and particularly not so in regard to the petitioner, who, from the manner of conducting the business, by the laws of Virginia was subjected to more various operations than were usual elsewhere; and it appears, moreover, that the petitioner had to perform certain extra services not applicable to other receivers.

That it also appears satisfactorily, though not from official documents, that the rule of settlement adopted at the Treasury was founded upon the supposition of a want of authority to make a further allowance. Upon these facts and circumstances, the following observations arise:

That it must have been in contemplation, as well of the Superintendent of Finance, who, on behalf of the Government, made the appointments, as of the persons who were appointed, "that annual quotas would continue to be assessed upon the States, as had before been practised, and that the per centage allowed to the receivers would operate as a yearly compensation, regulated as to quantum by yearly requisitions." That the requisition for the year 1782 being payable within the year 1782, the natural presumption is, that the per centage on the quotas of that requisition was to be a compensation to the receivers for their services during that year.

That it neither appears reasonable in itself, nor consistent with the spirit of the contract, that the services of those officers for more than three years should be requited by no greater compensation than was calculated with a view to one year; and that it is therefore equitable that some further allowance should be made. It remains to consider whether the making of such further allowance at this time would form an inconvenient precedent, or contravene any rule the maintenance of which is necessary to the preservation of order.

Deviations from general rules, which have prevailed in settlements at the Treasury, in cases in which there has been understood to be competent authority, can never take place without extreme hazard of extensive inconveniences; and a revision of the compensations which have been in any case allowed under the former Government, on the mere ground of insufficiency, would lead to much embarrassment, and might be productive of very great expense.

But the case of the petitioner does not appear liable to objections from either of these considerations. The refusal of the Treasury to admit a further allowance seems to have proceeded on the ground of want of authority, and probably upon the supposition that some further legislative provision was necessary. And the claim of the petitioner does not rest upon the mere insufficiency of the compensation to which he was entitled; it is founded on the spirit of a contract, which is supposed to have authorized the expectation of a greater compensation than has actually been allowed. It is, therefore, not perceived that any great inconvenience can attend a further allowance.

Should an additional compensation to the petitioner, and others in his situation, be judged advisable, the Secretary submits an opinion, that the most equitable mode of doing it, and that which, upon the whole, will best proportion the recompense to the service, will be to allow a certain commission or per centage upon all the moneys which were received by each receiver after the expiration of the year 1782.

In relation to the claim of the petitioner for an allowance of the sum which he alleges to have been stolen from him, the following observations occur:

It is a principle which has been admitted in practice at the Treasury, upon the strength of legal opinions officially given, that where a receiver of public money, as a mere agent, is robbed of such money which may have been in his keeping, the loss is to be borne by the Government; but from the very great danger of abuse to which a principle of this nature is liable, it is conceived to be essential to the public safety that the utmost strictness and exactness should be observed in the manner of proceeding.

Several circumstances appear necessary to be insisted upon—due caution and care on the part of the agent; full, precise, and unexceptionable proof of the theft, and immediate notice of it to the proper superior or department.

In the last particular the petitioner altogether failed; no notice was given of the robbery to the Treasury till several months after it had happened. The proof of the theft, though satisfactory to the mind, is not entirely free from exception. The discovery of it did not immediately follow the fact; it is not even ascertained in what month it happened. One deposition of the clerk in whose custody the money was, taken the 1st of September, 1788, states that the theft was committed in the month of April or May, and represents the money as having been taken from an iron chest, where it was deposited. A subsequent deposition of the same person, taken in May, 1789, states, that the chest being full, a large sum of money received from a certain sheriff was placed in one of the drawers of a desk, and expresses a suspicion that the money stolen was taken from the desk.

These circumstances mark less accuracy than is desirable in a similar case; but the greatest objection to the claim of the petitioner in this respect is the delay of a notice. To this he answers, that the omission arose from hesitation in his mind, originating in motives of delicacy, whether to bear the loss himself, or to transfer it to the Government; alleging that if he had not sustained severe losses in consequence of transactions connected with his official situation, he would have preferred the former to the latter; and he produces proof of his having expressed this hesitation at or about the time of the accident.

How far an excuse of this nature may be sufficient to obviate an objection arising from the omission of a precaution, the observance of which is of so much importance to the security of the public, is alone for legislative consideration.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

2d CONGRESS.]

No. 23.

1st Session.

CLAIM FOR LOSSES SUSTAINED BY MAJOR GENERAL GREENE IN PROCURING SUPPLIES FOR THE SOUTHERN ARMY, IN 1782.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 26, 1791.

The SECRETARY OF THE TREASURY, to whom was referred a petition of Catharine Greene, of the 4th of March, 1790, respectfully submits the following report thereupon:

The said petition seeks to obtain an indemnification from the United States against the effects of certain engagements which were entered into by the now deceased husband of the petitioner, the late Major General Nathaniel Greene, while commanding officer in the southern department; and, for the circumstances on which it is founded, refers to a representation of the 22d of August, 1785, which was made by the said General Greene to the United States in Congress assembled; a copy of which representation (marked A) is herewith transmitted.

The following are the principal facts which appear in relation to this application:

1. The Department of War, in the fall of the year 1782, authorized the said Major General Greene to obtain supplies of clothing for the troops under his command.

2. In consequence of this authority, in November or December of the same year, he entered into a contract, for the supply of clothing to the army, with John Banks, a partner in the house of Hunter, Banks, & Co., who contracted on behalf of the company, and, upon account of the contract, advanced him one thousand one hundred guineas in money, and due bills upon the Superintendent of Finance for the residue. This transaction was duly notified to the Department of War, and received the approbation of that Department.

3. The goods for completing this contract were purchased on credit, by the contractors, from certain British merchants then in Charleston.

4. About the same period, the Superintendent of Finance empowered General Greene to contract for the supply of all such provisions as might be wanted for the use of the army in the States of North and South Carolina and Georgia, with permission, if more convenient to him, to commit the execution of the business to Edward Carrington, Esq.; to whom it was accordingly committed.

5. An engagement which had been taken by the State of South Carolina for the supply of the army, was to expire at the end of the year 1782. It became urgent to complete a contract for the supply after that period. Advertisements for receiving proposals were published; and particular applications were made by General Greene to sundry characters of property and influence, who had been formerly men of business, to endeavor to engage them to enter into a competition for the contract. But these efforts did not produce the desired effect, owing partly to the distressed and deranged situation of the country, and partly to the then state of public credit. No offer was made, except by the same John Banks, who was the contractor for supplying the troops with clothing, acting on behalf of the same co-partnership of Hunter, Banks, & Co. The terms proposed by him, being thought too disadvantageous, were not accepted in the first instance. The State of South Carolina having consented to extend its measures for supplying the army to the 20th of February following, advantage was taken of the extension to endeavor to procure better terms. A conclusion was delayed, to give a further opportunity for other offers, and negotiations were carried on with Mr. Banks, to induce him to moderate his terms. He fell somewhat in his demands, but, as they still continued to be thought too high, General Greene would not suffer a contract to be concluded, till every possible effort to obtain more favorable terms had failed. As a last expedient for this purpose, a letter was written by the said Edward Carrington to the Speaker of the House of Representatives of South Carolina, stating the then situation of the business, and asking, through him, the opinion of the House, whether there was a probability of obtaining from any part of the country more advantageous terms; and whether it would be advisable, in the expectation of such an event, to keep open the contract for any longer period. It appears to have been an object of this letter, through the medium of that body, to excite, if possible, some further competition. But the end was not answered. The Speaker, in his reply, states, that no competition had been excited in consequence of it, and that, though the terms proposed by Banks were thought too high, yet, as no other proposals had been made, and as the pressing necessities of the army called for immediate relief, it was deemed needless to keep open the contract any longer, under an idea that more advantageous propositions might be made. Under these circumstances, on the 18th of the same month of February, a contract with Hunter, Banks, & Co. was concluded, and was, immediately after, notified to the Superintendent of Finance.

6. It is stated by General Greene, in his representation to Congress, that the company's funds were inadequate to the execution of what they had undertaken; that bills sold greatly under par, and few could be sold at any rate; that the funds of which the company were possessed were tied up by prior engagements; that the creditors insisted on further security, before they would consent to any application of those funds for the support of the army; that he was reduced to a choice of difficulties, either to turn the army loose upon the country, or take upon himself the risk of supporting the contractors; that he chose the latter, as the least evil, and became bound for them to their creditors, for a sum of upwards of £30,000 sterling; that to render the hazard as small as possible, he made the company give an order on their agent in Philadelphia, Mr. Pettit, for all the contract money, and sums due upon the clothing department, to be paid into the hands of the persons whose debts he had guaranteed; and that one of the creditors was sent forward to receive them, but that these funds were diverted into other channels.

And it appears in proof that public bills, as alleged, were of very difficult sale, being subject to a discount of fifteen per cent. for prompt payment, (as much as twenty-five being sometimes demanded;) that the army, at the time when this engagement was entered into by General Greene, was in a very critical situation; that discontents from various causes had produced several instances of actual mutiny; that if the contractors had failed there was no ground to count on any other resource as a substitute; and, if a want of provisions had been added to other causes of dissatisfaction, there was reason to apprehend a disbanding or dissolution of the army.

That General Greene, on or about the 8th of April, 1783, did become surety for the contractors to different persons in very considerable sums; and it is to be inferred, as well from the fact itself, as from the evidence, that the doing of it was necessary, by quieting their creditors, to enable them to proceed in the supply of the army.

It further appears in proof, that Mr. Burnet, one of the company, had informed Mr. Pettit, their agent, that they had purchased a quantity of goods from British merchants in Charleston; that these goods had enabled them to undertake for the supply of the army in clothing and provisions; and that they had stipulated with those merchants "that the moneys arising from the contract should be appropriated to the payment of the debt contracted by that purchase;" that repeated instructions, by letter, in the name of the company, sometimes in the hand-

writing of Banks, and sometimes of Burnet, uniformly held up to him, Mr. Pettit, the idea of paying the produce of the contracts to the same merchants, in proportion to their respective claims, of which they sent a list amounting to upwards of £32,000 sterling, due to three houses; that two payments, one for \$22,875, and the other for \$4,222, were made by him to British merchants; that a Mr. Warrington, one of them, had come forward to Philadelphia to receive the money, both on his account; and as an agent for others; but that, in consequence of subsequent arrangements and instructions, the residue of the contract money was diverted to other purposes.

7. Precautions were taken by General Greene, when he became apprised of his danger, to obtain counter-security. This was actually effected to a considerable extent; but it seems now reduced to a certainty, that a loss of not less than eight thousand pounds sterling will be sustained by his estate, in consequence of the transaction, unless indemnified by the Government, and that the probable result will be the entire ruin of the estate.

8. No document appears, showing that the notice of his having become surety for the company was ever given by General Greene to Congress, or any of the public departments, prior to his representations of the 22d of August, 1785, claiming an indemnity in case of such eventual loss. The omission of such notice is, indeed, to be inferred from the silence of that representation on the point.

The evidence of the foregoing facts is to be found with the documents herewith transmitted, marked from A to Z, inclusively. Under this state of facts, it remains to be considered whether it be incumbent upon the Government of the United States to grant the indemnification to the estate of Major General Greene, which is sought by the petition.

Objections to such an indemnification might arise from three sources.

1st. Want of authority from the Government to enter into the suretyship in question. But this, it is conceived, would not be a valid objection. There certainly are numerous cases in which a commanding officer of an army is justifiable in doing more than he has a regular authority to do from the exigency of particular conjunctures. And where it appears that the unauthorized procedure was prudent and necessary in itself, and was warranted by motives sufficiently important and emergent, it is just and proper in the Government to ratify what has been done, and to indemnify the officer from injury on account of it. That an emergency of this kind did exist to justify the measure which was adopted by General Greene, appears to be satisfactorily established. The keeping of an army from disbanding, may be presumed, upon strong grounds of evidence, to have materially depended upon it. And there does not seem to have been a deficiency of precaution in guarding, as far as was practicable, against eventual loss.

2d. A personal or private interest in doing what was done foreign to the duties and relations of a commanding officer. This, if it did exist, would be a decisive objection. The existence of it having been alleged, it remains to examine what probability there is of the allegation being well founded. Its source is traced to a letter of John Banks, containing a suggestion or conjecture that General Greene was, or probably would be, concerned in the co-partnership of Hunter, Banks, & Co. But this circumstance loses all force from the following considerations:

1st. From a letter which General Greene wrote to John Banks, dated the 26th of December, 1782, in which the General makes his acknowledgments to Mr. Banks for the services he had rendered to the army, in respect to clothing, and invites him to become a competitor for supplying it with provisions. The scope and language of this letter strongly indicate that General Greene had then no interested connexion with Mr. Banks, in relation to any of the matters which are the subjects of it. As this conclusion results rather from the general tenor of the letter than from particular expressions, its justness will best appear by an insertion of the entire letter.

It is in these words:

DEAR SIR:

HEAD-QUARTERS, December 25, 1782.

The comfortable situation in which you have put the army, from the large supply of blankets and clothing furnished it, claims my particular acknowledgments; for although I expect the public will make you a reasonable compensation, yet, as you were the only person who had the will and the means to serve us, our obligation is equally great. I am happy to find, also, that most if not all our officers are likely to get supplies of clothing through your agency. Colonel Carrington, who is appointed to make the contracts for the subsistence of the southern army, also informs me your house have it in contemplation to engage in this business. Great as our obligations are, if you contract for the supplies of the army, this will be greater than all the rest; for the present mode in which we are supplied is truly distressing, both to the people and the army. The manner of collecting by military parties renders it truly distressing to the citizens; and from the uncertain collections, the army is often without any thing to eat. This is hard upon troops who have bled so freely for an oppressed people. I must beg you to hasten your proposals; and, I flatter myself, you will, from your attachment to the cause, as well as a regard for the army, serve the public on the lowest terms.

I am, dear sir, your most obedient, humble servant,

NATHANIEL GREENE.

MR. JOHN BANKS.

2d. From the pains taken by that officer to induce competition from other quarters; the delays which, with his participation and direction, attended an acceptance of the proposals made by Hunter, Banks, & Co. after the time for receiving proposals had expired, in order to afford a still further opportunity for other proposals, and to bring that company to more moderate terms; the reference which, in the last resort, was had to the Assembly of South Carolina, as the only remaining expedient for exciting a competition which had in vain been sought by other means, and respecting which Colonel Carrington in his affidavit (document R) expresses himself in these strong terms: "General Greene would not suffer a contract to be closed, without making every possible effort to excite a competition; and, as a last resort, a letter was written to the Assembly of South Carolina, &c.; circumstances which satisfactorily prove that General Greene had, in the first instance; no common interest with Hunter, Banks, & Co. in the contract for supplying the army with provisions.

3d. From a letter of Major Forsyth, one of the partners, to General Greene, December 29, 1782, (document F,) in which he thanks General Greene for a letter of approbation of his public conduct, and expresses a hope of that countenance and aid from the general in private life which he had enjoyed while serving under his command; and then proceeds to mention the case of a brig belonging to the company, which had been seized at Savannah, and asks, as a favor, a letter from the general to the judge before whom the cause of the vessel was expected to be tried, to remove a prejudice against Mr. Banks (as being a person inimical to the American cause) which, it was feared, might occasion her condemnation. The style of this letter is the reverse of that of one partner writing to another on a subject of mutual interest. It is that of a person who had received favors from a patron, asking a further favor.

4th. From the counter-securities which General Greene took in consequence of his having become surety of the company to their creditors; one being a bond from Banks, Patton, and Hunter, three of the partners, bearing date the 7th of May, 1783, (document M,) in which it is acknowledged, as is usual in such cases, that General

Greene had no concern in the debts for which he had become bound; and the parties accordingly engage to exonerate him from those debts, or any damages which might arise from becoming security for them; another being an assignment from Robert Forsyth, another of the partners, to General Greene, bearing date the 2d of September, 1784, (document N,) of debts due to the partnership, as a counter-security to him, in which it is stated that General Greene, at the special instance and request of the company, had become their security to certain persons to whom they were indebted. This letter, however, being a considerable time after the transaction, is far less conclusive than the former.

5. From the affidavits of John Banks and James Hunter, two of the partners, one dated the 3d of January, 1783, (document O;) the other the 26th of September, 1785, (document P;) the first denying explicitly all connexion of General Greene in the affairs of the company, the last declaring that the deponent never considered General Greene as directly or indirectly interested in the purchase of the goods, upon which the debts for which he had become bound appear to have been founded; that this purchase was on the proper account of John Banks, Robert Forsyth, Ichabod Burnet, John Ferrie, Robert Patton, and the deponent; and that he never heard or understood from either of the other partners that General Greene was in any way concerned or interested in that purchase. There is also a certificate from Robert Forsyth, of the 3d of March, 1785, (document Q,) declaring that the general was not interested either in that purchase or in the contract for the army.

6. From a suit in chancery, which was brought by General Greene, and after his death prosecuted by his executors, to a recovery against John Ferrie, one of the partners of the house of Hunter, Banks, & Co., which suit, it appears, might have been defeated by proof of interest in the partnership, on the part of General Greene; but not only no such proof was made, but it is asserted, on oath, by Charles C. Pinckney, (document Y,) who was solicitor and counsel for Ferrie, and who professes to have obtained, in a professional capacity, considerable knowledge of their affairs, that Ferrie had assisted Banks in the purchase of the goods in question, had been instrumental in his obtaining credit, had kept the books of the company, and appeared to have known all the concerns of the company most intimately and minutely; that if General Greene had been concerned in the speculation, he (Ferrie) must have known it, and that, knowing it, he would have made it known; that he was under no obligation to conceal it, having been put at defiance by the suit, and, could he have proved the fact, he would have been successful in his defence; but he neither produced one title of evidence, nor deduced a single circumstance to show that the general had in any manner been concerned in the purchase; the consequence of which was, that the bill was sustained, the lands were decreed to be sold, and, after defraying the expenses of the suit, and discharging the money due on a mortgage, which had been given by a prior owner, the balance of the sale was directed to be paid over into the hands of the complainant, towards an indemnification of the general. This statement has peculiar force, especially as the general, by commencing the suit, exposed himself to the hazard, if any connexion of interest had subsisted, either of being defeated by a discovery of that connexion, on oath, upon a cross bill, or by perjury in the concealment and denial of it.

7. From a certificate (document X) of the two Chancellors of South Carolina, which, after stating the insinuations that had been made of General Greene's connexion with Hunter, Banks, & Co., proceeds thus:

“ CHARLESTON, *October 30, 1790.*

“ We think ourselves authorized to say, that we are as competent to his vindication, from any aspersion of that nature, as any two persons in the State of South Carolina, as we were both in the Executive department at the time of the evacuation of this capital—the one Governor, and the other Lieutenant Governor; and a suit in chancery has been since brought to issue before us, as Chancellors, in the prosecution of which, the several grounds, principles, and obligations of the various connexions or co-partnerships, by whom the respective speculations alluded to were entered into, were very fully, ably, and minutely discussed by some of the most eminent solicitors in the court. And we have no hesitation, in the most inelastic, unreserved, and unequivocal manner, to declare, that we never had, from our own observation, or from the strictest and most scrutinizing investigation on the chancery bench, the most distant reason to conceive that the honorable General Greene was ever, either directly or indirectly, engaged in any of the aforesaid speculations any further than as surety for Mr. Banks. We think ourselves warranted, also, in asserting that the contract with Mr. Banks for the supply of the army was the most advantageous he could obtain at a time when the want of provisions threatened a mutiny.

“ JOHN MATTHEWS,
“ RICHARD HUTSON.”

8. From the concurrent opinions of other respectable characters, who had the best opportunities of judging of circumstances, that General Greene was totally unconnected in interest with that company. On this point, the documents S, T, U, V, W, Z, are interesting; that marked V states several particulars, as argumentative of the opinion expressed, which merit particular attention.

From the foregoing circumstances combined, there is conceived to be conclusive evidence that General Greene was not interested, either in the purchase of the goods, which had created the debts afterwards guarantied by him, nor in either of the contracts for clothing or provisions, was not a partner in the house of Hunter, Banks, & Co.; nor had any concern whatever in the affairs of that company further than as surety. There is nothing to oppose these conclusions but the suggestion in Banks's letter, and the fact of the suretyship. The former is obviated by the contradiction, on oath, of the party himself: and the circumstances of this contradiction, as represented by General Wayne and Colonel Carrington in their affidavits, (documents T and S,) give it every possible appearance of genuineness. A question naturally arises—What could have been the inducement to the suggestion made by Banks? This is answered by Colonel Carrington, who represents him as a man of “excessive vanity, much disposed to make a show of connexions with high characters.” It is also possible that he may have expected to derive advantage from the reputation of such a connexion. The observation, moreover, is of great force. If General Greene had been a secret partner, unknown to the partners in general, Banks's character precludes the supposition that he would have been the selected depository of the secret.

The fact of the suretyship is accounted for by the necessity of the measure, as it related to the situation of the army. And, relying on the appropriation of the funds, which should arise out of the contracts with the public, to the payment of the persons to whom he had become bound, it was natural that he should have considered the risk as not very great.

This full statement of circumstances, which are conceived to exculpate General Greene from the imputation of being concerned in the transaction, has appeared not only essential to placing the merits of the subject properly before the House, but a debt due to the memory of an officer, who had rendered essential services to his country, and of a man who, by a life of probity, had secured to himself the strongest of all titles to a candid construction of his conduct.

It remains to advert to the third source of objections which has been intimated, as capable of bringing into question the propriety of an indemnification, namely, the omission of notice to the Government, at or about the

time of the transaction, that the suretyship in question had been entered into. Here, in the judgment of the Secretary, lies the only difficulty which attends the question of indemnification.

It appears to have been incumbent upon General Greene, if he meant to look to the Government for indemnification, in case of eventual loss, to have given early notice of the step he had taken. In proportion as that step was unauthorized or unusual, the necessity for the communication was increased. It seems to be a matter of obvious propriety, that a public officer, who expects the sanction of the Government to an unauthorized proceeding, especially an indemnification against pecuniary loss on account of it, ought to embrace the first convenient opportunity to make known the object for which such sanction and indemnification are desired. And the motives on the part of the Government to require a due observance of that precaution are of great force, in regard to the security of the public. It is necessary to enable the Government to investigate the circumstances, at the time when the truth can best be discovered, and unfounded pretensions best be detected. And where an indemnification against pecuniary loss is expected, a prompt disclosure is necessary, to put the Government in a condition to take care of its own interest, in the manner which shall appear to itself most efficacious.

It is, indeed, to be observed, that General Greene was naturally led to imagine that all hazard in the affair was obviated by the measures which had been taken to secure, as he supposed, an application of the moneys to be received from the public, on account of the contract, to the payment of the debts for which he had become surety; and, therefore, omitted a communication to the Government, as not necessary to his safety.

But whether this, which appears to be a satisfactory explanation of the motive for the omission which did take place, be also a sufficient ground for dispensing with the observance of a precaution, which, as a rule, would be proper to be made a condition of indemnification; or how far the peculiar merit of the officer, or the peculiar hardship and misfortune of the case, may render advisable a deviation from that rule, are points which the Secretary begs leave to submit, without observation, to the contemplation of legislative discretion.

If a direct indemnification should be conceived inadmissible as a public precedent, a question would still present itself, whether, under all the circumstances of the case, the family of General Greene ought to be left to the ruinous consequences of an act, which was dictated by a well-advised zeal for the public service, because he omitted a precaution which the rules of public policy may require to have been observed.

The Secretary is not certain whether an opinion on this point be within the province assigned him by the reference, which is the subject of this report; and he, therefore, forbears an explicit sentiment. He hopes, however, to be thought justified by the occasion, when he permits himself to observe, that strong and extraordinary motives of national gratitude for the very signal and very important services rendered by General Greene to his country, must serve to give a keener sting to the regret which ought ever to attend the necessity of a strict adherence to maxims of public policy in opposition to claims founded on unusual acts of zeal for the public service, if no means of protecting from indigence and penury the family of that most meritorious officer shall, upon examination, be found admissible.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

To the honorable the Senate and the honorable the House of Representatives of the United States in Congress assembled. The petition of Catharine Greene, relict of the late General Greene, humbly sheweth:

That the object on which her petition is founded is generally stated in the representation hereunto annexed, made by her late husband to the United States in Congress assembled, on the 22d day of August, 1785.

That it will appear by the said representation, that it was the intention of her late husband to have ascertained the loss on the transaction therein stated, previously to his making application to the United States for indemnification; and, in pursuit of this intention, he instituted suits for the recovery of the bonds and mortgages by him received of Messrs. Banks & Co., as collateral securities; but his designs in this and all other earthly respects were frustrated by his untimely death.

That the suits for the recovery of the said bonds and other collateral securities have been protracted by the death of the debtors, and various circumstances entirely without the control of your petitioner.

That while the recovery of the said bonds and other collateral securities is placed at a future distant period, and their amount uncertain, not only the estates conferred on her late husband by the munificent gratitude of the States of South Carolina and Georgia, but his paternal estate, will be legally wrested from your petitioner and her children, in order to satisfy those obligations which her late husband was constrained to enter into for the public service, whereby your petitioner and her helpless children will be exposed to all the bitter effects of poverty.

That your petitioner thus brings forward her situation and that of her children, with the firmest hope and expectation that the United States will, after a full examination into the transaction stated in her late husband's representation, grant her effectual relief, by assuming the payment of the said obligations entered into for the benefit of the United States, or in such other manner save her and her children's estate from impending ruin, as, in the judgment of Congress, shall appear meet and proper.

And your petitioner, as in duty bound, shall continue to pray.

CATHARINE GREENE.

NEW YORK, *March 4, 1790.*

Documents referred to in the preceding report.

A.

Sir:

NEWPORT, *August 22, 1785.*

Misfortunes are more or less painful as they have been brought upon us by folly and extravagance, or imposed by public necessity. Those of the latter kind may be distressing, but cannot be dishonorable. I have long struggled with difficulties in which I was involved while in command to the southward, and which I should have laid before Congress at an earlier period, but from a hope that I should extricate myself without their intervention. But, as life is uncertain, I should do great injustice to my family not to lay the matter before them, and claim their indemnity. Should the precautions which I have taken prove insufficient for this purpose, I will give them a history of the matter, and leave the rest to their justice and the event of things. The sufferings of the southern army in the campaigns of 1781 and '82, for want of supplies of all kinds, are known to all America. The inability of Congress to give effectual support at those periods needs no explanation. In this situation, without funds or public credit, necessity compelled us to have recourse to many expedients to prevent a dissolution of the army. In the spring of 1782 the troops would have disbanded, but from a seasonable supply of clothing from Charleston, by the Governor and Council of South Carolina. Several hundred men had been as naked as they were born, except a clout

about their middle, for more than four months, and the enemy in force within four hours' march of us all the time. Soon after this, I got instructions from the War Office, to get supplies of clothing in the best manner I could, as there could be none sent from the northward. Mr. John Banks, one of the house of Hunter, Banks, & Co. contracted to supply us. I advanced him a sum of money, and gave him bills on Mr. Morris for forty thousand dollars to secure the clothing. The whole of which was reported to the Secretary of War at the time. Mr. Banks's prospects for securing the clothing was with a set of merchants in Charleston, then in treaty with the Governor and council of South Carolina, for permission to remain with their goods after the place should be evacuated; and if the place should not be evacuated, those merchants were to contrive a plan for sending out the clothing for the army. Mr. Banks, in writing of this transaction to his partners in Virginia, and enclosing a number of the public bills, his letters being opened and the circumstances not known, it gave birth to a report that I held a commercial connexion with him. And this interpretation was more readily given to the affair, from Mr. Banks's hazarding a conjecture, that it was probable I might. On this being communicated to me by the Governor of Virginia, I took Mr. Banks before the Chief Justice of South Carolina, to make oath on the subject. A copy of his affidavit I enclose, and have the original in keeping. There are no transactions in life which are more vexatious than those where our zeal to serve the public is made the subject of private accusation. It is no less mortifying to our pride than unfriendly to our character. I despise popular prejudices, and disdain vulgar suspicions; but lest the army might be tainted with the rumors on the subject, and sap their confidence so essential to military operations, and the prospects of peace uncertain, I got General Wayne and Colonel Carrington to look over the original papers, that the army might be convinced it was a public and not a private transaction; and such they found it. Their report has been made public. Soon after the enemy left Charleston, the inhabitants, who had been much harassed from the mode of subsisting the troops, began to clamor against it. The discontent was so great as to give opposition in some cases, and to threaten it in all. This rendered our collections difficult and precarious; our soldiers were soon reduced to the utmost distress, and, at times, compelled from hunger to plunder the market in Charleston for support. I believe these are facts known to some of the members on your floor. The universal cry was a contract for the subsistence of the army; but such was the critical situation of our financier, the difficulty lay in finding persons of property to engage in the business. Applications were made to almost every man of property and influence in the State. No one could be found; and so scrupulous were the people at one period, that nobody would take bills on the financier, except Messrs. Banks & Co., and they were the only persons that made any propositions for contracting, and their conditions were high, and their funds inadequate. The matter was referred to the General Assembly, and their advice and assistance solicited upon the occasion. The General Assembly, after making the necessary inquiry on the subject, discovered such a backwardness in the people to engage in a contract, that they recommended our closing with the offer made by Banks & Co., even under all the disadvantages in which it presented itself. The difficulties, which were foreseen, were soon felt. The company's funds were inadequate, bills sold greatly under par, and but few could be sold at any rate. Those funds which were in the hands of the company were tied up by prior engagements, and the creditors insisted on further security before they would consent to their application for the support of the army. The repeal of the impost law in South Carolina added another difficulty. My address on this subject gave offence to the Assembly. In this critical situation, I had but a choice of difficulties; to turn the army loose upon the country, or take the risk upon me of supporting the contractors. I chose the latter as the least evil.

The sum I first engaged for was upwards of thirty thousand pounds sterling; but afterwards, when public bills got into better credit, I was obliged to give occasional support, by lodging bills to raise money upon; and this was attended with no small risk, but happily with no loss. And that as little hazard might be run as possible in my engagements, I made the company give an order for all the contract money and sums due on the clothing department, to be paid into the hands of those persons whose debts I had guaranteed. The order was given on Mr. Pettit, the company's agent in Philadelphia, and one of the creditors, commissioned by the whole, sent forward to receive it; and, had it been complied with, it would have discharged all my engagements. From this, until my return to the northward, I was ignorant that those funds were diverted into other channels. My indignation at the vulgar suspicions of my holding a concern with Banks & Co. imposed a sort of silence on me, which kept me ignorant of Mr. Banks's villainy until my arrival at Philadelphia. Mr. Pettit then told me what had been done. Alarmed at the situation of the business, I got Doctor Burnet, whose son had been one of the company, and was then deceased, to send another of his sons to Charleston to have deposits made from the company's funds for the security of those debts for which I stood engaged. He went, and the greater part was settled, and I should have been discharged from the whole but from new acts of villainy in Mr. Banks. Part of what now remains due is in dispute and I have a bond of indemnity and some mortgages for the rest. But after every precaution I have taken, if I should suffer, I hope Congress will indemnify me. I have been much perplexed with the business, distressed to the greatest degree in my private affairs, and have already travelled some thousand miles upon it, and am still involved in a law-suit, and sundry other difficulties concerning the payments which have been made. Thus have I given your excellency a short narration of the origin and situation of this matter; and have only to add, on this subject, that I never held any commercial connexion with this company, other than what concerned the public, either directly or indirectly, or ever received one farthing profit or emolument, or the promise of any, from them; and my bond of indemnity expressly declares that I have no interest, connexion, or concern in the debts for which I became bound: all which I am willing to verify on oath.

Another instance of private loss has attended my command, which, in many instances, has been rendered more difficult and distressing than can be readily conceived. Baron Glusbeck, an officer created for special merit in the action at the Cowpens, was in Charleston without money or means to get to the northward, and a foreigner without credit. I had no money to advance him, and endorsed his bills, which were returned upon my hands with damages and interest, to the amount of near a thousand dollars, which I have been obliged to borrow the money to settle, and still owe it. My public station imposed this business upon me; and although I would not have done it if I had known the fellow to have been as great an impostor as I have reason to believe him since, yet, at the same time being commanding officer, I could not well refuse it.

I have the honor to be, with great respect and esteem, your excellency's most obedient, humble servant,
NATHANIEL GREENE.

His Excellency the PRESIDENT OF CONGRESS.

B.

Extracts from the Secretary of War's letters to the late Major General Greene.

JULY 10, 1782.

The sufferings of your troops have impressed me with the deepest concern, and the very painful sensations which your relation of them excites are powerfully enhanced, that these distresses should have been the lot of an

army not only entitled by special contract to better fare, but whose meritorious and gallant exertions, under the most extreme difficulties, merited a very different fate. Mine is the unhappy station in which I must hear complaints without having it in my power to redress the grievances.

SEPTEMBER 30, 1782.

The moment you have taken your determination what troops you will retain, I wish to be informed whether they can or cannot be supplied with clothing by you; of this I suppose there will be no doubt, in case Charleston should be evacuated. Indeed, we had almost better give any price than think of sending it from here; we have met with so many losses and delays, that we have little hope of success, should it be again attempted; however, if the clothing cannot be had from you, it must go from hence.

NOVEMBER 5, 1782.

If the whole (the army) are to remain, and Charleston is not left by the British, large supplies must be immediately forwarded; if it should be evacuated, I hope we shall have it in our power to procure the necessary articles of clothing in that town. On these matters I wish for the earliest information.

DECEMBER 1, 1782.

I trust you will be able to furnish an ample supply of clothing for the troops, from the warehouses in Charleston, as I mentioned to you in a former letter.

If clothing cannot be supplied there, I hope we shall be in a capacity to afford you a considerable supply from Virginia, which I think might be speedily forwarded in coasting craft to Charleston.

DECEMBER 16, 1782.

I am exceedingly obliged by your attention to the arrangement, and by the manner in which you have conducted it. I am equally so by your care in procuring clothing for the troops, which has happily relieved me from an anxiety that has long oppressed me. Mr. Morris will honor your draughts; he appears to be well satisfied with the steps which you have taken.

APRIL 2, 1783.

The idle surmise you mention has not reached us, nor do I suppose it ever will; but should any one presume to echo the malicious whisper, you may be assured that the most pointed contradiction shall suppress it.

Extract of a letter from the Secretary at War to the Commander-in-chief.

JANUARY 22, 1783.

Clothing has been purchased for the southern army by General Greene, who advises the Superintendent of Finance that he has drawn bills on him for the amount. This circumstance will enable us to order a quantity of clothing, which had been purchased in Virginia, to the main army.

C.

No. 1.

Extract of a letter from Major General Greene to Major General Lincoln, Secretary of War, dated

HEAD-QUARTERS, November 11, 1782.

I am taking measures to obtain clothing for the troops. We have on hand but a small part of our winter clothing, and, after what we shall be obliged to issue to those troops going northwardly, we shall have but a small pittance left. I imagine our purchases will amount to no less than \$40,000, for which I shall draw bills on the financier; and, as I provide the clothing at your instance and by your order, I hope you will prepare the financier for the draughts, that the bills may be punctually paid. I have already drawn in favor of Messrs. Banks & Co. for \$8,000, in bills of different values, to secure the clothing; and, by this step, I am in hopes to save twenty per cent. on the goods. I am to advance 1,200 guineas, which I am in hopes to get from Mr. Hall, the continental receiver. You will please to inform Mr. Morris that I have applied and propose to appropriate this sum to the payment of the clothing. If in any thing I have exceeded your intentions, you will please to inform me. My estimates are barely sufficient for covering the troops, and as I am informed that the northern army is completely clad, and as you mention a desire that this should, I have laid out accordingly, as far as the articles necessary for the purpose could be had; many things cannot.

No. 2.

Extract of a letter from Major General Greene to Major General Lincoln, Secretary of War, dated

HEAD-QUARTERS, SOUTH CAROLINA, December 19, 1782.

You will see by some of my former letters, that, in consequence of your orders, I had taken measures to provide such articles of clothing as were necessary to complete the troops with their winter clothing. Messrs. Banks & Co. have furnished most of the articles we shall want, and will provide the rest. Mr. Hamilton, the clothier, had instructions to contract with such as would supply on the best terms, notwithstanding this agreement; but none offer their goods equally reasonable, and yet I think they are high; however, the demand among the planters is so great, that they would meet with a ready sale among them, and at an advanced price. Under these circumstances, contracts cannot be made on the best terms. The soldiers' clothing will amount to about \$50,000. I have advanced to the officers two months' pay, by drawing bills on the financier, which they will negotiate for clothing or other things, as their necessities may urge.

This will swell our draughts; but the peculiar situation of the officers, their long sufferings, and distance from home, seem to render it absolutely necessary. Some of the officers talk of sending their bills to Philadelphia, but I imagine most of them will be negotiated here with the merchants. I wish not to distress the financier, but I am distressed myself, and know not which way to turn to feed, clothe, and satisfy the army on the article of pay. I

would much rather that clothing could have been sent from Philadelphia, but it was too late to expect any for this season; nor would I wish to negotiate pay to the officers in this way, but from absolute necessity. Troops will meet their sufferings with dignity and patience when it appears unavoidable; but when their distresses continue longer, they grow impatient and clamorous. I have drawn only for such officers as are continued in service, however urgent their necessity; many are discontented, but this I disregard, knowing the state of the Treasury.

No. 3.

Extract of a letter from Major General Greene to Major General Lincoln, Secretary of War, dated

CHARLESTON, February 2, 1783.

Lieutenant Colonel Carrington has closed a contract with Mr. Banks, for the subsistence of the army, at something less than eleven pence sterling. It is high, but it could not be had lower. There was not an offer made but by Mr. Banks, although I wrote to all the principal men in the country. People have not that spirit for engaging in business here as with us.

I shall get the troops pretty well clothed, and leave little room for complaint on this head; but I fear the expense will run high, most of the goods being in the hands of British merchants, who are permitted by Government to remain here; and those not willing to take bills have confined the purchase to very few houses. Mr. Banks and Mr. Simmons, I believe, are all who have supplied. I gave the officers bills for two months' pay, but they could negotiate but few, except with Mr. Banks, who has offered us our greatest supplies; but, as every merchant will make an advantage of this opportunity, his goods have been higher than if there had been many competitors for the business. I gave Mr. Hamilton, the clothier, a letter of general credit; but none would go largely into the business, except those mentioned, from a dislike to the bills.

No. 4.

Copy of a letter from Major General Greene to Major General Lincoln, Secretary of War, dated

HEAD-QUARTERS, SOUTH CAROLINA, February 5, 1783.

DEAR SIR:

An idle surmise of Mr. Banks, and an improper curiosity of General Scott, in the State of Virginia, may give an unjust complexion to the late transaction respecting the measures taken to obtain clothing, as the Governor of Virginia writes that it was considered a mere speculation for private emolument. For fear such rumors should spread to my disadvantage, I take the liberty to enclose you a copy of a certificate from Mr. Banks; and my letter of the 11th of November will give a full knowledge of the transaction. I do not conceive this necessary for your information, but should any insinuations originate from the affair in Virginia, I wish to put it in your power to silence them at once; and I flatter myself I may hope for this piece of justice from your friendship. Reports are circulated here, that Mr. Morris and Mr. Banks are concerned together, otherwise he would not have taken my bills. These are done for malicious purposes, but as I bid defiance to all the world to tax me with improper connexion, so I will not suffer even suspicions to circulate without control.

I am, dear sir, your most obedient servant,

NATHANIEL GREENE.

Major General LINCOLN.

No. 5.

John Banks's certificate.

It having been suggested, from a misinterpretation of my letter of October, 1782, to Mr. James Hunter, that the honorable Major General Greene was interested or intimated a desire of holding a commercial connexion with me in Charleston, I do, therefore, as well for the sake of removing such an idea, as to avert from myself any mischief that a heedless surmise, expressed in a confidential letter to a partner, might inherit or deserve, hereby certify and declare, upon the Holy Evangelists, that he never has nor does hold any connexion with me, either directly or indirectly; and that he never intimated, suggested, or expressed a wish or desire to this effect.

JOHN BANKS.

Sworn to before me, this 3d January, 1783.

HENRY PENDLETON.

WAR DEPARTMENT, December 23, 1791.

I do certify that the foregoing extracts of letters, &c. from Major General Greene to Major General Lincoln, Secretary at War, from No. 1 to No. 5, inclusive, are true extracts and copies taken from the files of the War Office of the United States.

JOHN STAGG, JUN., *Chief Clerk.*

D.

DEAR SIR:

Robert Morris, Esq., financier for the United States, has, in his advertisement for receiving proposals for contracts for supplying the army with rations, directed them to be made to me in the States of North and South Carolina and Georgia; but in his letter of the 17th of October, 1782, he desires me to commit the business to your care and management, should I find it more convenient for you to execute than for me. I am persuaded of your good disposition, and of your capacity to manage this important trust; and as I can give it every aid under your direction, as much as if under my own, and as you have more leisure to attend to it than I have, I wish you to embark in the business. I have already written to all the principal characters in South Carolina, and to some in North Carolina, who are likely to enter into contracts, to make their proposals. As soon as I get their answers I will lay them before you, and give you such further information on the subject as may enable you to close your contracts. I shall be always happy to communicate with you on every matter necessary for the promotion and security of the public interest. Let me have your answer on the subject as soon as possible, that I may inform the financier how the matter rests.

I am, dear sir, your most obedient servant,

NATHANIEL GREENE.

Lieut. Col. CARRINGTON.

E.

DEAR SIR:

HEAD-QUARTERS, *December 25, 1782.*

The comfortable condition in which you have put the army, from the large supply of blankets and clothing furnished, claims my particular acknowledgments; for, although I expect the public will make you a reasonable compensation, yet, as you were the only person who had the will and the means to serve us, our obligation is equally great. I am happy to find that most, if not all, our officers are likely to get supplies of clothing through your agency. Colonel Carrington, who is appointed to make the contracts for the subsistence of the southern army, also informs me your house have it in contemplation to engage in this business. Great as all our obligations are, if you contract for the supplies of the army, this will be greater than all the rest; for the present mode in which we are supplied is truly distressing both to the people and the army. The manner of collecting by military parties renders it distressing to the citizens, and, from the uncertain collections, the army is often without any thing to eat. This is hard upon troops who have bled so freely for an oppressed people. I must beg you to hasten your proposals; and I flatter myself you will, from your attachment to the cause, as well as a regard for the army, serve the public on the lowest terms.

I am, dear sir, your most obedient, humble servant,

NATHANIEL GREENE.

Mr. JOHN BANKS.

F.

DEAR SIR:

CHARLESTON, *December 29, 1782.*

Some days ago I was honored with your answer to my letter of resignation. The very warm approbation given of my conduct in the public service gives me most singular pleasure and satisfaction, and makes me hope for that countenance and aid in private life which I enjoyed while I had the pleasure to serve under your command.

I must beg your attention to a brig of Mr. Banks's, which he loaded at Georgetown, cleared her out for Saint Thomas's, and she was taken into Savannah; and I find by letters from thence on the subject, that the proceedings of the people interested in her condemnation will go a great way to effect it, notwithstanding there are no papers which can possibly make against her; but they have most industriously prejudiced the people against Mr. Banks, setting forth that he is a person very unfriendly to our cause. I find Mr. Clay is the judge of the court, and he possibly may entertain the same opinion, which Mr. Banks wishes to remove; and if he could be favored with a line from you to Mr. Clay to that effect, he has no doubt but the brig will escape. Her loss, should it so turn out, will prove a very great inconvenience, especially should we engage in the contract for the army. Money will be much wanted, and Mr. Banks purposes selling her, to reinforce us here with 5,000 guineas.

I have the honor to be, with great respect, your humble servant,

ROBERT FORSYTH.

The Hon. Major General GREENE.

G.

SIR:

CHARLESTON, *February 2, 1783.*

Your letter of the 18th of September, by Mr. Hayward, with the bills enclosed, I forgot to acknowledge in my last. He promises me the money very soon. Mr. Drayton also promises to pay me very shortly.

The clothier's, quartermaster's, and medical departments, together with the bills drawn for two months' pay for the officers, give me no small uneasiness, for fear the amount should exceed your ability and interfere with other engagements. I have contracted for every thing upon as moderate a scale as possible. Even since the enemy have been gone, we have been obliged to subsist ourselves with the point of the bayonet. All the State agents quitted the business the moment the enemy left Charleston. Our sufferings have been great, so much so that the troops have taken meat out of the market by force, in contempt of authority. This, you may well suppose, was no less alarming to the officers than to the citizens. Colonel Carrington has closed a contract with Mr. Banks for the subsistence of the troops, at something less than eleven pence sterling per ration. This is the lowest it could be had at. Not another man or set of men made an offer to enter into contract but Mr. Banks. Colonel Carrington took great pains to reduce the contract as low as possible; but there being no competitors, and the army in a starving condition, Mr. Banks knew his advantages too well not to avail himself of it; however, he rather wished to be off, even on the terms agreed.

I have been to Georgia, to impress upon the Legislature of that State the necessity for their adopting the impost act, and for laying a tax, both of which will, I am in hopes, be agreed to. Their poverty and distress are great, but they must do something. I shall impress the same matters on this State. I have told both, that unless they took measures for the support of the army here, they would be ordered to the northward; and, also, that the army could not be kept together a moment longer than the officers were satisfied; that the States would take no measures to support the servants of Congress in their engagements; and this, you may be assured, is a serious truth.

I will transmit you a list of all the bills drawn on you, and wish you to communicate your sentiments and prospects freely and fully, and, be assured, I will aid the business of your department as much as in my power; but I am not a little alarmed at the political state of affairs in the southern world. As I did not know of the opportunity until the express was ready to go, I cannot write you so fully as I intended.

I am, with great respect, your most obedient, humble servant,

NATHANIEL GREENE.

The Honorable ROBERT MORRIS, Esq.

H.

SIR:

CHARLESTON, *February 4, 1783.*

The pressing necessities of the army, the late season of the year, and the difficulty of conveying information through the country in its present situation, have prevented that extensive notice of contracts for the subsistence of the troops which could be wished.

General Greene, very early after the contracts were directed to be made, wrote to every character whose circumstances and views afforded him any prospects of being induced to undertake the business; but none offered any terms whatever, except Messrs. John Banks & Co., whose terms I do myself the honor to enclose, payments being made agreeable to the financier's advertisement. These terms have remained open for a considerable time, without a single competitor for the contracts. They are, in the opinion both of the general and myself, much too high; but the distressed situation of the army, and the inadequacy of the measures pursued by impressment, under the authority of the State, leave us no relief but in contracts which must be closed on the above

terms, if some competition cannot be excited. Wishing to embrace every means of giving information and receiving terms on this subject, I do myself the honor to address myself to the General Assembly through you. From the diffusive situations of the members of that honorable body, and the extensive knowledge they naturally have of the resources, interests, and views of the people, it is probable more advantageous terms may be advanced through that channel. It is with this view that I have done myself the honor to address you on this business, and am well assured your zeal in the interests of the army of the United States, and of this State in particular, will procure my address a generous and liberal reception.

You will confer on me a singular obligation if you will be pleased to communicate to the House the contents of this letter, and give an early answer, whether more advantageous terms may be expected from any part of the country, and whether it will be prudent to keep open the contract any longer.

I have the honor to be, with the most perfect respect, your most humble servant,

EDWARD CARRINGTON,
Deputy Quartermaster General.

SIR:

FRIDAY MORNING.

I have laid your very polite letter to me before the House of Representatives agreeable to your desire; where it has received that attention which the importance of its subject demanded; however, no competition with Messrs. Banks & Co. has been excited in consequence thereof. Their terms are thought too high; but as no others have been offered, and the pressing necessities of the army call for immediate relief, it is thought that it will be needless to keep open the contract any longer, under the idea that more advantageous propositions will be made.

I have the honor to be, sir, with due esteem, your most obedient servant,

HUGH RUTLEDGE.

K.

SIR:

CHARLESTON, *February 18, 1783.*

I do myself the honor to hand you, herewith, a contract entered into by Mr. John Banks for the subsistence of the troops in the service of the United States, in the States of North Carolina, and South Carolina, and Georgia, for the present year. I am really concerned that we have been obliged to close this contract on the excessive high terms agreed to, but the circumstances under which we had to treat must justify the measure. For upwards of two months past the army has been in a situation little better than starving, rarely served with above — rations, and frequently five or six days without any meat at all; the measures of Government for supplies confessed to be ineffectual, and no longer to be depended on. In this situation, and under these prospects, the public could have no principles on which terms mutually due could be exacted, unless in a competition amongst persons willing to contract: this could not, by every notice and application, be excited, although the contract was kept open near three months. The gentleman who has undertaken it is the only one who has made an offer at all: his first proposals amounted to thirteen pence farthing sterling per ration, the excess of which was so great that we could not, at every hazard and inconvenience, accept them. After a long time he fell, by several steps, to something less than eleven pence, equal to seventeen pence half-penny, Pennsylvania currency, per ration, and the difference between that and what would have been a due price was not an object so great as to lose a contract for, under the pressing distresses of the army, without another resort for relief. This Mr. Banks knew too well to be reduced lower, while he stood alone for the business. Still willing to take every opportunity for exciting a competition, the General Assembly having convened, I, on the 4th instant, addressed to them a letter, the copy whereof, with the answer thereto, is here also enclosed; from which you will see their opinion as to the price of the ration, the probability of getting other proposals, and the necessity of closing on those we already had. In dividing the ration, you will observe that the greatest excess of the profits are thrown on the small articles, because they will, on issues to prisoners of war, be retained, and because, also, the contractors will find it more convenient to issue them than pay money; or, if they should pay money, the same will be most valuable to the drawers; and further, should the army, by any means, become active, so as to go into the interior of the country, those articles will be entirely out of the reach of the officers and soldiers, at any price, and the contractors will find them at very high rates. The substitutions of rice and Indian meal for wheat flour is admitted, from the circumstance of flour being a foreign article, as to this quarter, and mostly depending on water carriage by sea; and I am persuaded the substitutions will, in the arrangement of the issues, render the army equally well accommodated.

The condition of giving a month's previous notice of the removal of the army, in case that should happen, or else for the public to take the stock on hand, not exceeding a month's rations, was insisted on by the contractor; because such a circumstance was more probable with this than the northern army, and he wished at least to be secure against suffering by any unreasonable stocks that might be on hand.

Mr. Banks proposes for his securities Robert Forsyth, and Hunter, Banks, & Co., the firm to which he belongs, which will, I think, be sufficient. He and Mr. Forsyth have signed the bond here, and one of the partners will sign it as you send the bond through Virginia to Philadelphia. Mr. Forsyth, who is going to Virginia, will take charge of it, and enclose it for you to Mr. Morris, after he has got that signature.

I hope the whole business will meet the approbation of Mr. Morris, who will be very able to estimate the difficulties under which it has been done, and will from thence conclude the impossibility of procuring better terms. I must own that I feel not a little mortified that such excessive sums should be paid, but no alternative was left for subsisting the army: however, the exhausted state of this country in beeves, and it not being a flour country at all, occasion the supplies of both articles to be remote, and of course dearer than for the northern army; and this is also the case with most of the other articles. Nor do I think the difference of flour more than made up in the substitutions of Indian meal and rice; so that the rations must be, at any rate, higher than in New York and Jersey.

Mr. Banks has made some proposals for supplying hospital stores, which are high; and as we are not so much distressed for them as we were for the rations, I shall not close with him but on good terms. You shall hear from me in a few days with respect to them.

I have the honor to be, sir, your most obedient,

EDWARD CARRINGTON, *D. Q. M. G.*

General GREENE.

L.

Know all men by these presents, that we, John Banks, for Hunter, Banks, & Co., merchants, Richmond, Virginia, and Nathaniel Greene, are held and firmly bound unto Neucomen & Collett, merchants, Charleston, in the

sum of seventeen thousand four hundred and eighty-seven pounds eleven shillings, sterling money of Great Britain, for the faithful payment of which we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

The nature and condition of the above obligation is such, that, whereas the said John Banks did purchase from the said Neucomen & Collett, in the month of September last past, their stock of merchandise, at seventy-five pounds per cent. advance, sterling, upon the prime cost, amounting, in the whole, as per their invoice, to the sum of eight thousand seven hundred and forty-three pounds fifteen shillings and six pence, sterling money, it is hereby understood and agreed, that if the said John Banks shall cause to be lodged at the house of Robert Patton, or Ball, Jennings, & Wardross, in the island of St. Thomas, on or before the 10th day of November next, James river merchantable tobacco, deliverable to the order of the said Neucomen & Collett, at six pence, sterling money, each avoirdupois pound, sufficient to cancel the said debt; (the said Neucomen and Collett have it, nevertheless, in their option to take tobacco in Virginia, at the market price, on notifying their application to James Hunter, at Richmond, for such part of the tobacco as may not actually be shipped at the time of such notification being received in Virginia;) or should the said John Banks cause the said debt to be paid in specie or good bills of exchange, on or before the 10th day of November next, at the house of J. & M. Nesbitt & Co., Philadelphia, to the order of the said Neucomen & Collett, then, in either case, this obligation is void, and the said John Banks is hereby at liberty to pay in either of the above modes, as he may find convenient.

In testimony of the above, we have hereto affixed our hands and seals, at Charleston, the eighth day of April, one thousand seven hundred and eighty-three.

JOHN BANKS, (*for self and Company.*)
NATHANIEL GREENE.

Signed, sealed, and delivered, in presence of
EDMUND MD. HYRNE,
THAD. KOSCIUSKO.

CHARLESTON, May 1, 1786.

General Nathaniel Greene to Neucomen & Collett, Dr.

| | | £ | s. | d. |
|-------------------|--|---|------------------------|------|
| April 8, 1783. | To amount of your bond, dated this day, | - | 8,743 | 15 6 |
| April 8, 1783. | CR.—By cash received from Hunter, Banks, & Co., in Charleston, | - | 52 | 6 8 |
| | | | £8,691 | 8 10 |
| October 23, 1783. | To interest on ditto this day, six and a half months, at 7 per cent. | - | 329 | 10 2 |
| | | | £9,020 | 19 0 |
| October 23, 1783. | CR.—By cash received this day from Mr. Pettit, | - | 1,400 | 18 0 |
| | | | £7,620 | 1 0 |
| January 1, 1784. | To interest on ditto, from October 23 to this day, 69 days, | - | 100 | 16 8 |
| | | | £7,720 | 17 8 |
| January 1, 1784. | CR.—By cash received this day from Mr. Pettit, | - | 252 | 9 0 |
| | | | £7,468 | 8 8 |
| January 1, 1785. | To 12 months' interest on ditto, | - | 522 | 16 0 |
| January 1, 1786. | To 12 months' interest on ditto, | - | 522 | 16 0 |
| May 1, 1786. | To 4 months' interest on ditto, | - | 174 | 5 4 |
| | | | Pounds sterling, 8,688 | 6 0 |

Errors excepted.

NEUCOMEN & COLLETT.

£8,688 6s. 0d. sterling.

SAVANNAH, June 12, 1786.

Received from General Nathaniel Greene eight thousand six hundred and eighty-eight pounds and six shillings, agreeable to the above account, being the balance due upon the within bond on the 1st of May last past, agreeably to an award signed by William Pierce and Donald Campbell, arbitrators chosen by Robert Forsyth and myself, in order to ascertain the amount then due.

JOHN COLLETT.

Witness: NATHANIEL PENDLETON.

M.

Whereas, the honorable General Greene did, in the month of April last past, become security for us, John Banks, James Hunter, and Robert Forsyth, as well for themselves as others concerned, in the sum of £32,125, sterling money, unto Messrs. Neucomen & Collett, Harris & Blackford, and James Warrington, merchants, Charleston, we, the after-named, do, by these presents, acknowledge that the honorable General Greene was not, nor is not, concerned or interested in said amount of moneys, being purchase moneys of goods, on account of the after-named parties; and we further do hereby agree and bind ourselves, our heirs, and assignees, to release and exonerate the said General Greene from the principal or damages, should any arise, of or from the being security for us to the above-named merchants for the sums aforesaid.

Sealed with our seals, and signed, this seventh day of May, one thousand seven hundred and eighty-three.

JOHN BANKS,
(*for self and all parties concerned.*)
ROBERT PATTON,
JAMES HUNTER.

Witness: JOHN FERRILL.

N.

To all to whom these presents shall come, be seen, or made known, greeting:

Whereas, Benjamin Johnston, of the county of Culpeper, in the State of Virginia, in and by his bond or obligation, bearing date the 28th day of April, in the year of our Lord 1780, became bound to Robert Forsyth, then of the town of Fredericksburg, in the penal sum of ten thousand pounds, current money of the State of Virginia, conditioned that the said Benjamin Johnston should convey to the said Robert Forsyth certain lands in said bond mentioned: And whereas, Burgess Ball, of the county of King George, in the said State of Virginia, in and by his bond or obligation, bearing date the 14th day of June, 1782, became bound to the said Robert Forsyth in the penal sum of three hundred pounds, lawful money of said State, conditioned that the said Burgess Ball should make good and sufficient deeds of conveyance to the said Robert Forsyth, his heirs, and assigns, of certain lots of land in said bond mentioned, as by the said bonds, reference being thereunto had, may more fully appear: And whereas, the honorable Major General Nathaniel Greene, at the special instance and request of Robert Forsyth & Company, did become surety for them to Messrs. Harris & Blackford, and Neucomen & Collett, for the payment of very considerable debts, and which have not, as yet, been satisfied: And whereas, the said Robert Forsyth is willing and desirous of saving harmless the said Nathaniel Greene, his heirs, executors, and administrators, and his and their goods and chattels, lands, and tenements, from all damages which might otherwise arise to him or them by reason of his said securityship: Now this indenture witnesseth, that the said Robert Forsyth, for the express purpose of indemnifying the said Nathaniel Greene, as aforesaid, and for no other purpose whatever, and in consideration of the sum of five shillings, hath granted, assigned, and set over, and by these presents doth grant, assign, and set over, unto the said Nathaniel Greene, the said recited bonds or obligations, and the moneys thereupon due, or which may become due, for a breach of the said conditions, and all his right, title, and interest, of, in, and to the same: to have, hold, receive, take, and enjoy the said bonds, moneys, and all and singular the hereby assigned premises, unto and for the only use and benefit of the said Nathaniel Greene, his heirs, executors, administrators, and assigns, from henceforth, forever; but to, for, and upon the special trust hereinbefore mentioned, and none other. And the said Robert Forsyth, for the consideration aforesaid, hath made, ordained, constituted, and appointed, and by these presents doth make, ordain, constitute, and appoint, the said Nathaniel Greene, his executors and administrators, his true and lawful attorney and attorneys irrevocable, for him and in his name, and in the name of his executors and administrators; but to, for, and upon the confidence and trust above mentioned, to ask, require, demand, and receive of the said Benjamin Johnston and Burgess Ball, and either of them, their and either of their heirs, executors, and administrators, the moneys thereupon due, or which may become due, for a breach of the conditions of the aforementioned bonds; and also to accept and take from the said obligors good and sufficient titles, in fee simple, in his (the said Nathaniel Greene's) name, for all and singular the premises mentioned in the conditions of the said bonds.

In witness whereof, the said Robert Forsyth hath hereunto set his hand and seal, this second day of September, in the year of our Lord one thousand seven hundred and eighty-four.

ROBERT FORSYTH.

Signed, sealed, and delivered, in presence of
WM. ALLEN DEAZ.

O.

It having been suggested, from a misinterpretation of my letter of October, 1782, to Mr. James Hunter, that the honorable Major General Greene was interested, or intimated a desire of holding a commercial connexion with me in Charleston: I do, therefore, as well for the sake of removing such an idea, as to avert from myself any mischief that a heedless surmise, expressed in a confidential letter to a partner, might inherit or deserve, hereby certify and declare, upon the Holy Evangelists, that he never has nor does hold any connexion with me, either directly or indirectly, and that he never intimated, suggested, or expressed a wish or desire to this effect.

JOHN BANKS.

Sworn to before me, this third day of January, one thousand seven hundred and eighty-three.

N. PENDLETON.

P.

NORFOLK, ss.

James Hunter, of Portsmouth, Virginia, came personally before me, and made oath on the Holy Evangelists, that he never considered the honorable Major General Greene either directly or indirectly concerned or interested in a purchase of goods made by John Banks in Charleston, on the proper account and benefit of the following persons only, viz: John Banks, Robert Forsyth, Ichabod Burnet, John Ferrie, Robert Patton, and said James Hunter; who further deposeth and saith, that he never heard, or ever understood, from either of the abovementioned persons, either by letter or word, that General Greene was in any means concerned or interested in said purchase.

JAMES TAYLOR.

Q.

SAVANNAH, March 3, 1785.

It having been insinuated by some, and propagated by others that the honorable General Greene was concerned in the Charleston speculation, with John Banks & Co. and with the contract for the army: I do hereby certify, that the general was in no way interested in either, with the said co-partnership.

ROBERT FORSYTH.

R.

Towards the latter end of the year 1782, when the engagement of the State of South Carolina to supply the southern army with provisions was to expire, the honorable Robert Morris, Superintendent of Finance, wrote to General Greene to have a contract formed for supporting the army from the 1st of January, 1783; General Greene requested my assistance in the business, and public notice, as far as the circumstances of the country would admit, was immediately given, offering such a contract. General Greene, moreover, wrote to sundry characters of property and influence in the country, who had formerly been men of business, requesting them to come forward on their

own accounts, or lend their aid in bringing others into a contract; the uniform reply was, that the war had so effectually deranged their capitals, that they could not venture upon so extensive an undertaking. Indeed, such was the exhausted state of the country, as to provisions of every kind, that none could calculate upon complying with such an engagement, without large importations from the more northern States, which must have been made through great hazards, by sea, or with immense expense by land; and could have been attempted by none but men of capitals, in a current of commercial business. Until the evacuation of Charleston, no person whatever could be induced to listen to propositions for a contract, nor could any one be led to overtures of the kind afterwards but Mr. John Banks who had established a house in Charleston, under the firm of Hunter, Banks, & Co. Mr. Banks at length came forward with propositions excessively high; these were rejected, and advantage was taken of the consent of the State, to extend its measures for supporting the army somewhat into the year 1783, in order that better terms might be obtained for the United States. Negotiations were still carried on with Mr. Banks, with whom no competitor could be found, until the approach of the 20th of February, the period beyond which the supplies of the State were not to extend; and, indeed, under such difficulties were these supplies obtained from a country already exhausted, that the army was seldom served with more than half rations, and frequently for five or six days had no meat at all, unless by plunder, which had become exceedingly distressing to the neighboring inhabitants. In this time Mr. Banks had somewhat abated in his demands; but it being thought that they were still too high, General Greene would not suffer a contract to be closed, without making every possible effort to excite a competition; and, as a last resort, a letter was written to the Assembly of South Carolina, then in session, stating the difficulties of obtaining a satisfactory contract, and requesting the advice of Government, as the members then assembled were from various parts of the country, and acquainted with the resources and views of such individuals as might probably be disposed to such an undertaking, whether any competition might still be expected, or whether it would be prudent to keep open the contract longer. The reply was, that the terms of Mr. Banks were thought too high; but as no others had been offered, and the pressing necessities of the army called for immediate relief, it was thought it would be needless to keep open the contract any longer, under the idea that more advantageous propositions would be made. Upon this a contract was closed with Mr. Banks, on account of Hunter, Banks, & Co. to commence on the 20th of February, 1783. I am satisfied, nay, absolutely certain, that, had Mr. Banks failed in this contract at the time General Greene became his security in the several instances, in consequence whereof the estate of that officer hath since suffered, nothing less than the dissolution of the army must have followed, as no other possible means of supporting it could have been adopted; no other contract could have been obtained, nor was it in the power of the State, in any event, to renew her supplies. The army was, by this time, repeatedly upon the point of mutinying from discontents, at being in an unhealthy climate, in an inactive state, and conceiving that there was a certainty of peace being established. A considerable body of the cavalry actually went away from a station in the country, distant from head-quarters, in defiance of their officers; and several corps of Virginia and Maryland troops made efforts of the same kind, but were stopped by the personal address of the general. Had a want of provisions been added to this other cause of discontent, I am well assured that an entire dissolution of the army could, by no means, have been prevented.

From the first of General Greene's command of the southern army, there were scarcely any pecuniary aids for its support in any respect, until far advanced in the year 1782; and even from thence to the disbanding of the army, the general diffidence as to public credit was such, that the supplies of the Superintendent of Finance could not be drawn to our use without excessive discounts or negotiations, which expose the public agents to great hazards. Of this I can give the most decided evidence, being in that predicament as deputy quartermaster general. For the purposes of that department, I never could negotiate a bill for direct payment under a discount of fifteen per cent., and frequently as high as twenty-five was demanded. To avoid this loss, my practice was, to negotiate bills at par, upon credit for thirty or sixty days, according to the sight of the bills, within which time the purchaser was to ascertain the fate of them. In these transactions, I risked the sufficiency of the purchasers, and, in case of failure in any instance, my dependence for indemnification was solely on the will of the Government.

All the foregoing I certify on oath.

EDWARD CARRINGTON.

HENRICO, ss:

MARCH 2, 1790.

Edward Carrington personally appeared before me, a magistrate for this county, and made oath to the above, according to the best of his knowledge and belief.

JOHN HARVIE.

S.

Some time in the early part of the year 1783, during General Greene's residence at Charleston, I received a message from him requesting my attendance at his quarters. Upon my coming there, I met with General Wayne. General Greene told us he had desired our attendance, in order that we might be present at an interview he was about to have with Mr. John Banks, whom he had sent for; that he had just received a communication from Governor Harrison, of Virginia, covering a letter (or a copy of it) which had been opened there, from Mr. Banks to his partner, enclosing some bills on the Superintendent of Finance, drawn by him in favor of Mr. Banks, and containing some expressions intimating a connexion of the general with that company in trade. After some short time, Mr. Banks came in, when the general put into his hands the paper above alluded to, and asked him if he had written to his partners in Virginia what it contained. Mr. Banks, with confusion and agitation, after some pause, answered in the affirmative. The general then asked him upon what foundation he had undertaken to do it. Mr. Banks answered, none but a conjecture of his own; adding, as well as I can recollect, that the conjecture arose from his conceiving that the war was drawing to a close, and as he, the general, had formerly been a man of business, he might be inclined to engage in the concern. The general told Mr. Banks that it was impertinent conduct; and that, for the public satisfaction, he must take effectual steps to show that the suggestion was a falsehood. To which Mr. Banks replied, that he would make oath to that effect; which was accordingly done. During this interview, General Greene desired Mr. Banks to declare before General Wayne and myself for what purpose the bills mentioned had been paid him; his reply was, on account of the clothing which he had procured from Charleston for the army.

After this business was over, General Greene requested General Wayne and myself would investigate the transaction he had with Mr. Banks in procuring the clothing for the army, and, for this purpose, laid before us the papers which were connected with it; we gave them a very thorough investigation, and were fully satisfied, as appeared by a publication made upon the occasion, not only that the transaction was a disinterested one on the part of General Greene, but that it was made on as good terms for the public as the circumstances under which he acted could have admitted. The effects of it were well felt by the army, too, which, from having been accustomed to nakedness, were that winter as well, and perhaps better, clothed than I ever before saw American troops.

It would be presumptuous in any one to make oath that General Greene was not concerned in trade with the house of Hunter, Banks, & Co., or with any other person, during his command of the southern army; but I can decidedly swear, that I am well assured he was not, directly or indirectly. I will add, that John Banks, with whom I was well acquainted, was a man of excessive vanity, and was much disposed to make a show of connexions with high characters. All the foregoing, to the best of my recollection and belief, I certify on oath.

EDWARD CARRINGTON.

HENRICO, ss:

Edward Carrington personally appeared before me, John Harvie, a magistrate for the county aforesaid, and made oath that the facts and circumstances stated in this affidavit are true, according to the best of his knowledge and belief. Given under my hand, this 2d day of March, 1790.

JOHN HARVIE.

T.

GEORGIA, *May 31, 1790.*

Being called upon by the widow and executors of the late Major General Greene to relate such circumstances with regard to the situation of the army, and of the transactions between a certain Mr. John Banks and the general, as came within my knowledge, as second in command in the southern district, I think it unnecessary to go into a minute detail of every circumstance respecting those transactions, but I well recollect that, some time after the evacuation of Charleston, which was on the —— day of December, 1782, orders were received by the general, either from Congress or the then financier, to contract with some person or persons for the necessary supplies for the southern army; and that it was with the utmost difficulty that any person could be found to undertake the business on the terms in the power of the general to offer, and not until the troops had experienced almost every possible distress for want of provision and clothing. A short time after making the contract, from some accident, such as capturing of one or two vessels by the enemy that were on their way from North Carolina, with flour and other provisions, the distresses became extreme, and a general mutiny and dereliction from the service began to present itself; nor could this evil possibly be prevented but by an advantageous relief, as the army was for a long time at short allowance, and had then been for forty-eight hours without any kind of subsistence whatever. Under those pressing circumstances, the contractor (Banks) not being in funds, and without credit, General Greene became his security to a very considerable amount, for the purpose of procuring such articles of clothing, provision, and other necessaries, as were wanted for the use of the army; by which means a calamity was avoided that appeared to us dreadful, and order, discipline, and content restored among the respective corps. Some time after this disagreeable business was accommodated, I believe early in the spring of 1783, as I was about to proceed to reassume the command in Georgia, and to hold a treaty with the Indians, General Greene sent for me, and put into my hands a letter from the said Banks, addressed to his co-partners in Virginia, in which he mentions, "that General Greene was to be concerned with them in trade, and not to be uneasy, but, by all means, to keep that circumstance a secret." This letter had been intercepted and sent to General Greene the preceding evening; he appeared to be much agitated whilst I was perusing it; upon returning it to him, I well recollect that he asked me what I thought of that infamous scoundrel; adding, "shall I put him to instantaneous death? my feelings prompt me to do it." He also solemnly declared, that he never had the most distant idea of being concerned with Banks in any kind of trade either directly or indirectly. At this moment Colonel Carrington came to headquarters; he either had been previously, or was then, made acquainted with the contents of that letter; the general requested our opinion upon the subject; we proposed to send for and interrogate Banks upon oath; this advice was adopted, and his deposition was taken before a Mr. Troop, a notary public of Charleston, in which he most solemnly swears that General Greene never was, at any time, either directly or indirectly, concerned with him in trade or merchandise of any kind or nature whatever; and that he was induced to write that letter from some doubts entertained by his co-partners in Virginia of his entering too deeply into speculation, in expectation that they would be easy under the idea of the support of General Greene, and that, as he had enjoined secrecy, he never expected that what he had written would come to the knowledge of the general. I think that this was nearly the purport of Mr. Banks's deposition, but believe the original is to be found upon the files of Congress.

I have thus given a relation of this business as well as I can recollect from memory; and I do solemnly swear, that the circumstances and facts herein mentioned are true, to the best of my knowledge and belief; and I am also confident that General Greene was drawn into the security I have mentioned, from the situation in which he was placed by Congress as commander of the southern army, at a trying crisis, when destitute of public funds—a fact which I have the best ground to believe from the habits of friendship in which we lived, and the confidence with which I was always honored by that great and good officer.

ANTHONY WAYNE.

SAVANNAH, *June 1, 1791.*

Brigadier General Wayne, being duly sworn, maketh oath that the contents of the above narrative are true.

J. RUTLEDGE.

U.

DEAR SIR:

PHILADELPHIA, *March 16, 1788.*

Your favor of the 11th instant was handed to me yesterday afternoon, desiring my evidence respecting General Greene's disappointment of moneys he expected from Banks & Co., which were to have been paid in Philadelphia. How far the facts within my knowledge, and the circumstances arising from my transactions, will tend to establish the material points, I have not ascertained; but I shall give you a narrative of such facts and circumstances as I suppose likely to have an aspect to the object you have in view, and which may tend to explain the information you may derive from other sources.

The latter end of March 1783, Major Burnet intimated to me that he had formed, or was about forming, a connexion, with a view to settle in Charleston. On his way thither, he wrote to me from Virginia, making overtures in behalf of the house, to become their commercial agent in Philadelphia. Early in May I received a letter, signed Banks, Burnet, & Co., enclosing some draughts on the paymaster general, and containing advice of their draughts to me, in consequence of such remittance; suggesting, also, that Major Burnet was on his way from Charleston to Philadelphia, and would make arrangements with me for further business. On Major Burnet's arrival, he mentioned to me the plan of business formed by their house: that they were possessed of a large quantity of goods, which Mr. Banks had purchased from British merchants in Charleston, which enabled them to furnish clothing and other supplies for the army, as well as the country; that they had undertaken to supply the army with

provisions, at a rate below what any other person could furnish them, in consequence of their being possessed of these goods; and although they did not expect a profit on the contract, but might more probably lose by it, they should, by these means, enlarge their trade, turn their goods into cash, and at the same time benefit the public by supplying the army in a time of difficulty, when no other house or person in that quarter could do it with equal certainty. That they should rely on me to receive their accounts of issues, and draw the money from the Treasury at the periods stipulated for payment, which, I think, was four months after delivery of the rations, but that they had stipulated with the persons to whom they were indebted for the goods, that the moneys arising from the contract should be appropriated to the payment of the debt contracted by that purchase.

Some time afterwards I received from Mr. Banks a copy of his contract for supplying the troops, which, it seems, was made in his own name, separately, together with a power of attorney from him to me, to receive the money as it became due from the Treasury. Still, however, the instructions concerning the business were under the signature of the company, sometimes in the handwriting of Banks, and sometimes of Burnet, but uniformly holding up the idea of paying the produce to the British merchants, in proportion to their respective claims, of which they sent me a list, amounting to upwards of \$32,000 sterling, due to three houses.

Their remittances to me, by other means, were considerable; but their draughts upon me generally exceeded them; insomuch that I held some of their bills in suspense, after having accepted more than their funds in my hands, exclusive of the contract money, would warrant. They urged me very pressingly to give a prompt acceptance to all their bills, promising ample resources to support them, and intimating that the contract money would be a security in my hands, if other resources should fail. It so happened that I took up all their bills which became due in June and July, without breaking in upon the contract money; and early in August, I paid to the British merchants, on account of their claims, \$22,875, being all the contract money which had then come to my hands. Their draughts on me continued to increase beyond their provision for the payment of them; and, in order to induce me to accept them, they gave me direct instructions to apply the contract money to the payment of them, if I should find it necessary, intimating that their contracts with the British merchants were not strictly payable till the 1st of November, and that before that time they should turn into my hands £6,000 sterling from the Havana, and £10,000 sterling from Virginia, besides other remittances. Mr. Warrington, one of the British merchants, who was also authorized to receive for Messrs. Harris & Blackford, was frequent in his applications for further payments. When I found it necessary to apply some of the contract money to other purposes, I thought it right to mention it to Mr. Warrington. He became enraged at Mr. Banks, and then mentioned to me that it would injure General Greene, who was Banks's security for the money, without which, he said, they would not have trusted him. This, I believe, was the first direct information I received of General Greene's responsibility in that business. Out of the next instalment of the contract money, I paid to the British merchants \$4,222; the rest I was obliged to apply to the payment of draughts which I had accepted. This last payment to the British merchants (which was the last they received from me) was in October, 1783. Some time after which, I understood from several of Mr. Banks's letters to me, that they had obtained other payments and securities for the residue of their respective claims, but in what manner I was never particularly informed. I rested satisfied, however, that it was done, and that General Greene was made safe in the business, till some time after Mr. Banks had drawn the whole money out of my hands. He had drawn, indeed, for abundantly more than he had any pretensions to, though I was lucky enough to decline acceptances in time to save myself from going beyond my resources.

I do not recollect any other circumstance within my knowledge likely to throw light on the subject of your inquiry; but possibly, pointed questions may bring to my recollection some matters which do not now occur, or do not strike me as material. If a more solemn attestation than my signature should be required, as to the facts which I have related, it shall not be wanting; but, considering the nature and purport of the inquiry, it may not, perhaps, be demanded.

With great esteem, I am, dear sir, your most obedient servant,

CHARLES PETTIT.

Colonel WADSWORTH.

On this 26th day of December, in the year of our Lord, 1791, before me, Clement Biddle, Esquire, notary public, for the commonwealth of Pennsylvania duly commissioned and authorized by law to administer oaths and affirmations, dwelling in the city of Philadelphia, personally came Charles Pettit, of said city, merchant, who, being duly sworn, according to law, on his solemn oath, deposes and says, that the annexed letter was written and subscribed by him, the deponent, at or about the time of its date, and that the contents thereof are, in all things, just and true, according to the best of his memory and belief. And the said deponent doth further, on his oath, declare, that although he was much conversant in the affairs of General Greene, and had a general, and, in many respects, a confidential knowledge of them, and also of the affairs of Banks, Burnett, & Co., he never perceived the smallest reason to believe or suspect that General Greene had any interest or concern whatever as a partner in trade with the said Banks and Burnet, or with any other person or persons in Carolina: and further saith not.

CHARLES PETTIT.

Sworn as above before me, *quod attestor*.

CLEMENT BIDDLE, *Notary Public*.

V.

In consequence of an application from the executors of the late General Greene, to relate what I know concerning his securityship, for the payment of certain moneys for John Banks and others, I have written the following statement of facts, which is all I can remember; and many of them happening so long since, and having no written memorials to refer to, I cannot exactly ascertain or particularize.

I was an aid-de-camp to General Greene, from February, 1781, until the disbanding of the army in 1783; was usually with him, and, at the time of his entering into the securityship alluded to, had as much of his confidence, at least, as a person in such a situation usually has of his general, which gave me access to his papers, and an opportunity to know almost every matter of importance that happened to him, or the army under his command. The evacuation of Charleston happened in December, 1782, previous to which, and for some time after, the troops were supplied with provisions by the State of South Carolina, and the mode was, by warrants of impressment from the Governor of that State. Soon after the evacuation of that place, powers arrived, either to General Greene or Colonel Carrington, quartermaster general, to make a contract for supplying the army, according to the mode then lately adopted with the Northern army. It was difficult to find persons willing to contract on the terms proposed, and the supplies from the State were so precarious and uncertain, that the troops began to complain and murmur. At length the contract was formed with John Banks. Mr. Banks had gone into Charleston previous to the eva-

evation, and had contracted with some British merchants for upwards of thirty thousand pounds sterling worth of goods. He had entered into partnership with several persons in this speculation, who, under the firm of Robert Forsyth & Co., were retailing those goods by a rapid sale, and at a high advance. As soon as the contract was made, the supplies furnished by the State were refused to be continued, and the army was reduced to great distress for want of provisions. John Banks had failed to comply with the contract; a vessel of his, coming from North Carolina, was lost near the bar, with a quantity of pork, which I remember well; and I think he had another taken by the enemy, but am not certain as to this, by which the army was three or four days with very little or no provision at all. Several alarming circumstances of discontent appeared, and seemed to threaten a revolt. It was expected that the funds of Robert Forsyth & Co., of which Banks was a principal, would have enabled him to have complied with the contract; but it was found that the partners of that house, who were not interested in the contract for supplies, refused to let Banks have any of their cash to apply to that purpose, until the merchants, from whom the goods were purchased, were paid, or sufficient security given them for that purpose. Under these circumstances, I have been often told by the parties interested, but was not present, that Mr. Banks applied to General Greene to become security for the payment of the debts due for those goods, that he might have the money intended to pay for them to supply the troops. Not being present, I cannot say what inducements Banks might have held out to the general. But I have heard from Banks and the general what, from every circumstance that has come to my knowledge, I believe to be true—which was, first, that the army would, by that means, be supplied with provision, and the dangerous consequences that were apprehended be prevented; and that there could be no risk in so doing, as their affairs were in a prosperous way; considerable remittances made to Virginia, to purchase tobacco to be remitted to their creditors, and that the moneys arising from the contract should be applied to the same purpose. The general became guarantee for those debts, or the greater part of them; the exact amount I do not know. Banks, in consequence, had the funds he wanted to supply the troops, and I believe there were no more complaints. But the general soon after began to find that the money sent to Virginia to purchase tobacco to be remitted to pay these British creditors, as well as the money due, and received by Banks on the contract, had been applied to entirely different persons and purposes than that to which they had been promised; and although some payments had been made after the general became security, considerable sums still remained due when the affairs of Banks and his partners became separate. He became exceedingly uneasy, and did all he could to get assignments of debts and other payments made.

The house of Robert Forsyth & Co. made an assignment of debts to a very considerable amount (I cannot recollect how much) to Harris & Blackford, which I drew, and they were then generally considered as good debts. These, I believe, were afterwards relinquished by Harris & Blackford for some bonds, which bonds, I understood, are disputed; and I am informed a suit in chancery is still depending concerning that affair. In the latter end of 1784 I came to live in Georgia, where General Greene came also to reside, I think, in November, 1785. The general informed me, he was about to settle the amount of the debt he had guaranteed Messrs. Neucomen & Collet, and asked my opinion, whether he could legally pay them, unless by compulsion, without weakening his claim to compensation from the persons for whom he was security. I was of opinion he could; and advised him to consult Mr. Edward Rutledge on the occasion, who being of the same opinion, Mr. Collet came to Savannah, and on the Tuesday before the death of General Greene, in June, 1786, in my house, they came to a settlement; and General Greene executed bonds for, I think, about six thousand pounds sterling, payable at different periods, and delivered them in my presence to Collet, who gave him also in my presence the bond the general had signed, as guarantee. There was a dispute between them concerning a sum, I think about one thousand six hundred pounds, which Collet admitted he had received from Banks or some of his partners in Virginia, which Collet had retained on a private account with Banks, which the general insisted ought to be credited on the guarantee bond. It was deducted, accordingly, upon the general's giving a special bond, which I drew, and he executed with condition, that if ever he recovered from Banks or his partners as much as would indemnify him for all his losses and expenses in consequence of his securityship, that then he would pay it; otherwise not. The motive that induced the general to make this arrangement was, that he might have the use of this bond, in suing the principals for indemnification, and to have time allowed him for payment. I know not what the general might have done with it, but I saw it delivered to him, and supposed it must be among his papers, as he died on the Monday following. It may be justly expected I should say something of a report that went abroad, at or about the time Banks was opening his house in Charleston, that General Greene was a partner, and had an interest in Banks's speculations, which induced him to guaranty those debts. It arose from a letter from John Banks to his partners, or some friend in Virginia, which was opened and made public, wherein it was insinuated that the general was concerned. I do not remember the exact expressions it contained. As soon as the general knew of it, he sent for Banks, and insisted on his making an affidavit, which he readily agreed to, that the general was not, either directly or indirectly, concerned in any of his transactions. I was not present at that time, (being, as I believe, out of town for a few days,) so that I do not know particularly what passed; but the reason I understood Banks gave for writing such a letter was, that it would give credit to his plans, and would never get to the general's knowledge. This affidavit was published in the newspapers in Charleston, I think, in May or June, 1783. This report was strengthened by Major Burnet, one of General Greene's aids-de-camp, becoming concerned in a new partnership with Banks and others, in consequence of which he went to the Havana, where he died. I have often conversed in the most free and confidential manner with General Greene and with Major Forsyth, one of Banks's partners, (who, having been one of General Greene's deputies while he was quartermaster general, and appointed by him deputy commissary general of purchases for the army under his command, in the Southern States, and continuing in his friendship and confidence even till his death, had the best opportunity to know,) and I do, from every circumstance within my knowledge, firmly believe, and can almost positively affirm, that General Greene had no pecuniary concern or interest in Banks's speculation. The supposition of such an interest is irreconcilable to several circumstances which, as they fully convince my own mind, I ought not to omit, though they are rather arguments than facts. First, having the opportunity I had to know it, I think it impossible almost it should have been kept so entirely a secret as to have given me not even the slightest suspicion. Secondly, General Greene has often expressed his doubts of Banks's capacity for carrying on the great plan he had in view; particularly about the time, or some time after the contract, I heard him say, Banks wanted steadiness and judgment, and, though he might succeed at first, he would fall through in the end. This being the case, had General Greene been concerned in interest in those speculations, being present on the spot, he would have controlled the application of the funds—would have completed the Charleston speculation, which would have been done in a short time, and with an immense profit. Instead of this, Banks having the sole management of the funds, as I have understood, applied them in payment to the debts of the co-partnership of Virginia, and engaged also in several wild schemes, which the influence, the prudence, and judgment of the general would have prevented if he had had an interest, and, of course, an authority to interpose. Thirdly, General Greene was long and intimately acquainted with Major Forsyth, and always had great confidence in him. If such a secret was to be intrusted to one of the partners only, it

would have been, most probably, to him. Yet, so far from this, that Major Forsyth has given some mortgages, though I do not know the amount, to indemnify the general, which he never would have done had the general been interested as a partner. Hunter did the same thing, who was another partner. Major Burnet, one of the general's aids-de-camp, was taken into the partnership of Banks & Co., but when I do not know. I remember, when the circumstance was made known, the general censured Major Burnet for entering into any mercantile connexions, without communicating to him his intentions, and previously withdrawing from his family. No paper or any other proof has as yet, I believe, been produced, that could give the slightest foundation for any suspicion of this interest; though a Mr. Ferrie, who was one of the partners, has done all he could to prove it, and whose interest is most materially affected by a suit brought against him by the executors of the late General Greene, for indemnification for being security as above stated. Lastly, I know what were General Greene's principles in matters of this kind, from a long and intimate confidence, which began a little before the circumstances of his securityship for Banks, and continued to the time of his death. From this knowledge I affirm, upon my oath, I do not believe he could have suffered himself, from any motive of gain, to have been drawn into any commercial connexions, while he remained at the head of the Southern army. I am not, nor can I be, exact as to particular times, and, no doubt, many circumstances have entirely escaped my memory relative to the subject of this narrative; but, to the best of my remembrance and belief, what I have above related is true; nor have I omitted any thing I thought material to the forming a right judgment of General Greene's conduct in that unfortunate affair, so far as the same came to my knowledge.

NATH. PENDLETON.

SAVANNAH, *June 4, 1790.*

Sworn to before me, at Savannah, the 21st day of June, 1790.

JOSEPH CLAY, *J. P.*

W.

DEAR SIR:

NEWARK, *July 21, 1790.*

I have received your favor of the 19th instant, informing me that it had been suggested, that General Greene was a partner with the house of John Banks & Co., that the evidence of their partnership had been in my possession, I having received it among my son's papers; and that General Greene, in his lifetime, induced me, by some means or other, to relinquish the said evidence to him; and desiring me to inform you whether those suggestions are true or false.

Agreeably to your request, I must, therefore, freely declare, that those suggestions are not true; that no evidence of General Greene's having been a partner with John Banks, or John Banks & Co., had ever been in my possession; that I never saw any thing in my son's papers that gave the least room for a suspicion of that kind; and that I do not know, or believe, that General Greene was ever in partnership with John Banks, or John Banks & Co.

I am, dear sir, with due respect, your most obedient, humble servant,

WILLIAM BURNET.

General KNOX.

X.

CHARLESTON, *October 30, 1790.*

We feel ourselves happy, in this opportunity afforded us, of attempting to do justice to the injured reputation of the late Major General Greene, whose eminent services to this continent in general must have greatly endeared his memory to every true friend to the American revolution, and whose distinguished and effectual exertions for the recovery of this State from the possession of the enemy have erected an indelible monument in the breast of every good citizen of this State. We have, with sensible concern, heard some insinuations of his having derogated from the high command which he hold here, entered into extensive speculations for his own private emoluments, soon after the relinquishment of this city by the British. We think ourselves authorized to say, that we are as competent to his vindication, from any aspersion of that nature, as any two persons in the State of South Carolina, as we were both in the Executive Department at the time of the evacuation of this capital—the one Governor, and the other Lieutenant Governor; and a suit in Chancery has been since brought to issue before us, as Chancellors, in the prosecution of which, the several grounds, principles, and obligations, of the various connexions or co-partnerships, by whom the respective speculations alluded to were entered into, were very fully, ably, and minutely, discussed by some of the most eminent solicitors in the court. And we have no hesitation, in the most invariable, unreserved, and unequivocal manner, to declare, that we never had, from our own observation, or from the strictest and most scrutinizing investigation on the chancery bench, the most distant reason to conceive that the honorable General Greene was ever, either directly or indirectly, engaged in any of the aforesaid speculations, any further than as surety for Mr. Banks. We think ourselves warranted, also, in asserting that the contract with Mr. Banks for the supply of the army was the most advantageous he could obtain, at a time when the want of provisions threatened a mutiny.

JNO. MATTHEWS,
RD. HUTSON.

Y.

Having been requested to relate all that I know of General Greene's connexion with the late John Banks & Co., and to declare how far interested he was in their speculations, and having acquired in my professional line a considerable knowledge of their affairs, I think myself bound to give the following information:

In the summer or autumn of the year 1782, John Banks and some other merchants purchased of Messrs. Neucomen & Collet, Harris & Blackford, and Mr. McWhan, a very considerable quantity of goods on speculation. The British troops evacuated this State in the month of December, 1782, and Mr. Banks, very soon after the evacuation, became contractor to the American troops. Subsequent to this period, Mr. Banks and his partners, being unable, (as I have been informed and believe,) both to continue their supplies to the army, and to discharge their engagements with the merchants from whom they had purchased the goods above mentioned, and being pressed by them, either to comply with their engagements, or to give security if they were indulged with a further credit, had recourse to General Greene, and prevailed on him to guaranty the payment of some of their debts, particularly those to Neucomen & Collet, and Harris & Blackford.

John Banks & Co. having failed to discharge their debts, the general was called on to fulfil his guarantee. In the course of his inquiry into the affairs of the debtors, he was informed that Mr. Ferrie had an interest therein; that he had been concerned in the purchases, and that he had drawn out of the stock, as his proportion of profits, a large debt due to the concern from Messrs. Pierce, White, & Call, which debts he had negotiated for lands on Savannah river.

On this information, the general, in his lifetime, filed his bill in equity against Mr. Ferrie; but, the suit abating by his death, his executrix and executors revived it. To this bill Mr. Ferrie put in his answer. I was his solicitor, and united with the late Mr. Drayton as his counsellor. Mr. Ferrie, in his defence, availed himself of every possible advantage. He obtained from the Court of Chancery commissions for the examination of witnesses in various parts of America. He produced a number of extracts from the books of John Banks & Co., and a number of extracts of letters to and from them. He had assisted Banks in the purchase of the goods, and had been instrumental in his obtaining credit. He had kept the books of the company; he appeared to me to have known all the concerns of the company most intimately and minutely. And had General Greene been concerned in the speculation, I think he must have known it, and, knowing it, I am sure he would have made it known. He was under no obligation whatever to conceal it. He was put at defiance by the suit, and, could he have proved it, he would have been successful in his defence. But he neither produced one tittle of evidence, nor deduced a single circumstance to show that the general had, in any manner, been concerned in the purchase. The consequence of which was, that the bill was sustained, the lands were decreed to be sold, and, after defraying the expenses of the suit, and discharging the money due on a mortgage which had been given by a prior owner, the balance of the sale was directed to be paid over into the hands of the complainants, towards an indemnification of the general.

Given under my hand this 2d day of November, 1790.

CHARLES COTESWORTH PINCKNEY.

Z.

SIR:

CHARLESTON, *November 6, 1790.*

It gives me much pleasure that I have it in my power to state an occurrence which cannot fail, with an unprejudiced mind, to remove every suspicion relative to an improper connexion in speculation in trade, between the late General Greene and John Banks & Co., in the spring of 1783. Several days after a report had prevailed in Charleston, and it was generally believed, that an express had arrived from the northward, bringing certain information to those most interested, that the preliminary articles between the United States and Great Britain had been agreed on, I met with Mr. John Banks on the bay. After expressing the confidence he had in my keeping a profound secret the intelligence which he was about to communicate, he informed me that he had received information, from a confidential friend of his to the northward, that the preliminary articles were certainly signed, and gave me a letter to read which contained the information, which letter he had received several days before I was with him; but a few minutes before, he received a message from General Greene, by a servant from his store in Broad street, informing him that he wished to see him at his store immediately. Mr. Banks asked me to walk with him. On our way, Mr. Banks said that he supposed that the general wanted to interrogate him with respect to the intelligence which he had received, but that he was resolved not to give him any satisfaction. So soon as we got to the store, General Greene, addressing himself to Banks, requested to be informed whether he had received any information which could be relied on relative to the preliminary articles having been signed. Mr. Banks, in the most positive manner, denied that he had received any information to that purport. The artless and undisguised manner in which the question was asked produced the strongest conviction in my mind that General Greene was at that time ignorant of the intelligence which Mr. Banks had received; and it can hardly be presumed that a piece of intelligence, so important and interesting to Mr. Banks at that crisis, would have been withheld from any person who was in the smallest degree connected with him.

W. WASHINGTON.

[NOTE.—See Nos. 73, 75, and 97.]

2d CONGRESS.]

No. 24.

[1st SESSION.]

CLAIMS OF OFFICERS AND SEAMEN IN THE NAVY BARRED BY THE STATUTE OF LIMITATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 31, 1792.

WAR DEPARTMENT, *January 30, 1792.*

The SECRETARY OF WAR, to whom were referred the petitions of James Swaine, Abraham Springer, Timothy Mountford, sundry seamen who served in the navy of the United States during the late war, Samuel Wall, (for himself and servant,) John Carnaghan, James Shields, Henry Skinner, and William Loring, respectfully reports:

That the principle of the said several petitions is precisely the same. The petitioners all state that they were beyond sea before and at the expiration of the time for exhibiting their claims against the United States, or under circumstances equivalent thereto; and that they are now respectively precluded, by the operation of the resolves of limitation, from the adjustment or allowance of their accounts.

That several of the said petitioners, most of whom were inferior officers and seamen in the navy of the United States, have produced ample evidence of their absence at the time alleged, and it is presumed that all of them are able to do the same. That Abraham Springer, who was a soldier, and afterwards became a mariner, was, it appears, a considerable time a prisoner to the Algerines.

To the aforesaid petitioners will probably be added a much greater number, who may have equally well-founded claims, and whose absence may be proved during the time allowed for the adjustment of claims of this nature.

Hence arises the question, whether it would be proper at this period to repeal so much of the laws of limitation as to authorize the adjustment and allowance of the claims of the petitioners, and such other persons as shall prove their absence beyond sea during the time heretofore allowed for this purpose?

The Secretary of War considers this question of considerable importance to the public as well as to individuals, but on which he is not instructed to report an opinion, although he conceives it his duty to state the subject respectfully to the House of Representatives as meriting consideration.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

2d CONGRESS.]

No. 25.

[1st Session.]

DAMAGES CLAIMED FOR BREACH OF CONTRACT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 8, 1792.

Mr. BENSON, from the committee to whom was referred the report of the Secretary of the Treasury, on the petition of Comfort Sands and others,* made the following report:

That, in order to obtain a judicial decision respecting the validity of a certain award or report made between the United States and Comfort Sands and others, his co-partners, (contractors for furnishing supplies to the troops during the late war,) by Isaac Roosevelt, William Malcolm, Elbridge Gerry, and Henry Remsen, (four of the referees nominated for the purpose,) it shall be lawful for the said Comfort Sands, and his said co-partners, to proceed on the said award, by petition against the United States in the Supreme Court of the United States. That the Attorney General appear, and answer such petition for the United States. That the court may direct issues at law for the trial of facts material, and the Attorney may, in his discretion, consent to such rules, state of facts, and other proceedings, as shall be proper in the case. That the court shall decide respecting the validity of the said award, as shall be right; and if the opinion of the court shall be in favor of the said award, the said Comfort Sands and his said co-partners shall then be entitled to have their claim against the United States, as on the said award, allowed at the Treasury, in the usual manner, and shall be paid the amount of the claim so to be allowed, out of any moneys which may be in the Treasury, not otherwise specially appropriated; but, if the opinion of the court shall be against the said award, they shall order the said petition to be dismissed.

* See Nos. 17, 131, 133.

2d CONGRESS.]

No. 26.

[1st Session.]

CLAIM FOR SUPPLIES AND WORK ON UNITED STATES' VESSELS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 29, 1792.

TREASURY DEPARTMENT, February 28, 1792.

The SECRETARY OF THE TREASURY, pursuant to an order of the House of Representatives of the 5th of February, 1790, referring to him a memorial of the executors of Edward Carnes, respectfully submits the following report:

The object of the said memorial is, to obtain payment of a sum of five hundred and forty-four pounds nineteen shillings and eleven pence, money of Massachusetts, claimed as due to the estate of the said Edward Carnes, for supplies furnished, and work done for sundry vessels of the United States during the late war. The following are the material facts, which appear in relation to this case: James Warren, William Vernon, and John Deshon, were Commissioners of the Navy Board for the eastern department.

The United States in Congress assembled, on the 29th of August, 1781, among other things,

Resolved, That an agent of marine should be appointed, and that as soon as the said agent should enter upon the execution of his office, the functions and appointments of the Board of Admiralty, the several Navy Boards, and all the civil officers appointed under them, should cease and be determined.

On the 7th of September following, they further *Resolved*, That, until an agent of marine should be appointed, all the duties, powers, and authorities assigned to the said agent should devolve upon and be executed by the Superintendent of Finance; and that as soon as the said Superintendent should take upon him the execution of those duties and powers, the functions and appointments of the Board of Admiralty, the several Navy Boards, agents and civil officers under them should cease and determine.

On the 21st of the same month of September the Superintendent of Finance wrote to the Navy Board of the eastern department, communicating to them the aforesaid resolutions, deputing John Brown to act on his behalf, and requiring them to surrender to him all the public books, papers, or stores, in their possession or custody; observing only, that if the frigates Alliance and Deane, then fitting for sea, should not be completed when his letter arrived, their equipment should proceed under the direction of the board, so that their accounts might close with those vessels. On the 26th of March, 1782, the Superintendent of Finance, in a letter to the then late Navy Board, expresses himself thus: "I think you should settle the accounts of the persons to whom your department is indebted, and give them certificates of the sums due."

The petitioners produce an account settled between the said Edward Carnes, and William Vernon, and James Warren, (the said John Deshon having previously resigned his office,) which bears date the 25th of July, 1782, and states a balance in favor of Edward Carnes of five hundred and forty-four pounds nineteen shillings and eleven pence, lawful money of Massachusetts. The account is signed by the said William Vernon and James Warren.

The navy board aforesaid have not settled their accounts with the United States, and the probability of a satisfactory settlement cannot be inferred from the circumstances which have hitherto appeared.

This leaves the Government without adequate means of testing and checking demands of the nature of that which is the object of the petition under consideration.

The books, however, of the Navy Board, which, in August or September, 1786, were lodged in the hands of the commissioner for settling the accounts of the Navy Department, correspond, in this instance, with the account produced. It does not appear that this account was ever exhibited, either to the commissioner charged with the settlement of accounts in the State of Massachusetts, or at the Treasury, within the periods prescribed by the acts of limitation. If, therefore, the claim is to be considered as an unliquidated claim, it is barred by those acts.

But the Secretary is of opinion that this claim, admitting the adjustment to have taken place in conformity to the face of the account, does not fall under that description; inasmuch as there appears to have been, prior to those acts, a formal settlement and a precise balance struck by persons who were charged with settling accounts in the department, by the Superintendent of Finance, acting under the authority of Congress, as agent of marine. If this idea be well founded, a question will still remain, how far such a settlement is to be deemed conclusive upon the public or liable to revision and readjustment. On the first supposition, there would be nothing more to do than to satisfy the claim. On the last, the revision would be most advantageously made by the accounting officers of the Treasury. The Secretary begs leave to state here, that there are a number of claims upon the Government, the respective amounts of which have been ascertained and certified by public officers of various descriptions, but which are not admitted by the present practice and course of the Treasury. A resolution of Congress, of the 23d of February, 1785, requires all persons who have issued certificates of debts due from the United States (loan office certificates and certificates of final settlement excepted) forthwith to deliver to the Board of Treasury, or to some commissioner of accounts in the State where such persons reside, a fair abstract of all the certificates which they had issued, and directs that copies of those abstracts should be transmitted by the Board of Treasury, to the several commissioners of accounts as a guide in detecting frauds.

And another resolution, of the same date, enjoins it upon those commissioners to be careful how they admit charges against the United States, on certificates not duly supported by the authority of Congress, and the accounts of the officers who had issued them.

Influenced by the precautions contemplated by those resolutions, and by the great danger of admitting certificates, which could not be checked by any return, account, or document, from the officer who had issued them, it grew into a practice at the Treasury to decline the admission of any certificates, of which there was not such evidence in the possession of the Treasury.

When it is considered how great a number of persons were charged, during the late war, with issuing certificates for services and supplies, and that the accounts of a considerable proportion of them are still unsettled, and of many, by deaths, abscondings, destruction of papers, and other casualties, never can be settled, it will be readily perceived that great hazard of abuse and imposition would have attended a contrary practice.

The claims of the individuals concerned are, nevertheless, embarrassing. They urge that the public are bound to admit claims founded upon the acts of officers whom they had intrusted to contract such claims, and to give the evidences of their being contracted, especially where nothing appears to invalidate them.

A medium between a total rejection of such claims and an implicit admission of them seems best reconcilable with public justice and public policy.

The Secretary, pursuant to this idea, submits the following arrangement to the consideration of the House of Representatives:

That provision be made, by law, requiring all persons having claims upon the United States, not barred by any act of limitation, founded upon certificates or other written documents from public officers, (except loan office certificates, certificates of final settlement, registers' certificates, and certificates issued pursuant to the act making provision for the debt of the United States,) to exhibit their respective claims at the Treasury, depositing the documents and vouchers upon which they are founded, within the term of eighteen months from the passing of the law, and barring all such claims as should not be exhibited within the term limited; empowering the accounting officers of the Treasury, after the expiration of that term, to admit and adjust, as in similar cases, all such of those claims as should appear to them proper to be admitted, and requiring them to report to Congress all such as should appear to them objectionable, together with their objections, in order to a final legislative disposition concerning them, as justice and right may require.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

2d CONGRESS.]

No. 27.

[1st SESSION.]

RENEWAL OF LOST CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 21, 1792.

TREASURY DEPARTMENT, *April 18, 1792.*

THE SECRETARY OF THE TREASURY, to whom were referred by the House of Representatives the several petitions specified in the list herewith, praying the renewal of certain certificates, which are alleged to have been destroyed or lost, respectfully makes the following report thereupon:

The said Secretary, in a report heretofore made to the House of Representatives on a petition of Jacob Rush, (a copy of which is annexed,) has stated his opinion concerning the propriety of renewing certificates which have been destroyed or lost, and concerning the precautions which ought to accompany relief in cases in which it may be deemed proper to grant it.

The paper B contains an abstract of the several petitions specified in the list, and of the proof, where any is produced, which accompanies them, with brief observations on the respective cases.

It however merits consideration whether any certificate ought to be renewed until the course of the public operations shall have called in all the old ones which are still outstanding, and until an arrangement, now in execution at the Treasury, whereby it will be easy to ascertain what certificates have been taken in and cancelled from the earliest period, shall have been completed.

It can rarely happen that the proof adduced is more than strongly circumstantial; and the cases numbered 18 and 23, in which certificates, sworn to have been destroyed, have been presented or taken up at the Treasury, serve to evince the necessity of peculiar circumspection.

The renewal of any kind of paper, which is negotiable to bearer, is, in the nature of the thing, liable to considerable danger, and it is to be doubted whether it may be conformable to usage in similar cases. It is, therefore, though equitable, discretionary on the part of the Government, and it is reasonable that the doing of it should be accompanied with every precaution necessary for the public safety.

The taking of security to indemnify the Government from future claims is a safeguard; but, for obvious reasons, it can never be considered as one which can altogether be relied upon.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *August 5, 1790.*

The SECRETARY OF THE TREASURY, having considered the petition of Jacob Rush, referred to him on the 29th day of June last, respectfully reports:

That the reasons which induced the last Congress of the United States to grant a renewal of continental loan office certificates, destroyed through accident, appear of equal weight in regard to other evidences of the public debt which have been the subjects of similar casualty.

That justice to the petitioner, therefore, seems to require that an opportunity of renewing his certificates be granted him; and, as there are several applications of the same nature, it is respectfully suggested that it will be expedient to provide, by law, for administering relief to all who shall be found similarly circumstanced, under the following cautionary regulations, which are, in most particulars, the same as those provided in the case of loan office certificates, so far as they will apply to the different circumstances of the certificates:

That the certificates renewed be issued to those who shall appear to have been the holders of them at the time they were destroyed, or, if dead, to their legal representatives.

That the certificates destroyed be advertised in the newspapers of the State where the accident happened, and in the State where they were issued; which advertisement shall be continued six weeks, and shall contain the numbers, dates, sums, names in which the certificates were taken out, and the time when, the place where, and the means by which, they were destroyed; that a copy of the advertisement be lodged in the office of the commissioner of loans within the State in which the certificates alleged to have been destroyed were issued, together with such testimony as can be procured, ascertaining the time when, the place where, and the means by which, the destruction happened; which copies and testimonies shall be duly certified by the said commissioner, to be laid, by the party claiming the renewal, before the Comptroller of the Treasury, who shall finally decide on the sufficiency thereof.

That the party claiming the renewal enter into a bond to the United States, with two or more sufficient freeholders as sureties, (the sufficiency to be judged of by the said Comptroller,) in double the amount of the value of the certificates claimed to be renewed, with condition to indemnify the United States against the holders of the certificates said to be destroyed, should any such afterwards appear.

That no certificate be renewed before the expiration of three months after the publication of the advertisement above mentioned; and that there be an endorsement on each renewed certificate, signifying that the same was issued in lieu of one destroyed by accident, and describing the original.

In regard to certificates which have not been destroyed by accident, but which have either been lost or captured, or otherwise taken away, it appears extremely difficult to devise any mode of relief to the sufferers which will not subject the United States to so much hazard of imposition and injury as to render the expediency of it questionable. If the House should, nevertheless, be of opinion that justice requires it, it may be granted under the same regulations which are proposed in respect to certificates destroyed.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

2d CONGRESS.]

No. 28.

[1st SESSION.]

CLAIM FOR HORSES AND CATTLE CAPTURED FROM THE ENEMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 21, 1792.

TREASURY DEPARTMENT, *April 21, 1792.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of Robert Neil, respectfully makes the following report thereupon:

It is stated by the petitioner, that, pursuant to an order which he received from Clement Biddle, deputy quartermaster general, in the month of April, 1777, a capture was made of a number of horses and cattle for the use of the armies of the United States. That fifteen of the horses, and ten of the cattle, were actually carried to headquarters, and placed in the yard of the deputy quartermaster general. That the said petitioner, agreeably to the instructions he received from General Stevens, and to the usage of the army, caused the horses and cattle to be appraised, and the amount thereof to be paid to the officers of the party who captured them. That he exhibited an account to the proper officers of the Treasury for the sum of six hundred pounds, or thereabouts, paid to the officers aforesaid, accompanied with vouchers, as set forth in the said petition, and that the account was rejected by the Auditor and Comptroller of the Treasury. The petitioner, conceiving himself aggrieved by the said determination of the officers of the Treasury, therefore prays that relief may be afforded him by the Legislature.

The following reasons, which guided the late Comptroller of the Treasury, in the decision of this case, have been stated to the Secretary, to wit: In the settlement of the accounts of the said Robert Neil, as assistant quarter-

master, he has obtained credit for sundry disbursements, including his pay from the 15th day of February to the 15th day of August, 1777, in the sum of \$7,935 68, and stands charged for cash received by him, at sundry times, to the amount of \$7,885 15, leaving a balance due to the said Robert Niel of \$50 53, with interest, at six per cent. per annum, from the 15th day of June, 1777. Among other credits claimed by him is that which is the subject of his petition. The circumstances connected with this claim are as follows:

The claim itself is for fifteen horses, and ten head of cattle, taken from the enemy's lines in April, 1777, and delivered to the order of Colonel Biddle, deputy quartermaster general, for the use of the army, at the appraised price of \$1,500, which sum is represented to have been paid to the captors by order of General Stevens. The evidence produced in support of this claim being judged inconclusive and unsatisfactory, it was not admitted. The reasons which particularly operated against the admission were, that no receipt has been produced by Mr. Niel, from the deputy quartermaster general's department, for the delivery of the cattle, nor has any appraisal appeared of their value. Receipts have been produced for the payment of \$2,075 17 to several officers, for the dividend of the troops who were captors, which receipts specify that the moneys arose from the sales of property taken as above stated; but there is no regular account of the property taken, nor has Mr. Niel shown how far the moneys paid by him were received from the sales made by himself. The proof adduced to show the delivery of the cattle and horses to Colonel Biddle consists of affidavits recently taken.

By a paper, found among the vouchers to Colonel Biddle's accounts, it appears that on the 5th of April, 1777, nine horses were appraised by his direction, and that the appraisal amounted to £245; subjoined to the statement thereof is an order, signed "C. Biddle, D. Q. M. G." for payment of the amount to Captain William Breton, one of the captors; a circumstance which strongly indicates that those horses were taken on the same expedition to which this charge is referred by Mr. Niel. It does not appear that any cattle were paid for by Colonel Biddle; but, as he was not in the commissary's department, it was not in the line of his duty to pay for them.

It is observable that the entry, made in Mr. Niel's books, of this transaction, appears, from the color of the ink, and difference of characters, to have been written lately. It is out of its proper place, immediately preceding an entry of the 19th of March, whereas the transaction itself did not take place till about the 10th of April.

From a conference between the Comptroller and Colonel Biddle, on the subject of this claim, the following information results: That it was the general practice, whenever any captured cattle or horses were brought to the quartermaster or commissary, for the use of the army, to give a receipt for them to the party delivering the same, and to have a certified appraisal made of them immediately, and also to pay the amount of such appraisal to the captors, if they had money, or to give some certificate that such amount was due if they had none. That, in the spring of 1777, the time of this capture, there was plenty of money in the hands of the proper officers for the purpose, and that if Mr. Niel had presented his account, he would, upon application, most assuredly have obtained payment. That, upon the whole, it appeared highly improbable that an individual should have paid \$1,500 equal to specie, on account of the United States, without a previous receipt of the amount from the proper officers, or without subsequent application for reimbursement, when the means of obtaining the former, or of successfully urging the latter, were so clearly within his power. And although it had been represented that Mr. Niel conducted himself, as assistant quartermaster general, with much zeal and activity; although the inexperience of the period in which the transaction happened might palliate for some deviation from forms, yet, considering that Mr. Niel, in support of his claim, had produced no invoice of the property captured, no receipt for the delivery, either from the quartermaster or commissary department, no instrument of appraisal; when it was considered that the advance was greater than an individual would probably make, without a voucher, and without immediate application for reimbursement; (which, in the opinion of Colonel Biddle, would have been obtained if it had been applied for;) when, along with these circumstances, the suspicious appearance of the entry had been taken into consideration by the late Comptroller, he had been induced to decide against the claim—under this representation of the case, the Secretary is of opinion that the reasons for not admitting the claim of the petitioner were good and sufficient, and that no special interposition of the Legislature in his favor is advisable.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

2d CONGRESS.]

No. 29.

[1st SESSION.

CLAIM FOR SERVICES AS NAVAL PAYMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 30, 1792.

TREASURY DEPARTMENT, *April 27, 1792.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of Joseph Henderson, respectfully submits the following report thereupon:

The Marine Committee of Congress, by a letter to the Navy Board for the eastern department, dated the 19th day of June, 1778, authorized that Board to appoint some proper person to the office of naval paymaster, observing that Congress had not yet fixed a salary for the officer contemplated; but that, when it was done, they presumed it would be adequate to the importance of the office.

In consequence of this direction, the Navy Board, on the 5th of August following, appointed the petitioner to act in the above-mentioned capacity, in which he appears to have acted till some time in the year 1782, but when is not clearly ascertained.

By an account settled between the Board and the petitioner, dated the 1st of August, 1782, it appears that he was allowed by the Board £403 10s. for his "services, posting books, from May, 1779, to May, 1782," which James Warren, one of the Board, avers to have had reference merely to his services as an assistant or clerk to the Board, and not to his services as paymaster.

It does not appear that Congress ever assigned any salary or allowance to the office or appointment in question, or that the petitioner ever received any other compensation than as above mentioned.

From this state of facts, it results that the petitioner has a claim to a further compensation, unless there be some other circumstance of sufficient force to control it.

As well from the nature of the office as from express instructions, it was the duty of the petitioner to keep regular and fair books of accounts with all persons belonging to the vessels of war within the Department.

But it is represented to the Secretary that the accounts of the petitioner were not kept agreeably to his instructions, whereby settlements with individuals have been delayed and embarrassed.

How far this circumstance ought, upon the whole, to bar the claim of the petitioner, is respectfully submitted. To the Secretary it would rather appear to be the most proper course of public proceeding to allow a moderate yearly compensation. The quantum may reasonably be regulated with an eye to the collateral compensation which was enjoyed by the petitioner, and to the appearances of defective execution.

No impediment arises on the score of the acts of limitation.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

2d CONGRESS.]

No. 30.

[1st SESSION.]

RANSOM AND OTHER EXPENSES OF PRISONERS TAKEN BY THE INDIANS.

COMMUNICATED TO THE SENATE, MAY 1, 1792.

WAR DEPARTMENT, *May 1, 1792.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Samuel B. Turner, late an ensign of the Maryland battalion of levies on the expedition under Major General St. Clair, respectfully reports:

That the petitioner was taken prisoner by the Indians who defeated the troops under Major General St. Clair on the 4th of November, 1791.

That, after some short residence at the Indian towns, he was, at the instance of a French trader, sent to Detroit.

That Major Smith, the commanding officer of the said post, exhibited on this occasion, as well as on many previous cases, the greatest humanity. He directed that the petitioner should be furnished with a credit by some of the traders, whereby he not only paid his ransom to the Indians, amounting to forty-two dollars, as the petitioner informed the subscriber, but he also clothed himself and obtained the means of subsistence to Niagara.

That at Niagara the petitioner was furnished with a sum of money by Colonel Gordon, commanding officer, to the amount of thirty-seven dollars and fifty cents.

That the object of the petitioner is to obtain from the public, in whose service he was captured, the expenses attending his captivity, amounting to two hundred and sixty-four dollars and forty-five cents.

That the petitioner is equitably entitled to his pay and subsistence from the 4th of November, the time of his captivity, until the time of his arrival at his own home, amounting probably to about one hundred and thirty dollars, which he has received in part; some vouchers being wanting in order to ascertain the precise amount.

That it was a custom during the late war, that officers who were taken prisoners continued to receive their pay and subsistence during the time they remained prisoners; but it does not appear to have been the practice that any extra expenses were paid, excepting for medical assistance and the additional price of one-third the price of the ration, allowed to officers not in captivity.

The question which appears to arise on the application of the petitioner is, how far the nature of the service on which he was employed ought to create a deviation from the former practice?

In considering the question, the difference of treatment to prisoners taken by a civilized or savage enemy presents itself. In the former case the lives of prisoners are generally spared, in the latter they are generally sacrificed.

If the Indians were certain of prompt payment of the ransom, they would probably be induced to spare the lives of their prisoners. If the officers and soldiers were certain that in cases of captivity their ransom and all other expenses would be paid by the public, it would probably stimulate them to the highest discharge of duty, at every personal risk.

But an objection arises from the probable irregularities of the ransoms which may be stipulated. A person about to be sacrificed to savage fury would be apt to stipulate a pretty high ransom, which, if not complied with, the effects might fall heavily on subsequent prisoners.

Besides, if all expenses of captivity should be stipulated to be paid, some very exorbitant charges may be made, either from indiscretion or other improper conduct.

Although the impulse of a generous mind may be highly in favor of the petitioner's claim, yet it is to be regretted that its feelings are in a degree restrained by considerations of a general nature.

To grant the prayer of the petitioner in the extent claimed would be to establish a new principle, unsupported by the practice of the late war.

But, if a general principle should be fixed, that ransoms and all expenses attending captivity shall be paid by the United States, while at the same time the prisoners should receive their full *pay and emoluments*, yet certain regulations would necessarily be involved as to the rates which should be allowed for ransoms and expenses.

That the ransom the petitioner paid, of forty-two dollars, appears a reasonable charge, and would seem to claim an allowance, if, upon mature consideration, it should not as a precedent involve disagreeable consequences.

All which is humbly submitted to the Senate of the United States.

H. KNOX, *Secretary of War.*

2d CONGRESS.]

No. 31.

[2d SESSION.

CLAIMS FOR DEPRECIATION, PROPERTY USED, DAMAGED, OR DESTROYED BY THE ARMY, AND FOR INTEREST ON ADVANCES FOR THE USE OF AMERICAN PRISONERS AT QUEBEC.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 22, 1792.

TREASURY DEPARTMENT, *November, 1792.*

The SECRETARY OF THE TREASURY, to whom were referred the several petitions specified in the list herewith transmitted, respectfully submits the following report thereupon:

These petitions seek indemnifications upon various sums of paper money received from the public during the late war, by the respective petitioners, on account of claims arising upon transactions of that period.

There is no subject upon which the special interposition of the Legislature for relief of particular individuals can be more delicate and dangerous, than that of depreciations; the infinite multitude of cases, in which claims of this nature might, with equal or nearly equal degrees of equity, be supported; the impossibility, from the extraordinary circumstances of the times when those claims originated of during general justice; the inextricable confusion and incalculable expense of an attempt to redress all the grievances and hardships of that kind which unavoidably took place, afford considerations of the most powerful nature for leaving every question of depreciation where the rules and principles of settlement at the Treasury have left it.

If the claim of either of the petitioners is within those rules, and not barred by the acts of limitation, no interposition of the Legislature is necessary. If not within those rules, and barred by the acts of limitation, such an interposition would, in point of precedent, be of the most inconvenient tendency. The magnitude and extreme delicacy of the matter in question appear to render it advisable to adhere to the acts of limitation, as well as the rules of settlement at the Treasury, in this particular, with peculiar caution and strictness.

Such was the policy of the United States in Congress assembled, and a perseverance in that policy is recommended by a variety of weighty reasons.

The Secretary understands that no allowance of depreciation, in either of the cases mentioned in the petitions, would be contrary to the rules and principles which have governed in public settlements.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *November 19, 1792.*

The SECRETARY OF THE TREASURY, to whom were referred the several petitions in the list hereunto annexed, specified, respectfully makes the following report thereupon:

The said several petitions seek compensation for property of the respective petitioners, used, damaged, or destroyed by the army of the United States, during the late war with Great Britain.

In the course of the war, the officers in the several departments of the civil staff were competent to the purposes of liquidating and compensating similar claims, as far as the nature of military service and other necessary considerations would permit. But as many circumstances conspire to render this power of compensation and relief not adequate to all the cases in which it was proper they should be applied, the United States in Congress assembled, on the 20th of February, 1782, passed the following resolution:

That a commissioner for each State, for the purposes hereinafter expressed, be appointed, as follows: He shall be nominated by the Superintendent of the Finances of the United States, and approved of by the Legislature or the Executive of the particular State for which he shall have been nominated; and upon the death, refusal, or inability to act of such commissioner, another person to supply his place shall be nominated by the Superintendent of the Finances, and approved of by the Executive, or the Delegates attending in Congress of the State for which he shall be nominated, as the Legislature of the State shall direct. That the said commissioner, so appointed, shall have full power and authority finally to settle the accounts between the State for which he shall have been nominated, and the United States; that all accounts of moneys advanced, supplies furnished, or services performed, between the United States and a particular State, shall be estimated according to the table of depreciation, framed by the Board of Treasury on the 29th day of July, 1780, in consequence of the resolution of the 28th day of June preceding, to the time the same is extended; provided always, that the specific supplies, furnished pursuant to requisitions of Congress, shall be settled agreeably to the prices mentioned in such requisition. That he be also fully empowered and directed to liquidate, and settle in specie value, all certificates given for supplies by public officers to individuals, and other claims against the United States by individuals, for supplies furnished the army, the transportation thereof, and contingent expenses thereon, within the said State, according to the principles of equity and good conscience, in all cases which are not or shall not be provided for by Congress. That the said commissioners, respectively, give public and early notices of the times and places of their settling, and the districts within which they settle accounts, that as well the public officers as private individuals may have an opportunity to attend. And it is hereby further recommended to the several Legislatures of the respective States, to grant the commissioner, by a law to be enacted for the purpose, a power to call witnesses, and examine them upon oath or affirmation, touching such claims and accounts as shall be produced for liquidation and settlement.

On the 3d of June, 1784, the following resolutions were passed in Congress:

That the commissioners make reasonable allowance for the use of stores and other buildings hired for the use of the United States, by persons having authority to contract for the same, but that rent be not allowed for buildings, which, being abandoned by the owners, were occupied by the troops of the United States. That such compensation as the commissioners may think reasonable be made for wood, forage, or other property of individuals, taken by order of any proper officer, or applied to or used for the benefit of the army of the United States, upon producing to him satisfactory evidence thereof, by the testimony of one or more disinterested witnesses.

That, according to the laws and usages of nations, a State is not obliged to make compensation for damages done to its citizens by an enemy, or wantonly or unauthorized by its own troops; yet, humanity requires that some relief should be granted to persons who, by such losses, are reduced to indigence and want; and, as the circumstances of such sufferers are best known to the States to which they belong, that it be referred to the several States

(at their own expense) to grant such relief, to their citizens, who have been injured, as aforesaid, as they may think requisite; and if it shall hereafter appear reasonable that the United States should make any allowance to any particular States who may be burthened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts, for any charges of that kind against the United States.

These resolutions appear to the Secretary to have made provision for the different descriptions of cases as proper, all circumstances considered, as could well have been devised. If it has not answered every equitable purpose which ought to have been answered, it must be owing to a defective execution.

It is, indeed, suggested that, by reason of the commissioners' not having been a sufficient time in the execution of their offices; from having been less time, in proportion, in some States than in others; from having used unequal degrees of diligence, many claims have failed of a settlement as well founded as others that were adjusted, and in a greater degree in some States than in others.

There is, probably, foundation for both these suggestions; yet a remedy is both difficult and dangerous. The discretion vested in the commissioners was originally a very delicate one. It could only be advantageously exercised by persons immediately in the scenes where compensations were demanded, who could make a minute inquiry into circumstances, and judge of the personal character and credit of witnesses. The subsequent lapse of time has added to the difficulty of investigating satisfactorily claims which generally rest on evidence merely oral, and which intrinsically are liable to much vagueness, exaggeration, and abuse.

Many of them are barred by the acts of limitation. It is presumed, that the extreme danger of abuse, with regard to the public, is a sufficient reason for maintaining strictly that bar against claims of such a complexion, though there may be cause to regret individual hardships in consequence.

From the difference in the situation of the accounting officers of the Treasury compared with that of the commissioners in respect to the means of investigation, a doubt has been entertained whether they were competent to the adjustment of similar claims, as far as they have been recognised by the acts of Congress, and have been preferred in time. But on more full and mature consideration, it is conceived that this power is competent to such adjustment, and, unless otherwise directed, they will proceed accordingly; duly impressed, nevertheless, with the necessity of extraordinary caution and circumspection.

The Secretary, upon the whole matter, respectfully submits it as his opinion, that it is advisable carefully to forbear a special interposition of the Legislature in favor of similar claims.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *November 21, 1792.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of Udney Hay, respectfully makes the following report thereupon:

The said petition seeks payment of interest upon a certain promissory note recited therein from Christopher Greene and Return Jonathan J. Meigs to Simon Frazer, which is understood to have been given for a sum of money advanced for the use of certain citizens of the United States, prisoners of war at Quebec, in the year 1776, and which stipulates the reimbursement of the sum advanced within a year from the date, with lawful interest till paid.

It appears that some time in August or September, 1785, application was made to the United States in Congress assembled for payment of the principal and interest of the said note.

It further appears that Congress, on the 28th of September, 1785, passed a resolution in the words following:

“That the Board of Treasury take order for paying to Return Jonathan Meigs, late a colonel in the service of the United States, and to the legal representatives of Christopher Greene, deceased, late a colonel in said service, the sum of two hundred dollars; the same having been expended for the use and comfort of the unfortunate prisoners in Quebec in the year 1776.”

The payment of principal thus directed to be paid has not been accepted; the payment of interest as well as principal being insisted upon.

As there is an express stipulation of interest on the note, it is clear that the parties by whom it was given are as much bound for the payment of the interest as of the principal; and that unless the public indemnification should include both, the relief intended will be partial and defective. The equity of paying the interest as well as the principal is, in such a case, without a question. It is not a case in which difficulty can arise from any established principle of treasury settlement.

The recognition of the debt by the provision heretofore made appears to the Secretary to require that the provision should be so extended as to complete the relief designed to be afforded.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1792.

WAR DEPARTMENT, *December 14, 1792.*

In obedience to the order of the House of Representatives of the 3d instant, the Secretary of War respectfully submits two lists of names which have been transmitted by the judges of the Circuit Court (in the capacity of com-

missioners) of the district of New Hampshire, Massachusetts, Rhode Island, Connecticut, and New Jersey, and also by the judges of the district of Maine.

The first list, marked A, contains the names of eighty-five persons, who were examined by the Circuit Courts in the months of April and May last, and who have been actually placed upon the pension list, together with the names of three persons who have been withheld from the said list, on account of their having been found as deserters, upon examination of the muster-rolls of the corps to which they belonged in the late war.

And also the name of Peter Charlont, a Canadian refugee, who is recommended "to the notice and benevolence of Congress." The documents on which this recommendation is founded are herewith submitted, marked No. 1.

The second list, marked B, contains the names of one hundred and sixteen persons, examined by the judges of the Circuit Courts, in the months of September and October last. This list is under examination, with the muster-rolls and documents of the late war, in order to ascertain the proofs of the services alleged; but in many cases no proof of service can be traced, owing to the imperfection or entire deficiency of the muster-rolls, or other evidences of the early part of the war.

To the names of the persons transmitted as aforesaid are added their rank in the late war, the ship, regiment, corps, or company to which they belonged, as far as information can be obtained thereof, the causes of disability, and the monthly rate of the pension, and the arrears which have been allowed.

The whole number of both lists amounts to two hundred and six.

The annual allowance, as returned, amounts to nine thousand four hundred and sixty-seven dollars and sixty-two cents.

The arrears, as returned, amount to twenty-three thousand and ninety-one dollars and forty-four cents.

It may be observed that several volunteers and one commissary have been stated for pensions. But as persons of this description do not appear, by any of the former resolves of Congress, to have been explicitly named for pensions, these cases are submitted to the view and decision of Congress, in paper No. 2.

The resolves or laws of Congress, prior to the act upon this subject, passed the 23d day of March last, do not allow, for the highest disability to a non-commissioned officer or private, a monthly pension exceeding five dollars; but the said act seems to render an allowance of any portion of the monthly pay discretionary with the judges; accordingly, several monthly pensions, exceeding five dollars, have been reported by the judges of the Circuit Courts for non-commissioned officers and privates, which are particularly noticed in the list.

The number of non-commissioned officers and privates on the general pension list, prior to the 23d day of March last, amounted to one thousand three hundred and fifty-eight; none of whom receive a pension exceeding five dollars per month.

The entire number of invalid pensioners of all descriptions, before the said 23d day of March, amounted to one thousand four hundred and seventy-two.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

A.

List of the invalid pensioners returned by the Circuit Court for the hereafter named districts, and who have been placed on the list transmitted from the War Office to the commissioners of loans for the respective States, and returned to the Secretary of the Treasury for arrearages of pension.

| No. | States. | Names. | Rank. | Regiment. | Disability. | Date to which the arrearages are computed, and from which annual pension commenced. | Monthly allowance. | Arrearages due. |
|-----|----------------|--------------------|-----------------|-----------------------|---|---|--------------------|-----------------|
| | | | | | | | Dolls. cts. | Dolls. cts. |
| 1 | New Hampshire, | James Crombie, | Lieutenant, | Colonel Hale, | Ruptured in his groin, being thrown from his horse while on duty, shortly after the evacuation of Ticonderoga, | May 28, 1792, | 3 33 $\frac{1}{2}$ | 20 00 |
| 2 | New Hampshire, | Ebenezer Copp, | Sergeant, | Colonel Read, | Badly wounded in the back, side, and in his groin, at the battle of Bunker's Hill, | May 28, 1792, | 3 33 $\frac{1}{2}$ | 20 00 |
| 3 | New Hampshire, | John Clough, | Private, | 2d regiment, | Lamed by wounds in his leg and in his thigh, on the highlands, in 1779, | May 28, 1792, | 2 92 | 20 00 |
| 4 | New Hampshire, | Thomas Eastman, | Private, | Colonel Cilley, | Dangerously wounded in the head, 19th September, 1777, at the battle of Belmus Heights, and at intervals subject to convulsions and derangement in his mind, | May 28, 1792, | 1 66 $\frac{2}{3}$ | 40 00 |
| 5 | New Hampshire, | Ebenezer Fielding, | Private, | Colonel Jas. Read, | Taken, in the retreat from Canada, in 1776, with the small-pox, and by hardships, and lying on the ground while in that disorder, and not having proper attendance, has lost the use of his left eye, | May 28, 1792, | 2 92 | 40 00 |
| 6 | New Hampshire, | Joshua Gilman, | Private, | Colonel Hubbard, | Wounded in the left arm August 16, 1777, at the battle of Bennington, | May 29, 1792, | 1 11 | 20 00 |
| 7 | New Hampshire, | Thomas Kimball, | Private, | Colonel Read, | Wounded in the arm by a musket ball at Chemong, in 1779, | May 29, 1792, | 1 11 | 15 00 |
| 8 | New Hampshire, | Abraham Kimball, | Private, | Militia, | Wounded in the thigh at the battle of Bennington, | May 28, 1792, | 83 $\frac{2}{3}$ | 15 00 |
| 9 | New Hampshire, | Jeremiah Prichard, | Lieut. & adj't, | Colonel Cilley, | Wounded in July, 1777, in an engagement, by a ball passed through his left shoulder, and ruptured in his groin, at the expedition of General Sullivan against the Indians, | May 28, 1792, | 5 66 $\frac{2}{3}$ | 150 00 |
| 10 | New Hampshire, | John Reed, | Private, | Colonel Gilman, | His right arm blown off in the act of charging a field piece, 26th March, 1777, | May 28, 1792, | 3 33 $\frac{1}{2}$ | 30 00 |
| 11 | New Hampshire, | William Taggart, | Ensign, | 2d regiment, | Wounded in 1777 in the shoulder, at the retreat from Ticonderoga, and lost in 1778 the sight of his eye by the inoculation of the small-pox, | May 28, 1792, | 5 33 $\frac{1}{2}$ | 120 00 |
| 12 | New Hampshire, | Edward Waldo, | Lieutenant, | Colonel Hubbard, | Wounded by a ball passing through his left wrist 16th August, 1777, at Bennington, | May 28, 1792, | 1 71 | 20 00 |
| 13 | New Hampshire, | Weymouth Wallis, | Private, | Colonel Stake, | Wounded in the wrist 17th June, 1775, at the battle of Bunker's Hill, | May 28, 1792, | 2 92 | 40 00 |
| 14 | Massachusetts, | Thomas Alexander, | Captain, | Colonel Rose, | One of his hips dislocated and his thigh bone broke while in service in 1777, | May 19, 1792, | 7 50 | 250 00 |
| 15 | Massachusetts, | Nathaniel Barney, | Corporal, | Colonel H. Jackson, | Wounded with a bayonet, which entered his left breast and passed through his back, which wound is still open, near Yorktown, Virginia, 1781, | May 17, 1792, | 2 44 $\frac{1}{2}$ | 120 00 |
| 16 | Massachusetts, | Caleb Chadwick, | Private, | Colonel J. Patterson, | Wounded in the right thigh by a musket ball in 1775, | May 17, 1792, | 1 11 | 50 00 |
| 17 | Massachusetts, | Thomas Gleason, | Private, | Militia, | Lost one of his thumbs, and his hand much injured, by bursting of a gun, 19th April, 1775, | May 17, 1792, | 1 66 $\frac{2}{3}$ | 20 00 |
| 18 | Massachusetts, | Joseph Goodridge, | Private, | Colonel Gerrish, | Wounded by the stroke from the muzzle of a musket, by which he totally lost his right eye, in the summer of 1775, | May 17, 1792, | 2 66 $\frac{2}{3}$ | 60 00 |
| 19 | Massachusetts, | Jonas Green, | Private, | Colonel M. Jackson, | Wounded by a musket ball which passed through his body, at Ticonderoga, 1777, | May 19, 1792, | 1 66 $\frac{2}{3}$ | 40 00 |

| | | | | | | | | | | | |
|-----|--------------------|---|-------------------|---|-------------|--------------------|---|---|----------------|--------------------|--------|
| 20 | Massachusetts, | - | John Grace, | - | Lieutenant, | 1st regiment, | - | Injured by great exertions and excessive heat at the battle of Monmouth, | May 19, 1792, | 5 00 | 50 00 |
| 21 | Massachusetts, | - | John Heath, | - | Corporal, | 6th regiment, | - | Ruptured by the rolling of a log upon his breast while cutting wood for huts to cover the troops in the winter of 1780, | May 18, 1792, | 1 83 $\frac{3}{4}$ | 50 00 |
| 22 | Massachusetts, | - | Peter Hemmeway, | - | Private, | Militia, | - | Wounded by the bursting of his gun, his arm amputated in 1777, at Saratoga, | May 17, 1792, | 1 63 $\frac{3}{4}$ | 60 00 |
| 23 | Massachusetts, | - | Daniel Lollar, | - | Private, | 12th regiment, | - | Being employed, in 1779, in transporting public stores to West Point, over the ice in a snow storm, both his feet frozen, and lost several joints of his toes, | May 19, 1792, | 1 33 $\frac{1}{2}$ | 30 00 |
| 24 | Massachusetts, | - | John Manly, | - | Captain, | Marine, | - | Received several wounds and blows, particularly in his left leg and left shoulder, the leg being thereby rendered lame, and the toes of his left foot contracted; the heavy blow on the shoulder depriving him of the free use of his left arm—frigate Hancock, 1777, | May 17, 1792, | 30 00 | 500 00 |
| 25 | Massachusetts, | - | Asa Merritt, | - | Private, | Colonel Greaton, | - | Lost wholly the sight of one of his eyes by inoculation of the small-pox, 1777, | May 19, 1792, | 2 96 | 50 00 |
| 26 | Massachusetts, | - | Aaron Mason, | - | Private, | Colonel Fry, | - | Ordered out on fatigue on the night of the 16th of June, 1775, at Bunker's Hill, and continued on fatigue during the whole of the next day; and that, by excessive labor, on that service, he was taken with a fever, which has impaired his health, | May 19, 1792, | 1 66 $\frac{3}{4}$ | 30 00 |
| 27 | Massachusetts, | - | Simcon Noyes, | - | Sergeant, | Militia, | - | Wounded in the right hand, and lost one part of his fore-finger at the battle of Behmus' Heights, October, 1777, and further disabled by the camp fever in 1779, | May 19, 1792, | 3 33 $\frac{1}{2}$ | 80 00 |
| 28 | Massachusetts, | - | Job Priest, | - | Ensign, | Colonel Vose, | - | Ruptured in assisting in removing ordnance stores, at the retreat from Canada, 1776, | May 17, 1792, | 3 75 | 80 00 |
| 29 | Massachusetts, | - | Amos Pierson, | - | Sergeant, | Colonel Little, | - | Wounded by a musket ball at the battle of Bunker's Hill, 7th of June, 1775, | May 17, 1792, | 1 66 $\frac{3}{4}$ | 30 00 |
| 30 | Massachusetts, | - | Benjamin Pressey, | - | Private, | Colonel Wessons, | - | Disabled in a considerable degree by convulsions and fits, contracted by the excessive heat and exertions at the battle of Monmouth, in June, 1778, | May 17, 1792, | 2 22 | 50 00 |
| 31 | Massachusetts, | - | Abner Pier, | - | Private, | Colonel J. Brown, | - | Wounded in the flesh of the leg, thigh, and shoulder, in the back and front of the head, and scalped at Stone Arabia, in October, 1780, | May 17, 1792, | 3 33 $\frac{1}{2}$ | 100 00 |
| 32 | Massachusetts, | - | Joseph Peabody, | - | Private, | Colonel R. Putnam, | - | Wounded by a musket ball, which entered his right side, and passed through his body, between Fort Edward and Fort Miller, June 29, 1777, | May 18, 1792, | 1 66 $\frac{3}{4}$ | 40 00 |
| 33 | Massachusetts, | - | Patrick Shanley, | - | Private, | 10th regiment, | - | Wounded in the right ankle and left arm, near the wrist, Kingsbridge, 1781, | May 18, 1792, | 1 66 $\frac{3}{4}$ | 30 00 |
| 34 | Massachusetts, | - | William Warren, | - | Lieutenant, | Colonel Nixon, | - | Wounded by the bursting of a shell, June 17, 1775, at the battle on Breed's Hill, in Charlestown, | May 17, 1792, | 3 33 $\frac{1}{2}$ | 50 00 |
| | | | | | | | | N. B. The following persons have been returned by the court, but their names withheld from the list of pensioners, viz: Peter Charlont, for a monthly allowance of five dollars, and two hundred dollars arrears; recommended by the court "to the notice and benevolence of Congress." | | | |
| | | | | | | | | Levi Farnsworth, for a monthly allowance of two dollars and twenty-two cents, and one hundred dollars arrears, who deserted April 14, 1780. | | | |
| | | | | | | | | Cæsar Spragues, for a monthly allowance of two dollars and fifty-six cents, and eighty dollars arrears, who deserted April 15, 1780. | | | |
| -35 | District of Maine, | - | John Bean, | - | Corporal, | 3d N. H. regiment, | - | Wounded in the left arm, August 29, 1779, at the Indian expedition, under General Sullivan, | March 4, 1789, | 3 33 $\frac{1}{2}$ | 143 78 |

| No. | States. | Names. | Rank. | Regiment. | Disability. | Date to which the arrears are com- puted, and from which the annual pension com'nced. | Monthly allowance. | Arrears due. |
|-----|--------------------|---------------------|----------------|--------------------|---|---|-----------------------|-----------------|
| | | | | | | Dolls. Cts. | Dolls. Cts. | |
| 36 | District of Maine, | Dudley Bradstreet, | Private, | Invalids', | Dangerously wounded by a musket ball in the jugular artery, September 9, 1777, | June 22, 1792, | 3 33½ | 488 88 |
| 37 | District of Maine, | Squire Bishop, Jun. | Private, | Colonel S. Webb, | Badly wounded by a musket ball, at the expedition against Penobscot, 1779, | June 22, 1792, | 3 33½ | 200 00 |
| 38 | District of Maine, | Moses Cass, | Private, | 3d N. H. regiment, | Nearly lost the use of his right hand and arm, by the inoculation of the small-pox, being in the army at Valley Forge, | March 4, 1789, | 3 33½ | 143 78 |
| 39 | District of Maine, | Peter Hopkins, | Private, | Colonel Hitchcock, | Contracted an ulcer, or fever sore, settled in his left leg, and almost deprived him of the use thereof, in consequence of sickness, while in service in 1776, | June 22, 1792, | 3 33½ | 250 00 |
| 40 | District of Maine, | Anthony Starbard, | Private, | Colonel Rose, | Lost the sight of one eye, and the other much injured, by the inoculation of the small-pox, in consequence of general orders, about the month of April, 1777, | June 22, 1792, | 3 33½ | 150 00 |
| 41 | District of Maine, | Benjamin Thompson, | Lieutenant, | Colonel Brewer, | Contracted rheumatism and bilious rhind, when retreating from Ticonderoga, in 1777, N. B. John Bean and Moses Cass were formerly invalid pensioners from the State of New Hampshire, and paid up by that State till July 31, 1785, at the rate of \$3 33½ per month, and struck off for reason "removed out of the State;" they have not been included in any list, either for arrearages or monthly pension, but are now returned by the district court of Maine, at the same rate, and for arrearages from the date they were paid up by the State of New Hampshire. Dudley Bradstreet is returned for arrearages from the date of his discharge, at the rate of \$3 33½ per month, which appears, by the muster-rolls, to be the 14th of December, 1779, the day mentioned by the court. | June 22, 1792, | 8 88½ | 300 00 |
| 42 | Rhode Island, | Clarke Albro, | Private, | Kingston reds, | Wounded by a musket ball in his left arm at Newport, August 9, 1778, | June 14, 1792, | 1 66½ | 30 00 |
| 43 | Rhode Island, | James Bliven, | Forage master, | - | Received a violent contusion in his right leg, while removing hay from the Island of Prudence to the main, by order of Colonel C. Greene, in 1779, | June 14, 1792, | 3 00 | 50 00 |
| 44 | Rhode Island, | John Baggs, | Sergeant, | Colonel Deyer, | Badly wounded in the left hand by the splitting of a musket, | June 14, 1792, | 3 33½ | 60 00 |
| 45 | Rhode Island, | Robert Carr, | Private, | Colonel Olney, | Wounded on the 2d day of July, 1781, in a skirmish with the enemy near Kingsbridge, in the State of New York, by a musket ball entering his left, passing through the upper jaw, and coming out at the mouth, &c. | June 14, 1792, | 1 66½ | 20 00 |
| 46 | Rhode Island, | Daniel Eldridge, | 2d Sergeant, | - | Wounded at Fort Griswold by a musket ball, which entered on the lower jaw on the right side, and came out at the back side of his neck, September 6, 1781, | June, 1792, | 3 33½ | 100 00 |
| 47 | Rhode Island, | Edward Vose, | Sergeant, | Colonel Barton, | Received a stroke from an oar, which has much disabled him, producing an inguinal rupture, and is under the continual necessity of wearing a steel truss; August or September, 1779, | June 14, 1792, | 3 33½ | 30 00 |

| | | | | | | | | |
|----|--------------|-----------------------|--------------|-------------------------|--|----------------|-------|--------|
| 48 | Connecticut, | - Samuel Andrews, | - Corporal, | - Captain Asa Bray, | Wounded by a musket ball in the wrist of his hand, which is amputated; 10th October, 1777, | May 2, 1792, | 3 25 | 150 00 |
| 49 | Connecticut, | - Jedediah Brown, | - Sergeant, | - Capt. U. Raymond, | Wounded in his left hand by the bursting of his musket; 19th February, 1779, | May 2, 1792, | 3 56 | 160 00 |
| 50 | Connecticut, | - Samuel Bennet, | - Fifer, | - Captain E. Abel, | Lost the toes from each of his feet, being frozen while prisoner at New York, 19th February, 1776, | May 2, 1792, | 3 66½ | 200 00 |
| 51 | Connecticut, | - Enos Blakeley, | - Private, | - Col. E. Huntington, | Infirmity, being a cripple, being cut for the stone at the hospital, 1782, | May 3, 1792, | 3 33½ | 100 00 |
| 52 | Connecticut, | - Reuben Chapman, | - Private, | - Col. P. B. Bradley, | Contracted sickness and consumption while prisoner at New York, 1776, | May 3, 1792, | 4 45 | 200 00 |
| 53 | Connecticut, | - Burr Gilbert, | - Sergeant, | - 1st regiment, | His constitution impaired, being overheated at the battle of Monmouth, and wounded 28th June, 1778, | May 3, 1792, | 3 56 | 100 00 |
| 54 | Connecticut, | - Thurston Hilliard, | - Artificer, | - Capt. F. Patton, | Wounded by a piece of timber, which fractured his breastbone, Yorktown, | May 2, 1792, | 4 00 | 160 00 |
| 55 | Connecticut, | - Isaac Higgins, | - Fifer, | - | Ruptured about his abdomen, | May 3, 1792, | 3 25 | 100 00 |
| 56 | Connecticut, | - William Leeds, | - 1st lieut. | - Marine, | Badly wounded by a musket ball, which entered his breast and shoulder, and is lodged in his shoulder-blade, 1777; brig Resistance, | May 3, 1792, | 6 00 | 250 00 |
| 57 | Connecticut, | - Elnathan Norton, | - Private, | - Capt. C. Norton, | Wounded by a musket ball, which entered below his breast, broke one of his ribs, and came forth at his back, 4th July, 1779, | May 3, 1792, | 3 33½ | 130 00 |
| 58 | Connecticut, | - Ebenezer Patchin, | - Private, | - Capt. S. Cromstock, | Lost by sickness, while in service, the use of his left eye, the sight of the right being much impaired, | May 2, 1792, | 3 33 | 100 00 |
| 59 | Connecticut, | - David Pendleton, | - Private, | - 2d regiment, | Wounded by a musket ball in his thigh, | May 2, 1792, | 1 66½ | 30 00 |
| 60 | Connecticut, | - Samuel Parker, | - Private, | - Capt. J. Walker, | Wounded by a cannon ball, which shot away the rim of his belly, about two inches; expedition on Rhode Island, | May 3, 1792, | 3 70 | 100 00 |
| 61 | Connecticut, | - Isaac Richards, | - Private, | - Capt. E. Reed, mil'a, | Decrepited by a musket ball in his left leg, 27th April, 1777, | May 3, 1792, | 2 22 | 100 00 |
| 62 | Connecticut, | - Thaddeus Reid, | - Private, | - Lieut. N. Slasson, | Disabled by violent pains and inflammation while in service, | May 3, 1792, | 2 22 | 100 00 |
| 63 | Connecticut, | - Toney Turney, | - Private, | - 2d regiment, | Wounded by Barmore's corps of light horse, in several places, and who rode over him, in 1779, | May 3, 1792, | 3 33½ | 100 00 |
| 64 | Connecticut, | - Yale Todd, | - Private, | - General Wooster, | Disabled by hardships to which he was exposed, which occasioned a lameness, | May 3, 1792, | 5 55½ | 150 00 |
| 65 | Connecticut, | - Enoch Turner, | - Private, | - Colonel T. Cook, | Wounded with a musket ball below his knee, 19th September, 1779, | May 3, 1792, | 2 22 | 100 00 |
| 66 | Connecticut, | - James Wayland, | - Private, | - Col. S. B. Webb, | Disabled by great cold while in service, and in the way of his duty, | May 3, 1792, | 3 33½ | 100 00 |
| 67 | Connecticut, | - Richard Watrous, | - Private, | - Col. R. J. Meigs, | Wounded by several stabs of bayonets, particularly near his left breast, also wounded by musket balls in his arms and hands, | May 3, 1792, | 3 33½ | 120 00 |
| 68 | Connecticut, | - John Smith, | - Private, | - Col. M. Willets, | Badly frozen in his feet, upon a tedious march from Oswego to Fort Rensselaer, on the Mohawk river, in February, 1783, | May 3, 1792, | 2 52 | 100 00 |
| 69 | Vermont, | - Samuel Ball, | - Private, | - 10th Regt. Mass. | Disabled by hardships, fatigue and sickness, and also lost one eye, | June 29, 1792, | 3 33½ | 50 00 |
| 70 | Vermont, | - Samuel Bartlett, | - Captain, | - Col. Weston's Mass. | Health greatly impaired by the fatigues and hardships he endured in defending Fort Stanwix, alias Fort Schuyler, when besieged by the British in 1777, | June 29, 1792, | 5 00 | 100 00 |
| 71 | Vermont, | - Elijah Bennett, | - Private, | - Col. Putnam, | Disabled at Bunker's Hill, by a wound in his right arm, | June 29, 1792, | 2 22 | 50 00 |
| 72 | Vermont, | - Jared Dixon, | - Private, | - Col. Chandler's, | Disabled at Germantown, in 1777, by a ventral rupture, | June 29, 1792, | 2 22 | 40 00 |
| 73 | Vermont, | - Samuel Eyers, | - Private, | - Col. Stark's, | Disabled by a wound in the left arm, which fractured the bone, | June 29, 1792, | 95 | 10 00 |
| 74 | Vermont, | - David Brydia, | - Private, | - Col. Herrick's, | Wounded at the battle of Bennington, August, 1777, by two balls, one entered his right breast, and came out at his arm-pit, the other entered just above the right knee, | June 29, 1792, | 1 66½ | 30 00 |
| 75 | Vermont, | - Stephen Gates, | - Sergeant, | - Col. Selden's, | Disabled near the White Plains by a wound in his left leg, | June 29, 1792, | 1 25 | 40 00 |
| 76 | Vermont, | - Jonathan Haynes, | - Private, | - Col. Robinson's, | Wounded at Bennington 16th August, 1777, by a ball which passed through his breast, | June 29, 1792, | 2 50 | 100 00 |
| 77 | Vermont, | - Zimri Hills, | - Private, | - Col. Storn's, | Disabled by a wound in his right hand, | June 29, 1792, | 1 66½ | 30 00 |
| 78 | Vermont, | - Abraham Merrifield, | - Private, | - Col. Learned's, | Wounded on an expedition against the British troops at Boston light-house, by a musket ball, which passed through his right leg, | June 29, 1792, | 2 22 | 50 00 |

STATEMENT—Continued.

| No. | States. | Names. | Rank. | Regiment. | Disability. | Date to which the arrearages are computed, and from which annual pension commenced. | Monthly allowance. | Arrears due. |
|-----|--------------|---------------------|-------------|-------------------------------------|---|---|--------------------|--------------|
| | | | | | | | Dolls. cts. | Dolls. cts. |
| 79 | Vermont, - - | Richard Millan, - | Sergeant, - | 10th Massachusett's, | Disabled by hardships and fatigue, which occasioned an incurable sore in his leg, | June 29, 1792, | 2 50 | 60 00 |
| 80 | Vermont, - - | John Serjeant, - | Corporal, - | Col. Wait's, | Wounded by a musket ball, which entered his right breast, and came out under his right shoulder blade, was carried to Quebec, and remained a prisoner six months, | June 29, 1792, | 2 44½ | 50 00 |
| 81 | Vermont, - - | Elijah Tray, - | Sergeant, - | Col. Warner's, | Lost his health, by the fatigue and the want of supplies, on an expedition to Jusep's patent, State of New York, by order of General Schuyler, April and May, 1777, | June 29, 1792, | 3 33½ | 30 00 |
| 82 | Vermont, - - | Ephraim Wilmarth, - | Sergeant, - | Col. Robinson's militia, | Wounded by a musket ball, which lodged in his shoulder blade, in an action with the British troops, 16th August, 1777, near Bennington, | June 29, 1792, | 2 50 | 20 00 |
| 83 | Vermont, - - | Isaac Webster, - | Sergeant, - | Col. Warner's, | Wounded in his right arm, | June 29, 1792, | 1 25 | 15 00 |
| 84 | Vermont, - - | William Yates, - | Private, - | Col. Butler's, | Disabled by a ventral rupture in the service of the United States, | June 29, 1792, | 2 50 | 20 00 |
| 85 | Vermont, - - | Thomas Yorrence, - | Private, - | Col. Moseley's continental militia, | Wounded by a musket ball, which entered about three inches above the anus, and lodged in his body, | June 29, 1792, | 5 00 | 100 00 |
| | | | | | | | 275 18½ | 7,731 44 |

N. B. In the returns for Connecticut, there is a certificate in favor of Silas Baldwin, who appears to have deserted in 1779.

B.

List of invalid pensioners examined by the Judges of the Circuit Court of the United States for the district of Massachusetts, October term, 1792.

| No. | Names. | Rank. | Regiment. | Disability. | Date from which pension commences | Monthly allowance. | Arrears. | Remarks. |
|-----|--------------------|---------------|---|---|-----------------------------------|--------------------|----------|----------|
| 1 | Spafford Ames, - | Private, - | Colonel Fry, - | Wounded by a musket ball in his thigh, at the battle of Bunker's Hill. | Oct. 15, 1792, | \$2 22 | \$50 | |
| 2 | Sampson Brown, - | Private, - | Colonel Y. Bigelow's Invalids. | Wounded in his hip by a cannon ball, at the capture of General Burgoyne. | Oct. 15, 1792, | 2 22 | 30 | |
| 3 | Lemuel Barns, - | Private, - | Capt. J. Parsons, Maj. Cady, and afterwards Capt. Moses Ashley. | Disabled by the small-pox, which injured his sight, retreating from Canada; afterwards, by heat and fatigue on the march, four days previous to the battle of Monmouth. | Oct. 15, 1792, | 3 33½ | 30 | |
| 4 | Ebenezer Bement, - | Brigade major | B. G. J. Patterson, - | Wounded in the shoulder by a musket ball, at the retreat from Ticonderoga, and injured by sufferings while a prisoner. | Oct. 15, 1792, | 8 33½ | 100 | |
| 5 | Joseph Bates, - | Dragoon, - | Colonel Sheldon, - | Disabled by a rupture in the side, occasioned by fatigue, | Oct. 15, 1792, | 2 08½ | 30 | |
| 6 | Joseph Cox, - | Private, - | Colonel Bigelow, - | Lost his right leg at the battle of Monmouth, | Oct. 15, 1792, | 3 33½ | 30 | |
| 7 | Thomas Cook, - | Private, - | 2d N. H. regiment, - | Wounded by a musket ball, which still remains in his side, at the battle of Behmus' Heights, September 19, 1777. | Oct. 15, 1792, | 3 33½ | 80 | |

| | | | | | | | | |
|---|----|-------------------|---------------|--------------------------------|--|----------------|---------------------|-----|
| | 8 | Barnabas Chapman, | - Private, | - Colonel Bayley, | - Wounded in his right hand at the battle of Behmus' Heights, September 19, 1777. | Oct. 15, 1792, | 1 11 | 30 |
| | 9 | William Eaton, | - Sergeant, | - 8th regiment, | - Lost the sight of his left eye by an accidental wound, | Oct. 15, 1792, | 2 00 | 30 |
| 3 | 10 | James Easton, | - Colonel, | - | - Disabled by diseases contracted in Canada in the year 1775, | Oct. 15, 1792, | 16 66 $\frac{2}{3}$ | 100 |
| | 11 | Benjamin Farnum, | - Captain, | - Colonel J. Fry, | - Wounded by musket balls in his left leg and near the right hip, in the battle of Bunker's Hill. | Oct. 15, 1792, | 13 33 $\frac{1}{3}$ | 80 |
| | 12 | Moses Fitch, | - Private, | - Colonel E. Brooks, | - Wounded by a cannon ball at the White Plains, in 1776, | Oct. 15, 1792, | 2 22 | 80 |
| | 13 | Wardwell Green, | - Sergeant, | - Colonel Green, | - Disabled by a wound in his throat and shoulder, at Province island, State of Pennsylvania, in October, 1777. | Oct. 15, 1792, | 2 00 | 30 |
| | 14 | Uriah Goodwin, | - Private, | - 15th regiment, | - Wounded by a musket ball, which passed through his body, at the White Plains, in 1780. | Oct. 15, 1792, | 1 66 $\frac{2}{3}$ | 30 |
| | 15 | Henry Gates, | - Private, | - Colonel Nixon, | - Wounded in his head by a ball, which passed through the same. | Oct. 15, 1792, | 3 33 $\frac{1}{3}$ | 50 |
| | 16 | Henry Hawks, | - Private, | - Colonel M. Jackson, | - Lost the use of one of his arms and one of his legs, | Oct. 15, 1792, | 3 33 $\frac{1}{3}$ | 30 |
| | 17 | Samuel Joy, | - Private, | - Colonel Willett, | - Both his feet frozen in the expedition from Fort Plain, on the Mohawk river, to Oswego. | Oct. 15, 1792, | 3 33 $\frac{1}{3}$ | 30 |
| 4 | 18 | Ozias Judd, | - Sergeant, | - Colonel Porter, | - Disabled in a great degree in the campaign in Canada, | Oct. 15, 1792, | 2 66 $\frac{2}{3}$ | 40 |
| 5 | 19 | Ebenezer Kent, | - Ensign, | - Colonel H. Jackson, | - Injured his constitution by great exertions while in the army, and particularly at the battle of Monmouth. | Oct. 15, 1792, | 6 66 $\frac{2}{3}$ | 100 |
| | 20 | Job Lane, | - Private, | - Colonel E. Brooks, | - Wounded in the left side in the battle of Bunker's Hill, | Oct. 15, 1792, | 3 33 $\frac{1}{3}$ | 100 |
| | 21 | Joseph Loring, | - Lieutenant, | - Colonel Knox, | - Disabled by the small-pox, while prisoner at New York, in 1775. | Oct. 15, 1792, | 8 88 $\frac{2}{3}$ | 80 |
| | 22 | Ebenezer Learned, | - Colonel, | - | - Ruptured by falling on a stake, at Dorchester Heights, in March, 1776. | Oct. 15, 1792, | 8 33 $\frac{1}{3}$ | 70 |
| 6 | 23 | Jacob Loomis, | - Private, | - Colonel Bayley, | - Incapacitated by fatigue and heat, at the battle of Monmouth, | Oct. 15, 1792, | 3 66 $\frac{2}{3}$ | 30 |
| 7 | 24 | Thomas Lilly, | - Private, | - 5th regiment, | - Contracted diseases in the campaign at Saratoga, in September, 1777. | Oct. 15, 1792, | 3 33 $\frac{1}{3}$ | 30 |
| 8 | 25 | John Nixon, | - Colonel, | - | - Disabled by a wound at the battle of Bunker's Hill, and by sickness contracted while in service. | Oct. 15, 1792, | 16 66 $\frac{2}{3}$ | 100 |
| | 26 | Jonah Scovell, | - Private, | - Northern army—General Gates. | - Disabled by two wounds at the capture of General Burgoyne. | Oct. 15, 1792, | 2 22 | 50 |
| | 27 | John Taylor, | - Sergeant, | - 15th regiment, | - Ruptured in the left side, in consequence of a wound received at West Point, in 1780. | Oct. 15, 1792, | 2 66 $\frac{2}{3}$ | 40 |
| | 28 | Robert Wyley, | - Ensign, | - 8th regiment, | - Wounded in the head at the battle of Behmus' Heights, in 1777. | Oct. 15, 1792, | 5 00 | 50 |
| | 29 | Samuel Warner, | - Private, | - Col. Ashley's militia, | - Disabled by lifting heavy timber, at the capture of General Burgoyne. | Oct. 15, 1792, | 2 22 | 50 |

List of invalid pensioners examined by the Judges of the Circuit Court of the United States for the district of Connecticut, October term, 1792.

| No. | Names. | Rank. | Regiment. | Disability. | Date of certificate. | Monthly allowance. | Arrears. | Remarks. |
|-----|-------------------|-----------------|-----------------------------------|--|----------------------|----------------------|----------|--|
| 1 | Clement Andrus, | Private, | 1st Conn. regiment, | Wounded in his leg by a stick of timber, and an open ulcer upon his leg, | Oct. 1, 1792, | \$3 33 $\frac{1}{3}$ | \$200 00 | Discharged 1783. |
| 2 | William Anderson, | Corporal, | 5th Bradley Invalids | Infirm, debilitated in his constitution, occasioned by hardships and fatigue at the battle of Monmouth, | Oct. 4, 1792, | 4 88 $\frac{2}{3}$ | 150 00 | |
| 3 | Theodore Andrus, | Private, | S. B. Webb, | Totally disabled by a fall, which bruised the upper part of his thigh, which occasioned deep ulcers, of which, several times, pieces of bone have been extracted, 1779, | Oct. 3, 1792, | 6 66 $\frac{2}{3}$ | 300 00 | Discharged in 1780. |
| 4 | Jonathan Bowers, | Corporal, | Col. Cooke's militia, | Shot in the right arm, which broke the bones of his arm, October 19, 1777, | Oct. 4, 1792, | 3 66 $\frac{2}{3}$ | 200 00 | |
| 5 | Nathaniel Beach, | Private, | 3d Conn. regiment, | Wounded in his foot, while in service, by cutting it with an axe, | Sept. 25, 1792, | 1 66 $\frac{2}{3}$ | 100 00 | |
| 6 | Thaddeus Bube, | Private, | 1st Conn. regiment, | Lost his right eye, and debilitated by the inoculation of the small-pox, | Oct. 4, 1792, | 1 66 $\frac{2}{3}$ | 100 00 | |
| 7 | Isaiah Bunce, | Private, | 7th regiment, | Wounded in his leg, which occasioned ulcers and lameness, April 27, 1777, | Oct. 4, 1792, | 4 44 $\frac{1}{2}$ | 100 00 | |
| 8 | Job Bartram, | Captain, | Militia, | Wounded by a musket ball, which entered his right breast, and penetrated nearly to his shoulder, and very much injured the large muscle and principal tendon, | Oct. 2, 1792, | 10 00 | 200 00 | |
| 9 | James Bears, | Private, | Colonel Warner, | Wholly incapacitated by inoculation of the small-pox, which fell into his right leg and ankle, and has, in a great measure, withered his leg, 1777, | Sept. 29, 1792, | 4 44 $\frac{1}{2}$ | 100 00 | Discharged in 1783. |
| 10 | Daniel Barns, | Captain, | 8th regiment, | Overcome by the extreme heat and fatigue at the battle of Monmouth, which occasioned weakness and general debility of body, Contracted rheumatic afflictions by severe duty and hardships, | Oct. 3, 1792, | 6 66 $\frac{2}{3}$ | 100 00 | |
| 11 | Moses Boardman, | Private, | S. B. Webb, | Badly wounded in boarding a British sloop of war, and so cut to pieces, that the entrails came out of his wounds, September 10, 1781, | Sept. 29, 1792, | 3 33 $\frac{1}{3}$ | 100 00 | Discharged from the corps of Invalids in 1783. |
| 12 | David Blacknan, | Private, | Guard the seacoast. | | Oct. 4, 1792, | 1 66 $\frac{2}{3}$ | 100 00 | |
| 8 | Amos Barns, | Priv. Invalids, | 3d regiment, | Disabled by a rupture in the abdomen of a dangerous nature, | Oct. 2, 1792, | 3 33 $\frac{1}{3}$ | 100 00 | Ditto. |
| 9 | Harchwell Barns, | Priv. Invalids, | 3d regiment, | Contracted a disorder while in service, lost his hearing, and incurred debility, | Oct. 2, 1792, | 2 22 | 100 00 | |
| 15 | Elijah Boardman, | Sergeant, | - | Disabled, and rendered infirm and lame, by an inflammatory rheumatic disorder, 1782, | Oct. 2, 1792, | 5 00 | 200 00 | Discharged Nov. 13, 1777. |
| 10 | Isaac Buell, | Private, | Col. Baldwin's artf. | Ruptured in the scrotum, and will never recover, | Oct. 3, 1792, | 2 22 | 150 00 | |
| 11 | Salmon Burr, | Private, | Col. R. Eno, raised by the State, | Become a cripple by reason of repeated cold and hard service, | Oct. 4, 1792, | 5 00 | 150 00 | Discharged Nov. 13, 1777. |
| 18 | Francis Baxter, | Private, | Captain B. Wright, | Badly wounded in the left arm and both legs, May 23, 1780, | Oct. 3, 1792, | 3 33 $\frac{1}{3}$ | 200 00 | |
| 12 | Asa Bunce, | Corporal, | 3d regiment, | Contracted a disability while in service, being overheated on a march, on the day of the battle of Monmouth, | Oct. 3, 1792, | 3 66 $\frac{2}{3}$ | 150 00 | |
| 13 | Ebenezer Bevins, | Private, | 1st regiment Invalids | Contracted rheumatic disorders, which render him unfit for labor, | Oct. 4, 1792, | 2 22 | 150 00 | |
| 14 | John Chandler, | Colonel, | - | Contracted various infirmities of body, with nephritic disorders, and an hydrocele, and a continued debility, | Sept. 28, 1792, | 18 75 | 500 00 | |
| 22 | John Chapple, | Private, | 6th, R. Parsons, | Wounded by two balls in his shoulder and side, by which his shoulder blade was fractured, and his arm greatly disabled, at the battle of Bunker's Hill, | Oct. 4, 1792, | 2 22 | 100 00 | |
| 15 | William Case, | Sergeant, | Connecticut levies, | Sickness contracted in service, which produced an ulcerous sore, | Oct. 2, 1792, | 4 00 | 150 00 | Discharged Nov. 1776. |
| 16 | Simon Crosby, | Dragon, | Colonel Sheldon, | Badly wounded in the right wrist in 1779, | Oct. 3, 1792, | 4 16 $\frac{2}{3}$ | 150 00 | |

| | | | | | | | | | |
|----|----|-------------------|-----------------|--------------------------------------|---|-----------------|--------------------|--------|----------------------------|
| 17 | 25 | James Campbell, | Private, | R. I. State, | Wounded in his leg, whereby he is much debilitated, August 29, 1778, | Oct. 4, 1792, | 1 66 $\frac{2}{3}$ | 200 00 | |
| 18 | 26 | Ebenezer Curtis, | Private, | 1st regiment, | Lost the use of both his arms by inoculation of the small-pox, | Oct. 4, 1792, | 2 44 $\frac{1}{2}$ | 150 00 | |
| 19 | 27 | Elisha Clark, | Artificer, | Capt. E. Boilstone, | Lost all the toes, except the great toe of his right foot, in 1777, | Oct. 3, 1792, | 5 00 | 100 00 | |
| | 28 | Abjiah Cady, | Private, | 4th regiment, | Incapacitated by lameness and infirmity of body caught by severe cold, | Oct. 4, 1792, | 3 33 $\frac{1}{3}$ | 200 00 | Discharged Aug. 26, 1779. |
| 20 | 29 | Jonah Cook, | Private, | 5th regiment, 6 m ^o 's | By an accidental fall broke the rim of his belly, which produced a dangerous rupture in 1781, | Oct. 4, 1792, | 3 33 $\frac{1}{3}$ | 150 00 | |
| | 30 | Aaron Cook, | Private, | Colonel Learned & Colonel Shepherd. | Wounded in the ankle, which wound is sore, and renders him languishing, | Oct. 4, 1792, | 5 00 | 200 00 | Discharged May, 1776. |
| | 31 | Joseph Dunbar, | Corp. lt. drag. | 2d regiment lt. dr. | An injury in his private parts, by leaping his horse, which has become an incurable rupture, whereby one of his testicles is almost obliterated, | Oct. 4, 1792, | 7 50 | 200 00 | |
| 21 | 32 | John Downs, | Sergeant, | 3d regiment, | Affected with weakness in his breast, blood-spitting, and a general debility, occasioned by great hardships sustained while in service, in 1781, | Oct. 4, 1792, | 5 00 | 150 00 | Discharged June 10, 1783. |
| | 33 | Eliphalet Easton, | Private, | Colonel Chandler's, | Wounded in his left hand, by means of which he lost the use of his two fingers, and, in a great measure, the use of his hands; wholly disabled, 1778, | Oct. 4, 1792, | 5 00 | 200 00 | |
| 22 | 34 | Samuel Easton, | Sergeant, | 3d regiment, | Disabled and ruptured by excessive fatigues and hardships, | Oct. 3, 1792, | 3 33 $\frac{1}{3}$ | 150 00 | Discharged Feb. 13, 1782. |
| | 35 | Moses Evans, | Private, | S. B. Webb, | Lost the sight of his right eye, by inoculation of the small-pox, 1777, | Oct. 3, 1792, | 3 33 $\frac{1}{3}$ | 100 00 | Discharged June, 1783. |
| 23 | 36 | Jonathan Flagg, | Artificer, | Colonel Baldwin, | Infirmness and weakness in his breast, spitting blood, contracted in service, | Oct. 4, 1792, | 5 50 | 250 00 | Discharged May, 1781. |
| | 37 | Joel Fox, | Private, | Colonel Durke, | Lost the use of his right eye by the small-pox in the natural way, and wounded at the battle of Germantown, October 4, 1777, | Oct. 3, 1792, | 3 33 $\frac{1}{3}$ | 150 00 | |
| | 38 | Ebenezer Gilbert, | Private, | 1st regiment, | Ruptured while in service, 1780, | Sept. 26, 1792, | 1 66 $\frac{2}{3}$ | 100 00 | |
| 24 | 39 | Amos Gray, | Private, | Militia, | Wounded by a musket ball, which broke the trunk of his body, which occasioned a considerable discharge of blood from his lungs; said ball went through his arms, which, thereby, are much weakened, 1777, | Sept. 29, 1792, | 1 66 $\frac{2}{3}$ | 100 00 | |
| 25 | 40 | Joel Gillet, | Ensign, | Col. Jed. Huntington | Incapacitated by hardships, while prisoner on board of the prison-ship, | Oct. 3, 1792, | 6 66 $\frac{2}{3}$ | 150 00 | |
| 26 | 41 | David Hall, | Sergeant, | Sappers and miners, Capt. D. Bushel, | Contracted disorders by hardships at the siege of Yorktown, which terminated in epileptic fits and the dangerous symptoms of inward bleeding, | Oct. 4, 1792, | 2 66 $\frac{2}{3}$ | 200 00 | |
| | 42 | Abijah Hubble, | Corporal, | 2d regiment, | Disabled by violent fits of sickness while in service, | Sept. 28, 1792, | 1 83 $\frac{1}{3}$ | 100 00 | Discharged Dec. 31, 1783. |
| | 43 | Thomas Hobby, | Major, | Col. Waterbury, | Wounded by a musket ball, which passed through his hip, | Oct. 4, 1792, | 8 33 $\frac{1}{3}$ | 200 00 | |
| 28 | 44 | Cornelius Hamlen, | Corporal, | Col. Swift's Invalids, | Disabled by dangerous epileptic fits and inward bleeding, occasioned by hardships and fatigues, | Oct. 4, 1792, | 5 50 | 150 00 | |
| | 45 | Robert Jerom, | Fifer, | New levies, | Broke by a fall the bones of his left knee, which rendered him stiff, | Oct. 4, 1792, | 2 44 $\frac{1}{2}$ | 150 00 | |
| | 46 | Lyman Kinne, | Private, | Col. C. Webb, | Wounded by a musket ball passing through his right thigh, which cut and affected the chords of his thigh, 1776, | Oct. 4, 1792, | 1 66 $\frac{2}{3}$ | 100 00 | |
| | 47 | Ashbel Kilbourn, | Private, | Col. C. Webb, | Disabled while a prisoner at Philadelphia, his feet being frozen, his toes dropped off, and, by no proper care, totally disabled, | Oct. 4, 1792, | 3 33 $\frac{1}{3}$ | 150 00 | |
| | 48 | William Leech, | Private, | S. B. Webb, | Wounded in one of his legs by the rolling of a cannon ball, which made such a contusion that it occasioned a carious ulcer, 1778, | Oct. 4, 1792, | 3 33 $\frac{1}{3}$ | 150 00 | Discharged March 29, 1779. |
| | 49 | Samuel Loomis, | Corporal, | 1st regiment, | Fractured the bones of his arm when pursued by the enemy, | Oct. 2, 1792, | 2 44 $\frac{1}{2}$ | 200 00 | Discharged June 7, 1783. |
| 29 | 50 | Josiah Lacey, | Captain, | Col. P. B. Bradley, | Contracted a rheumatic disorder, which renders him unable to walk or to step, | Oct. 4, 1792, | 10 00 | 100 00 | |

LIST—Continued.

| No. | Names. | Rank. | Regiment. | Disability. | Date of certificate. | Monthly allowance. | Arrears. | Remarks. |
|-----|-----------------------|---------------|--|--|----------------------|----------------------|----------|---------------------------|
| 51 | Jabez Lenis, - | Private, - | Col. C. Bunell, 1 year | Wounded and beaten by the Indians when taken prisoner, - | Oct. 2, 1792, | \$4 44 $\frac{3}{4}$ | \$200 00 | |
| 52 | Nathaniel Lewis, - | Private, - | Militia, - | Wounded in his thigh by grape shot, - | Oct. 4, 1792, | 2 22 | 150 00 | |
| 53 | Joseph Loring, - | Private, - | Capt. Baldwin's artf. | Ruptured at the erecting of a wharf at West Point, - | Oct. 4, 1792, | 5 50 | 100 00 | Discharged Nov. 1779. |
| 54 | George Lord, - | Private, - | Capt. B. Wright, - | Wounded in the back part of his neck, and in the small of his back, - | Oct. 4, 1792, | 3 33 $\frac{3}{4}$ | 100 00 | |
| 30 | David Moorehouse, - | Private, - | 2d regiment, - | Contracted a rheumatic disorder, through fatigues while in service, - | Oct. 4, 1792, | 3 33 $\frac{3}{4}$ | 150 00 | Discharged June 9, 1783. |
| 56 | Stephen Minor, - | Matross, - | Col. Ledyard, - | His wrist broken, and his arm withered, while on duty, 1779, - | Oct. 4, 1792, | 2 08 $\frac{3}{4}$ | 150 00 | |
| 57 | John McKinsey, - | Private, - | Col. Sellman, - | Wounded by the stroke of a musket in his face; his arm fractured and broken, - | Oct. 4, 1792, | 3 33 $\frac{3}{4}$ | 100 00 | |
| 31 | John McKinsey, - | Private, - | Col. Chandler's In- | His eyesight much impaired by sickness, contracted while in service, - | Sept. 29, 1792, | 1 66 $\frac{3}{4}$ | 100 00 | Discharged Dec. 31, 1782, |
| 59 | Josiah Merriman, - | Corporal, - | 2d regt. lt. dragoons, - | Wounded on the thumb and shoulder of the right arm, - | Oct. 4, 1792, | 6 66 $\frac{3}{4}$ | 150 00 | [unfit. |
| 60 | Gideon Noble, - | Corporal, - | Col. C. Webb, - | Ruptured in his scrotum at the battle of Monmouth, - | Oct. 4, 1792, | 3 66 $\frac{3}{4}$ | 150 00 | |
| 61 | Francis Nicholson, - | Sergeant, - | Col. S. B. Webb, - | Debilitated by the small-pox, excessive fatigues, and hardships, - | Oct. 3, 1792, | 7 50 | 150 00 | |
| 62 | Jeremiah Osborn, - | Sergeant, - | 2d regiment artill'y, | Contracted weakness, and bleeding at the lungs, occasioned from fatigues, - | Sept. 27, 1792, | 2 50 | 200 00 | Discharged June 9, 1783. |
| 63 | Levi Pierce, - | Private, - | Col. Swift, - | Lost the two middle fingers of his right hand; his hand much injured by a shot of the enemy near Valley Forge, - | Oct. 4, 1792, | 3 33 $\frac{3}{4}$ | 150 00 | Discharged June 9, 1783. |
| 64 | David Pratt, - | Drum major, - | 3d regiment, - | Ruptured through fatigues and hardships, - | Oct. 4, 1792, | 3 33 $\frac{3}{4}$ | 150 00 | |
| 65 | Isaac Palmer, - | Sergeant, - | 3d regiment, - | Debilitated by fits while in service, - | Oct. 4, 1792, | 2 50 | 150 00 | |
| 66 | Elijah Rice, - | Private, - | 3d regiment, - | Dangerously wounded in the right shoulder, - | Oct. 2, 1792, | 4 44 $\frac{3}{4}$ | 200 00 | |
| 67 | John Roberts, - | Trumpeter, - | Sheldon, - | Ruptured while in service, - | Oct. 4, 1792, | 5 00 | 150 00 | |
| 68 | David Ranny, - | Private, - | Col. Gemoth's lt. tr'ps | Become a cripple by sickness contracted in service, - | Oct. 4, 1792, | 4 44 $\frac{3}{4}$ | 200 00 | Discharged in 1781. |
| 69 | Heber Smith, - | Sergeant, - | Invalids, - | Wounded by a musket ball through his thigh, at the White Plains, - | Sept. 27, 1792, | 2 66 $\frac{3}{4}$ | 150 00 | |
| 70 | Moses Smith, - | Private, - | Col. Swift, - | Injured by a fall, about his back and hips, - | Oct. 4, 1792, | 1 66 $\frac{3}{4}$ | 100 00 | |
| 71 | Nathaniel Scribner, - | Captain, - | Militia, - | Wounded by a musket ball, which passed obliquely through his left arm, 1778, - | Oct. 4, 1792, | 10 00 | 200 00 | |
| 72 | Jedediah Smith, - | Private, - | Maj. Wyllis', under Lafayette, Virginia, - | His constitution ruined by fatigues and hardships, - | Oct. 4, 1792, | 4 44 $\frac{3}{4}$ | 200 00 | Discharged in 1783. |
| 73 | Zachariah Stanford, - | Sergeant, - | Militia, - | Disabled by cold, being exposed to storm and rain, sleeping on the wet ground, - | Oct. 4, 1792, | 4 00 | 150 00 | |
| 74 | Elihu Sabin, - | Private, - | Gen. I. Putnam, - | Wounded by a musket ball, which passed through his right leg, at the battle of Bunker's Hill, - | Oct. 3, 1792, | 3 33 $\frac{3}{4}$ | 150 00 | |
| 75 | John Watson, - | Private, - | Colonel Hoyt, - | Disabled by a sprain in his right shoulder, - | Oct. 4, 1792, | 1 66 $\frac{3}{4}$ | 100 00 | Discharged Jan. 10, 1779. |
| 76 | Charles Webb, - | Colonel, - | - | Disabled by a rupture while in service, - | Oct. 4, 1792, | 18 75 | 200 00 | |
| 77 | Joel Wilcox, - | Private, - | Col. Swift, - | Disabled by the measles, dysentery, and a bilious fever, - | Oct. 4, 1792, | 4 44 $\frac{3}{4}$ | 200 00 | |
| 78 | Wm. Woodruff, - | Corporal, - | 5th regiment, - | Ruptured in straining, being on special command in launching boats, - | Oct. 1, 1792, | 2 44 $\frac{3}{4}$ | 100 00 | |
| 79 | Josiah Witter, - | Lieutenant, - | Volunteers, - | Wounded by four musket balls, in different parts of his body, one of which passed through the trunk of his body, and separated one of his ribs from the back bone, - | Oct. 4, 1792, | 10 00 | 200 00 | |
| 80 | Philip White, - | Private, - | 1st regiment, - | Injured and lamed by a wound in his legs, - | Oct. 4, 1792, | 2 22 | 150 00 | Discharged June 9, 1783. |
| 81 | Samuel Whiting, - | Colonel, - | - | Contracted rheumatic complaints and inflammation in his eyes, while in service, - | Oct. 4, 1792, | 15 00 | 100 00 | |

| | | | | | | | | |
|----|-----------------|-------------|-----------------------|---|---------|-------|--------------------|-----------|
| 82 | Azel Woodworth, | Matross, | Capt. Wm. Latham, | Wounded in the neck by a ball passing through it, Fort Griswold, | Oct. 3, | 1792, | 1 66 $\frac{2}{3}$ | 100 00 |
| 83 | Bayze Wells, | Lieutenant, | Col. Chandler, | Debilitated by violent bilious fevers while in service, | Oct. 4, | 1792, | 8 88 $\frac{2}{3}$ | 200 00 |
| 84 | William Weare, | Private, | S. Wyllis's Invalids, | Wounded in his head, which subjects him to dizziness, and also contracted rheumatic complaints, while in service at the retreat from York Island, | Oct. 4, | 1792, | 2 22 | 150 00 |
| | | | | | | | - | 13,550 00 |

N. B. In the certificate of Josiah Witter, the following proviso is made: *Provided, nevertheless,* That, as he was a volunteer, if that be properly chargeable over to the United States, then he should be placed on said pension list, and ought to receive the sums aforesaid; otherwise not.

List of invalid pensioners, examined by the Judges of the Circuit Court of the United States for the District of New Jersey, October, 1792.

| No. | Names. | Rank. | Regiment. | Disability. | Date of certificate. | Monthly allowance. | Arrears. | Remarks. |
|-----|-------------------|----------|-----------------|---|----------------------|--------------------|----------------------|----------|
| | John Hodge, | Captain, | Volunteer, | Badly wounded in both his hands by the explosion of powder, | Sept. 5, | 1792, | \$3 33 $\frac{1}{3}$ | \$120 00 |
| | John Obert, | Private, | 1st regiment, | Disabled in his health and constitution, which, in some measure, affected the use of his limbs, in 1776, by the small-pox, and colds in Canada, | Sept. 5, | 1792, | 1 33 $\frac{1}{3}$ | 60 00 |
| | Sylvester Tilton, | Private, | Col. S. Forman, | Wounded in the breast by a ball, which penetrated through his body, | Sept. 5, | 1792, | 1 66 $\frac{2}{3}$ | 50 00 |
| | | | | | | | - | 230 00 |

No. 1.

Certificate of the Judges of the Circuit Court of the United States for the district of Massachusetts, in favor of Peter Charlont.

We, the subscribers, judges of the Circuit Court held at Boston, in and for Massachusetts' district, in May, 1792, as commissioners designated in, and in execution of, the act, entitled "An act for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions," do certify that Peter Charlont preferred a petition to us, setting forth that he was, at the commencement of the late war, a volunteer in the service of the United States, and continued in that service, in various characters, till he was wounded and taken prisoner by the enemy; and after his return again engaged in that service, and was disabled therein. He personally appeared before us, and it appears that the said Peter Charlont is a native of Canada, and that he attached himself to the American cause early in the war; that from the time the American forces were in Canada, until the conclusion of the war, he was frequently engaged in the service of the United States, at certain times leading numbers of Canadians to attack the enemy, at others as a volunteer with the troops of the United States; he for some time appears to have been attached to the corps under the command of General Hazen, but in what rank does not clearly appear to us; that, in the service of the United States, he was employed to carry letters to and from Canada; and that, on one of these errands, he was wounded by a party of the enemy, and disabled, by having a ball pass into his body, another through his left hand, and by a third his skull was fractured, and he was thereby deprived of the use of his left eye; by which wounds he has been very much disabled from procuring his livelihood by labor, which appears to have been his usual employment. His disability is satisfactorily proved to the commissioners, and that it happened while in the service of the United States; but as he is not an inhabitant within the United States, he has not procured any certificate from the freeholders of the town, city, county, or parish where he lives, nor can such probably be procured. We have considered him as entitled (if within the intention of the act) to the half-pay of a sergeant, and to two hundred dollars, as arrears of pay; he appears to have been allowed, while on one of his journeys in the service of the United States, by order of the Secretary of War, one ration and a half. We really think he ought to be provided for. He is now poor and much distressed, and we warmly recommend him to the notice and benevolence of Congress.

JOHN JAY,
JOHN LOWELL.

No. 2.

Documents in support of the claim of Captain John Hodge.

We, the subscribers, judges attending the Circuit Court of the United States in the district of New Jersey, in the middle circuit, as commissioners designated and appointed by an act of the United States, entitled "An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions," made and passed the twenty-third day of March, in the year of our Lord one thousand seven hundred and ninety-two, to examine the claims of invalids to pensions, pursuant thereto, have considered the case of Captain John Hodge, of the city of New Brunswick, in the State of New Jersey, an applicant upon the said act, and do certify that it appears to us that the said John Hodge did, in July or August, seventeen hundred and seventy-six, as a volunteer in the service of the United States, assist the continental American forces, in the late war, in firing from the fort at New York upon some British ships then passing up the Hudson river; and that then managing one of the cannon, so employed, the charge of powder therein took fire, occasioned the sudden recoil of the cannon, and explosion of the powder held in his hand, and badly wounded him in both his hands, which has so disabled him, that he is, in a great measure, incapacitated from pursuing any kind of business. We are, therefore, of opinion that he ought to be placed on the pension list; that he ought to have an annual allowance of forty dollars, being four-tenths of the monthly wages of a matross, and the further sum of one hundred and twenty dollars for arrears of pension.

Dated at Trenton, New Jersey, the fifth day of September, A. D. 1792.

WILLIAM CUSHING,
ROBERT MORRIS.

2d CONGRESS.]

No. 33.

[2d SESSION.]

CLAIMS FOR ARREARAGES OF PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 8, 1793.

Extract from a report of the Secretary of War, dated February 8, 1793.

It is the object of the above-named petitioners, to wit, Thomas Hunt, John Fox, and Henry Bacon, to obtain from the public the arrears due them for services during the late war. Certificates for this purpose were deposited in the hands of regimental agents, in pursuance of the resolve of Congress of the 3d day of November, 1783, but which the petitioners allege they did not receive, by reason of the defaults of the agents of the regiments to which they respectively belonged.

By the establishment for the army, passed the 27th May, 1778, it was directed "that the paymaster of a regiment be chosen by the officers of the regiment, out of the captains or subalterns; the officers are to risk their pay in his hands." Every officer being interested, the choice generally, if not universally, was good; besides, every company officer was an inspector of the conduct of the paymaster, as well on his own account as on account of his soldiers. Few well-grounded complaints arose, and, for those, courts-martial administered prompt, and probably judicious, remedies.

At the end of the war it became expedient to disband the army without delivering to individuals the evidences of the debts due to them for their services.

Regimental agents were chosen, in pursuance of a general order, by a majority of the officers of each regiment, as in the cases of the paymasters, and were therefore to be considered as the legal representatives of the commissioned officers. But the non-commissioned officers and privates neither voted nor were consulted in the said choice, and, of course, could not equitably be made answerable for the fidelity of the said agents.

It was directed by the before-mentioned resolve of the 3d day of November, 1783, "that the paymaster general deposite in the hands of regimental agents the certificates for the arrears of pay due to the officers and soldiers of their respective lines, to be by them delivered to the individuals to whom they belong, or deposited for their benefit, as the supreme Executive of the State to which the respective agents belong shall direct." Some of the said agents have proved unfaithful to their trust, and some of the non-commissioned officers and privates have thereby been prevented receiving their just dues.

Hence arises the question, whether the public are not obligated, by the principles of equity, to make good to such non-commissioned officers and privates as have suffered by the defaults of the said regimental agents, the arrears to which they are entitled?

It is difficult to perceive by what just means the public can be exonerated from this obligation. But, in order to prevent abuse, it would require the greatest caution on the part of the officers of the Treasury. It is therefore submitted, with great deference, that the Comptroller of the Treasury should be authorized to establish such rules in the premises as may guard the public from further injury; and that the Register shall issue certificates for such sums as shall be ascertained to be justly due to the petitioners, or other persons similarly circumstanced.

2d CONGRESS.]

No. 34.

[2d SESSION.

INDEMNITY FOR MONEY LOST AND SERVICES RENDERED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1793.

WAR OFFICE, *February 15, 1793.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom were referred the petitions hereinafter enumerated, with instructions to examine the same, and report his opinion thereon, respectfully reports:

That Captain Jonathan Haskell, of the 2d United States' regiment, states that on the 20th day of September, 1791, he received orders to march a detachment from Philadelphia to Pittsburg, and, for the purpose of paying his soldiers one month's wages and contingent expenses, he received of public money to the amount of two hundred and fifty-eight dollars and twenty-five cents, which sum was in bank bills, together with one hundred and thirty-three dollars, which he had just received for his wages and subsistence; that, through the hurry of business in arranging the troops to march, and having petitions, accounts, and papers of almost all contents handed him by the soldiers, he, through mistake, took the paper which contained the bank bills from a close pocket, and some of the crowd secreted it; and that all possible means were taken to recover it, without effect.

That the petitioner lost the money, as stated, cannot with propriety be doubted. His character as an officer, and man of integrity and veracity, is unblemished. He may be justly considered as a public agent for distribution of the money to the detachment under his command, and the fact alleged being untainted with suspicion of any sort, it would appear that the public ought to sustain its own loss. Precedents to this effect are not wanting in the records of the late war.

On the 7th August, 1780, Congress—*Resolved*, That Alexander Benstead, paymaster to the 10th Pennsylvania regiment, be allowed to debit the United States with the sum of one thousand nine hundred and eighty-seven dollars, and that he receive credit for the same in the settlement of his accounts.

On the 3d June, 1784, Congress—*Resolved*, That Lieutenant Andrew Lytle be allowed to debit the United States with the sum of seven hundred and fifty-one dollars, and that he receive credit for the same in the settlement of his accounts.

That these sums were for similar claims is certified from the records of the Treasury, on the reports of the officers of which the said resolves were passed.

But, although it is conceived the petitioner has an equitable claim for an allowance of the two hundred and eighty dollars and twenty-five cents, for which he was intrusted for the payment of his company, yet it is conceived to be materially otherwise with respect to his own money, which he states to have lost at the same time, as he was peculiarly the guardian of his own property.

It is therefore submitted that, in the settlement of the accounts of Captain Jonathan Haskell, he be allowed the sum of two hundred and eighty dollars and twenty-five cents, which he lost in September, 1791, and which had been placed in his hands for the use of the detachment of troops under his command.

That Abraham Watson states, that being then a captain in the 3d Massachusetts regiment, commanded by Colonel Groaton, he was captured by the enemy on the 3d day of February, 1780, and sent to Long Island, where he remained about ten months; that, during the said term, he officiated as surgeon and physician to a number of officers, prisoners at the same time, and supplied them with necessary medicines; that, by officiating in that capacity to a number of the inhabitants, he procured considerable sums from them, which he expended for necessaries for the said officers, who were destitute, and had not the means of procuring supplies; that, at the time of his being exchanged, he exhibited to Abraham Skinner, commissary general of prisoners, his account, with the necessary vouchers, and received from him a certificate that there were due to him eighty-six pounds fourteen shillings, New York currency, which he promised to pay him, but which he has never been able to obtain.

The petitioner's claim, by the certificate annexed, appears to have been liquidated in 1781, by Abraham Skinner, the commissary general of prisoners, who certified the same, and promised to pay the petitioner the sum mentioned, being two hundred and sixteen dollars and seventy-five cents. But this claim appears to have been omitted in the list of the sums to be paid in pursuance of the provision made by Congress in 1790. As this omission did not arise from any fault of the petitioner, as the commissary general, it is to be presumed, registered the

certificate which he issued, it would seem that the petitioner is entitled to a similar provision with other certified debts due by the late commissary general of prisoners.

If the merits of the debt were now to be discussed, it would appear that the claim for services would stand precisely on the same ground as the claim of Colonel Ely, whose case was reported to the House of Representatives in the year 1790, and in whose favor the House passed two several bills, both of which were disagreed to by the Senate. The certificate, however, of the commissary general seems to preclude this discussion, as it will appear that the original vouchers were lodged with him, and the claim for medicines and services *allowed, and payment promised.*

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

[NOTE.—See No. 103, for report of committee in the case of Captain Haskell.]

2d CONGRESS.]

No. 35.

[2d SESSION.]

SEVEN YEARS' HALF-PAY TO THE WIDOWS AND CHILDREN OF THE OFFICERS KILLED, OR WHO DIED OF WOUNDS RECEIVED IN THE BATTLE OF BUNKER'S HILL, AND OTHERS—INDEMNITY TO AN INVALID FOR THE EXPENSES INCURRED BY HIS WOUNDS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1793.

WAR DEPARTMENT, *February 21, 1793.*

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom were referred the petitions hereinafter enumerated, with instructions to examine the same, and report his opinion thereon, respectfully reports:

That Joanna Gardner states that she is the widow of the late Colonel Thomas Gardner, who was wounded in the battle of Charlestown, on the 17th day of June, 1775, and who died of his wounds on the 3d day of July following.

That she was left with three small children, and had to encounter many difficulties in bringing them up; that she has not received the relief provided by the resolution of Congress for the widows and children of officers who have died in the army since the month of August, 1775.

That she does not apprehend it was the intention of Congress to make any discrimination between the widows and children of officers who died in the service, on account of the time when such event took place. She therefore prays that the benefit of the aforesaid resolution of Congress may be extended to her and her children.

That Elizabeth McClary states that she is widow of the late Major Andrew McClary, of Colonel John Stack's regiment, who was killed by a cannon ball in the action of Bunker's Hill, on the 17th day of June, 1775.

That she did not know of the resolution of Congress granting seven years' half-pay to the widows of such officers as had lost their lives in the service, until after the time appointed for making application for said half-pay had elapsed. She therefore prays for relief.

That Alpheus Moore, in behalf of himself and Willard Moore, orphan children of Willard Moore, late of Paxton, State of Massachusetts, and Mark Lincoln, of Leominster, in said State, and Elizabeth, his wife, late widow of the said Willard Moore, states that the said Willard Moore was a major in the regiment commanded by Colonel Doolittle, and was killed in the action of Bunker's Hill, on the 17th day of June, 1775.

That they were, until very lately, ignorant of the provision made by Congress for the widows and orphans of officers who were killed in the service. He therefore prays that the seven years' half-pay of a major may be granted to them.

That Sarah Parker states that she is the widow of the late Colonel Moses Parker, who was wounded and taken prisoner by the British troops in the action of Bunker's Hill on the 17th of June, 1775, and who afterwards died of his wounds, in Boston, in the month of July following.

That she was left with a large family of young children, and has had to encounter many difficulties in supporting and bringing them up.

That she has not received the relief provided by the resolution of Congress for the widows and children of officers who died in the service since the month of August, 1775.

That she does not apprehend it was the intention of Congress to make any discrimination between the widows and children of officers who died in the service, on account of the time when they died. She therefore prays that the benefit of the said resolution of Congress may be extended to her and her children.

That Aaron Stratton, in behalf of, and as attorney to, Abial Walker, of Chelmsford, State of Massachusetts, states that the said Abial Walker is the widow of the late Captain Benjamin Walker, of Colonel Bridge's regiment, who was wounded in the action of Bunker's Hill, on the 17th of June, 1775, and died of his wounds in the month of August following.

That the said widow has not received any compensation of half-pay provided for by the resolution of Congress of the 24th day of August, 1780. He therefore prays, in behalf of the said widow, that such provision may be made for her as the justice of her case demands.

That Josiah Harris, John Harris, Stephen Lee, and Polly Lee, state that they, the said Josiah and John Harris, and Stephen and Polly Lee, are the sole surviving children of the late Lieutenant John Harris. That their father was a first lieutenant in the 2d Connecticut regiment, and was killed in an action with the British troops at White Marsh, in the State of Pennsylvania, on the 7th of December, 1777.

That, soon after, the widow of the said Lieutenant Harris died, and left them young, without a friend to assist them, and wholly unacquainted with the method to be taken to obtain the relief intended for the orphan children of officers who died in the service, and they have not to this time received any benefit from the said provision. They therefore pray that they may receive seven years' half-pay of a lieutenant.

That Margaret Ricker states that she is the widow of the late Captain Abraham Ricker, of the 2d New York regiment.

That the said Abraham Ricker died at Valley Forge, in the State of Pennsylvania, on the 7th day of May, 1778, while in the service of the United States, and left her with a young child to support.

That she had been driven by the enemy from Long Island, the place of her residence.

She therefore prays that she may have such support and relief granted to her as her case requires.

The above-named persons are either the widows or children of officers who were killed or died in the service of their country prior to the 15th of May, 1778. Several of them are widows of officers killed in the action at Bunker's Hill, in June, 1775. It may, by rigid principles, be questioned whether the regiments in action on that day were in continental service; and, therefore, whether, by any rule of construction, the officers then killed could be considered "as officers commissioned by Congress."

But if this was a doubt on the 17th of June, it was not so on the 27th day of June, the day General Washington arrived at Cambridge, and assumed the command of the army, and issued such orders as denominated, and, to all intents and purposes, made it a continental army; and the officers were commissioned accordingly.

Some of the States, in pursuance of the resolve of Congress of the 24th of August, 1780, did make provision for the widows of certain officers who were killed or who died before the 15th of May, 1778, as will appear by the list annexed.

And it will further appear, by the resolve of Congress of the 4th of May, 1785, that it was recommended to the State of Connecticut to pay to the widow of the late Brigadier General Wooster the seven years' half-pay of a brigadier general, the amount whereof they are authorized to charge to the United States.

The precedents being thus established, both by particular States and by the United States, of extending the benefits of the resolve of the 24th of August, 1780, to periods prior to the 15th of May, 1778, it would seem proper, upon principles of consistency, that the petitioners should be equally benefited by the resolve of Congress of the 24th of August, as others similarly circumstanced, who shall have been provided for by individual States. But perhaps it may be thought proper to make a distinction between the widows of the officers killed at Bunker's Hill and of those who, a few days afterwards, were "commissioned by Congress," which seems the characteristic description of those entitled to the seven years' half-pay by the resolve of the 15th of May.

If, however, it should be judged proper to extend the provision to any of the cases prior to the said 15th of May, 1778, it would seem incumbent on the character of the nation to provide for the widows of those gallant men who nobly sacrificed their lives, by which they eminently contributed to establish the cause and reputation of their country.

That Peter Covenhoven states that he entered the service in the month of August, 1777, as a sergeant of militia, and did duty near Fort Schuyler, on the Mohawk river; that, on the 6th of the same month, he was wounded in an action with the enemy, by a musket ball in his right knee, which wholly disabled and confined him, so that he was unable to walk for the space of two years and two months; that after this period he began to mend and acquire strength, and at length to do some easy service, which enabled him to subsist on a scanty maintenance; that in the month of February, 1787, his wound broke out, and grew worse, until the month of November, 1790, when, there being no longer any hope of preserving his limb, he submitted to an amputation, and has thereby become a needy cripple; that his physician's and surgeon's bills, for the said first two years and two months, amounted to twenty pounds, and upwards; that his boarding and maintenance, during the same period, amounted to fifty pounds, and upwards; that his board and maintenance, from the month of February, 1787, until December, 1789, amounted to seventy-five pounds; and that his physician's and surgeon's bills for the amputation of his limb, and attendance afterwards, have amounted to sixty-four pounds; so that the actual expenses of his long and painful confinements have, in the whole, amounted to two hundred and nine pounds.

That he has received his half-pay, being the monthly allowance of five dollars from the time of his being wounded to the present time, part of which sum has been expended in the maintenance of a small family, and the residue has proved altogether inadequate to defray the expenses before mentioned. He therefore prays that he may be allowed, over and above the said half-pay, such further sum as shall enable him to satisfy and pay the before-mentioned expenses, and also that such further provision be made for his maintenance, as the nature of his case requires.

Notwithstanding the petitioner's deplorable case, the expenses alleged to have arisen from curing his wounds during the war are precluded by the resolves of limitation. But the expenses incurred by his wounds breaking forth afresh, in the year 1787, and thence continuing, to the misery of the petitioner, until December, 1790, when he suffered the amputation of one of his thighs, seem, if the same shall be substantiated by the papers annexed, to be an irresistible claim upon the justice of the United States. The expenses of the surgeons and physicians amount to seventy-eight pounds and two shillings, equal to two hundred and eight dollars and twenty-six cents and one-third of a cent; to this sum he adds, during the period from February, 1787, to December, 1790, the sum of two hundred dollars for his board and maintenance, alleging that five dollars per month, during that period, being his pension from the United States, would not support his distressed family. The first sum arising from wounds received in the service of his country seems a claim upon public justice, and the latter upon public humanity. The first appears to be an indispensable obligation, and the latter an act of liberality, which it may be expedient or otherwise to grant.

All which is humbly submitted.

H. KNOX, *Secretary of War.*

List of officers belonging to the continental army, who died in the service, or who were killed in action, previous to the 28th May, 1778, and to whose widows or orphans seven years' half-pay was granted, taken from the returns of the respective States, on file in the War Office of the United States.

| States. | Names. | Rank. | When killed or died. | Amount paid. |
|---------------------|-------------------------|----------------------|----------------------|--------------|
| New Hampshire, | Joseph Thomas, - | Lieutenant, - | September 19, 1777, | \$1,120 00 |
| | Winborn Adams, - | Lieutenant colonel, | September 19, 1777, | 2,520 00 |
| | Andrew Colburn, - | Lieutenant colonel, | September 19, 1777, | 2,520 00 |
| | Zachariah Beall, - | Captain, - | October 27, 1777, | 1,680 00 |
| | Frederick M. Bell, - | Captain, - | October 8, 1777, | 1,680 00 |
| | Benjamin Shortridge, | Captain, - | July 8, 1776, | 1,680 00 |
| | Joseph Wait, - | Lieutenant colonel, | September 28, 1776, | 2,520 00 |
| | Joseph Fay, - | Ensign, - | November, 1777, | 840 00 |
| | John Thomas, - | General, - | June 3, 1776, | 3,150 00 |
| | Abner Cranston, - | Major, - | May 29, 1777, | 2,100 00 |
| Massachusetts, | Ezekiel Goodridge, | Lieutenant, | October 7, 1777, | 1,120 00 |
| | Edward Payson Williams, | Major, - | May 25, 1777, | 2,100 00 |
| | Aaron Steel, - | Lieutenant, | November 24, 1777, | 1,120 00 |
| | Ebenezer Town, - | Ensign, - | February 18, 1778, | 840 00 |
| | David Bryant, - | Captain, - | September 11, 1777, | 2,100 00 |
| | Joseph Andrews, - | Lieutenant of art'y, | December 1, 1777, | 1,400 00 |
| | Edward Kingman, | Ensign, - | October 1, 1777, | 840 00 |
| | Ephraim Jackson, | Lieutenant colonel, | December 19, 1777, | 2,520 00 |
| | Jacob Allen, - | Captain, - | September 19, 1777, | 1,680 00 |
| | William Perry, - | Ensign, - | October 10, 1777, | 840 00 |
| | Aldridge Wiley, - | Lieutenant, | October 7, 1777, | 1,120 00 |
| | John Skillings, - | Captain, - | April 2, 1777, | 1,680 00 |
| | Ebenezer Francis, | Colonel, - | July 7, 1777, | 3,150 00 |
| | Luke Roundy, - | Ensign, - | October 22, 1777, | 840 00 |
| | Josiah Bragdon, - | Lieutenant, | April 30, 1778, | 1,120 00 |
| | Benjamin Reed, - | Lieutenant, | September 19, 1777, | 1,120 00 |
| | Edward Turner, - | Lieutenant, | December 26, 1777, | 1,120 00 |
| Rhode Island, | Augustus Mumford, | Adjutant, - | August 28, 1775, | 756 00 |
| | Sylvanus Shaw, - | Captain, - | October 22, 1777, | 1,680 00 |
| | Benajah Carpenter, | Capt. light art'y, | August 27, 1776, | 1,120 00 |
| Connecticut, | John Waterman, - | Lieutenant, | April 20, 1778, | 1,120 00 |
| | David Wooster, - | Major general, | April 27, 1777, | 5,250 00 |
| | Nathan Stoddart, - | Captain, - | May 15, 1777, | 1,680 00 |
| | Jeremiah Parmelie, | Captain, - | March 24, 1778, | 1,680 00 |
| David Dimon, - | Lieutenant colonel, | September 17, 1777, | 2,520 00 | |
| Hezekiah Davenport, | Lieutenant, | April 27, 1777, | 1,120 00 | |
| New York, - | Richard Montgomery, | Major general, | December 31, 1777, | 6,972 00 |
| New Jersey, - | Andrew McMeyers, | Captain, - | October 4, 1777, | 1,680 00 |
| | Philip Johnson,* | Colonel, - | August 27, 1776, | 1,612 66½ |
| | Daniel Neil, - | Captain, - | January 3, 1777, | 1,680 00 |
| Delaware, - | Nathan Adams, - | Captain, - | At Long Island, | 1,680 00 |
| | Thomas Holland, - | Captain, - | At Germantown, | 1,680 00 |
| Virginia, - | Moses Hawkins, - | Captain, - | October 4, 1777, | 1,680 00 |
| | John Humphries, - | Lieutenant, | Before Quebec, | 1,120 00 |
| | Hugh Mercer, - | Brigadier general, | January 3, 1777, | 5,250 00 |
| | John Seayres, - | Lieutenant colonel, | October 4, 1777, | 2,520 00 |

* This person was paid until the orphan child attained the age of eight years.

The State of Connecticut has also transmitted a list of officers who died in the service, and for which no half-pay has been made by said State, viz:

| Names. | Rank. | Killed or died. | Date. |
|---------------------|-----------------|-----------------|--------------------|
| Noah Philips, - | Ensign, - | Died, - | March 16, 1778. |
| Silas Dunham, - | Lieutenant, | Killed, - | December 7, 1777. |
| John Durkee, - | Colonel, - | Died, - | —, 1781. |
| Stephen Brown, - | Captain, - | Killed, - | November 16, 1777. |
| Nathaniel Kirtland, | Lieutenant, | Died, - | October 12, 1777. |
| David Barber, - | Ensign, - | Died, - | December 25, 1777. |
| William Douglass, - | Colonel, - | Died, - | May 27, 1777. |
| David Holmes, - | Surgeon, - | Died, - | March 20, 1779. |
| Solomon Howe, - | Surgeon's mate, | Died, - | June 10, 1778. |
| Judah Alden, - | Captain, - | Died, - | August 22, 1777. |
| Charles Whiting, - | Captain, - | Died, - | July 10, 1779. |
| James Coon, - | Lieutenant, | Killed, - | September 6, 1780. |
| Alexander McLowrey, | Ensign, - | Killed, - | October 11, 1780. |
| Martin Eno, - | Ensign, - | Killed, - | October 11, 1780. |
| David Fellows, - | Ensign, - | Died, - | December 10, 1779. |
| Josiah Stoddard, | Captain, - | Died, - | August 24, 1779. |

N. B. The State of Pennsylvania has returned the names of three officers, for whose widows no provision was made:

Benjamin Fowler, lieutenant colonel of artillery and artificers, died 1781.

James Caldenood, captain of an independent company in Westmoreland county, the disputed bounds of Pennsylvania; killed at Brandywine.

Timothy Pierce, lieutenant of Captain Simon Spalding's independent company, raised in the disputed territory of Wyoming, and which company was afterwards annexed to the Connecticut line; killed in an action with the Indians in 1778.

2d CONGRESS.]

No. 36.

[2d SESSION.

CLAIMS OF ARTHUR ST. CLAIR FOR NEGOTIATING AN INDIAN TREATY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 1, 1793.

Mr. FITZSIMONS, from the committee to whom was referred the memorial of Arthur St. Clair, made the following report:

That his demand, amounting to three thousand and seventy dollars, for travelling expenses from New York to Fort Pitt, in the year 1787, under the orders of Congress, on business respecting the Indian department; for expenses from New York to Philadelphia, and back to New York, and from thence to the place where a treaty was held with the Indians; for expenses from the place where the aforesaid treaty was held, to Grae creek, on the Ohio, from thence to New York, where the treaties were delivered to the President of the United States; the aggregate of all which expenses amounts to one thousand and twenty-three dollars, - - - \$1,023

| | | | | | | | | | |
|--|---|---|---|---|---|---|---|---|-------|
| For his wages as commissioner for negotiating the treaty, two hundred and eighteen days, at six and a half dollars per diem, | - | - | - | - | - | - | - | - | 1,417 |
| For two horses purchased at New York, one of which died, | - | - | - | - | - | - | - | - | 180 |
| For a negro hired by him, and killed by the Indians while in his service, | - | - | - | - | - | - | - | - | 200 |
| And for an advance made to Major Hamtramck, on the public account, | - | - | - | - | - | - | - | - | 250 |

| | | | | | | | | | | |
|-----------------------------|---|---|---|---|---|---|---|---|---|---------|
| Amounting, in the whole, to | - | - | - | - | - | - | - | - | - | \$3,070 |
|-----------------------------|---|---|---|---|---|---|---|---|---|---------|

exclusive of interest claimed by him upon the difference between the amount of his account (including the expenses of the treaty) and the moneys by him received.

The committee, on inquiry into the justice of this claim, find that, by a resolution of Congress of the 22d October, 1787, the Governor of the Western Territory was authorized to hold a treaty with the Indians if he should find it necessary. That, in order to judge of the necessity of that measure, and at a time when the agent for Indian affairs was confined by a fracture of one of his legs, he went from New York to Pittsburgh; for which journey he charges three dollars per diem. That he returned from Fort Pitt to New York after having made the necessary and taken the preliminary steps for holding a treaty. That his journey from New York to Philadelphia was to obtain payment of a warrant granted in the State of Pennsylvania for defraying the expenses of the intended treaty. That he performed the duty of a commissioner at the said treaty, for which he has received no compensation; no provision having been made by law for that purpose. And that the compensation allowed to other commissioners employed in like services was six and a half dollars per day, including expenses, except those accruing where the treaty was holden.

Upon the fullest consideration of the claim of the petitioner, the committee are of opinion that his claim for wages and expenses, (in which is included the loss on horses,) and interest, ought to be allowed, and in conformity submit the following resolution:

Resolved, That, in the settlement of the account of Arthur St. Clair, the accounting officers of the Treasury be directed to allow for his wages, expenses, and loss of horses, while employed as a commissioner for holding treaties with the Indians, the sum of ———, and that interest be allowed on the balance which may be due to the said Arthur St. Clair, on the settlement of his account.

[NOTE.—See amendatory report, Nos. 49 and 205.]

3d CONGRESS.]

No. 37.

[1st SESSION.

COMPOSITION WITH A DEBTOR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 14, 1794.

TREASURY DEPARTMENT, *January 13, 1794.*

The SECRETARY OF THE TREASURY, to whom was referred, by the House of Representatives, the memorial of Daniel Parker, respectfully makes thereupon the following report:

The suggestions contained in the memorial do not appear to be of a nature to call for a readjustment of the account. The probability of peace within the year was an event to have been calculated upon on both sides, in forming the original contract; the loss of vouchers is the misfortune of the party, of a nature to be equally an obstacle in a new, as in the former settlement.

But there are circumstances which may render it the interest of the United States to compound the debt. It is understood that all the debtors have been in a state of insolvency. It is now not certainly known what is the condition of the memorialist. This may demand further inquiry.

In the mean time, if it should appear to Congress advisable to vest somewhere a power to make a composition of the debt, it would probably be conducive to the interest of the United States.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

3d CONGRESS.]

No. 38.

[1st SESSION.]

CLAIM OF THE SECRETARY OF THE TERRITORY NORTHWEST OF THE OHIO, FOR
PERFORMING THE DUTIES OF GOVERNOR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1794.

TREASURY DEPARTMENT, *January 31, 1794.*

The SECRETARY OF THE TREASURY, to whom was referred, by the House of Representatives, the memorial of Winthrop Sargent, Secretary of the Territory northwest of the river Ohio, respectfully reports thereupon as follows:

The second section of the act to provide for the government of the Territory northwest of the river Ohio, authorizes and requires the secretary thereof, in case of the death, removal, resignation, or necessary absence of the Governor of the said Territory, to execute all the powers and perform all the duties of the Governor during the vacancy or absence.

It appears, as detailed in a paper under the signature of the memorialist, that, in consequence of absences of the Governor, (partly occasioned by calls of public duty elsewhere, partly by ill health,) the memorialist has had to perform the duties of Governor, pursuant to the above-mentioned section, for a more considerable portion of the time since his appointment than was probably contemplated in fixing the salary of his office.

The memorialist suggests his having had to sustain, during this time, considerably greater expenses than would have attended him, had he not had to act as the substitute for the Governor, though he exhibits no statement of the additional expense.

It is naturally to be inferred that his suggestion must be well founded; and that, as well in reference to the additional service, which must have been thrown upon the memorialist, as to the additional expense to which he was subjected, the salary of seven hundred and fifty dollars, annexed by law to the office he holds, must have been, under the circumstances of the case, an inadequate compensation. It is for the wisdom of the Legislature to decide how far these equitable considerations may justify or demand a retrospective allowance, in addition to that compensation.

The Secretary forbears to give an opinion (doubting whether it would be within the intent of the reference to him) whether the salary itself, independent of particular circumstances, be an adequate compensation for an officer whom the law charges, occasionally, with the important trust of acting in the capacity of Governor.

All which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

3d CONGRESS.]

No. 39.

[1st SESSION.]

INDEMNITY FOR PROPERTY DESTROYED BY THE ENEMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1794.

Mr. SCOTT, from the committee to whom was referred the petition of William Dewees, made the following report:

That the facts alleged in the said petition are satisfactorily established, whereby it appears that, in the year 1777, contrary to the wishes and remonstrances of the petitioner, the chief part of his buildings were occupied by the public as a deposite for military stores, where they continued until, on the approach of the enemy, a part of the said military stores was removed.

That, on the arrival of the enemy at the Valley Forge, the remainder of the stores, together with the buildings and other property belonging to the petitioner, were either destroyed by fire or carried away; an estimate of which is subjoined to his petition, and appears to have been considered as of the value of £3,404 3s. 4d.

That the destruction of this property is to be ascribed wholly to the circumstance of the military stores being there deposited, as none of the buildings in the vicinity suffered in like manner.

That the claim of the petitioner is not barred by any act of limitation, having been exhibited to the Board of Treasury within the period limited by those acts.

From a review of all which facts, it appears to your committee that it would be consistent with the justice and liberality of the Government to authorize the allowance of a reasonable compensation in this and all other cases similarly circumstanced; but, as a provision of this kind would involve a political consideration heretofore undecided on, and the nature of which cannot always be discriminated so as essentially to obviate all difficulty on the score of precedent, they were unwilling to decide on a principle the object and extent of which cannot well be foreseen; and therefore beg leave to bring the question before Congress by submitting the following resolution:

Resolved, That a committee be appointed to bring in a bill for the relief of William Dewees.

3d CONGRESS.]

No. 40.

[1st SESSION.]

INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 13, 1794.

WAR DEPARTMENT, *February 13, 1794.*

THE SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of William McHatton, reports:

That the petitioner was a lieutenant in the army of the United States during the late war, and, as such, was wounded in the service of his country, as will fully appear by the evidence hereunto annexed. That, at the end of the war, instead of receiving an annual pension as an invalid, he received the certificates of five years' full pay, in common with the officers of the army. He now prays that he may be placed on the pension list of the United States, upon his returning the amount of his commutation of his half-pay, and that the arrears of his pension may commence from the time his pay as an officer in the late army ceased.

It would appear, by the opinion of the Attorney General of the United States, hereunto annexed, that there are no existing legal impediments to the petitioner, and all other officers similarly circumstanced, being placed on the pension list of the United States, at such rates as they are respectively entitled to, by their wounds, provided they return their commutation. The subscriber has conceived it proper that this subject should be placed fully in the view of the House of Representatives, in order that they may have the opportunity of adopting thereon such measures as they shall judge most expedient.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

FEBRUARY 7, 1794.

The Attorney General reports to the Secretary of War, that, agreeably to his request of the 4th instant, he has examined the resolves and acts of Congress, with a view of ascertaining "whether there is any existing bar to a commissioned officer being placed on the list of invalid pensioners, entitled thereto by his wounds, provided he first returns the commutation of his half-pay."

It appears that the claims of all such officers to a pension, founded on the ordinance of the 7th June, 1785, were barred, unless made within six months after the resolve of the 11th June, 1788. The act of Congress, passed on the 23d of March, 1792, permitted commissioned officers complying with the directions of that act to be placed on the pension list, the said limitation notwithstanding; but did not extend this privilege to such as had received their commutation of half-pay, they being expressly excepted in the second section of the act. But this section being repealed by the act of the 28th of February, 1793, and no such exception being contained in that act, officers are left on the original ground of the ordinance making provision for them, in which it is provided, "that no officer, who has accepted his commutation of half-pay, shall be entered on the list of invalids unless he shall first have returned his commutation."

The Attorney General is therefore of opinion, that a commissioned officer, otherwise entitled and complying with the directions of the act of Congress, is not barred by his having accepted his commutation, if he offers to return the same.

WM. BRADFORD.

THE SECRETARY OF WAR.

[The following letter was subsequently filed with the report of Mr. Boudinot.]

SIR:

WAR DEPARTMENT, *March 7, 1794.*

I have had the honor to receive your favor of this morning. It does not appear to me, sir, that the humanity or justice of the United States requires that any other alterations or amendments should be made to the act to regulate claims to invalid pensions, whereby a greater latitude should be given for the admission of claimants.

It has, indeed, been suggested by some petitioners, that the said law establishes known wounds as the sole ground of a pension, when, in their opinion, other causes ought also to entitle persons to a pension. But all other causes than known wounds are attended with such uncertainty as to be liable to great abuse, especially at this distance of time.

The question which I apprehend has given rise to the present inquiry is, whether an officer, wounded in the late war, in such a degree as to entitle him to be placed upon the pension list, but who, at the end of the war, instead of availing himself of this provision, received his certificates for the commutation of the half-pay for life, should now be permitted to be placed upon the pension list, provided he shall first return his commutation. The resolves of Congress of the 7th June, 1785, allowed such officers to be placed upon the pension list, on the condition of first returning their commutation. The resolve of the 11th June, 1788, precluded all persons from being placed upon the pension list who should not apply for the same in six months from that date. The act which passed the 23d March, 1792, provided that any officer not having received the commutation of half-pay, and producing the evidence therein required, should be entitled to be placed upon the pension list. But the act to regulate claims to invalid pensions, passed February 28th, 1793, repeals the prohibitory clause mentioned in the act of the 23d of March, 1792.

The opinion of the Attorney General, after having considered all the foregoing acts, is, that a commissioned officer, otherwise entitled and complying with the act "to regulate claims to invalid pensions," is not barred the benefit of the same by his having accepted the commutation, if he offers to return the same. Conceiving Congress might not be aware of this circumstance, I judged it to be my duty to bring it to their view upon the petition of Lieutenant William McHatton.

In addition to these details, I humbly beg indulgence in expressing my hope that the few unfortunate officers who may be entitled to be placed upon the pension list, upon returning their commutation, may not be deprived of that resource, perhaps their only one, to gild the evening of their lives. I say few officers would be entitled to this benefit, because none could afford to return the commutation, except those disabled in the highest degree. If the act of the 28th February, 1793, should require alteration or amendment, so as to give perfect facility to the admission of such claims, I have the strongest confidence in the justice and liberality of Congress that such would be adopted.

I have the honor to be, sir, your obedient servant,

H. KNOX, *Secretary of War.*

Honorable Mr. BOUDINOT.

3d CONGRESS.]

No. 41.

[1st SESSION.]

CLAIMS FOR SUPPLIES FURNISHED THE ARMY, AND FOR HOUSE RENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1794.

TREASURY DEPARTMENT, *January 12, 1794.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of Stephen Porter, respectfully makes the following report:

The petitioner claims compensation and indemnification in relation to, 1st. A quantity of grain which he furnished for the use of the army in the year 1778; 2d. The rent of a store-house belonging to him, which was occupied for the use of the troops of the United States, for the term of about eleven months; 3d. The amount of a judgment recovered against him, as assistant commissary of forage, since the rendering of his accounts, and not included therein.

It appears, that some time in September, 1786, the account of the petitioner was settled by Jonathan Burrall, commissioner for settling the accounts of the quartermaster's department, and a balance found in his favor of \$1,812 $\frac{4}{9}$, for which he received certificates, as was usual in the like cases.

It appears further, that in consequence of objections made at the time, which prevented the first settlement from being considered as definitive, a revision was afterwards had, (to wit, in October following,) which produced a confirmation of the settlement.

After full consideration, it is conceived to be inexpedient to open this settlement to a new revision. The point involved is a question concerning the rule by which depreciation has been adjusted. The inconveniences of innovating in this particular have been repeatedly remarked to the House.

It may be added that, independent of objections arising from this general consideration, the case is so circumstanced as to admit of difference of opinion on the merits of the claim. The petitioner, while he claims the specie price for grain furnished by him early in 1778, expects to account for a balance of continental money put in his hands for purposes in April, May, and July, of the same year, according to the rate of depreciation at the time when he ceased to act, which was the end of the year. To render this equitable, it was necessary that it should appear that the money actually remained unused to that time—a fact which, from the nature of the thing, would be difficult of proof, however confidence in the assertion of the petitioner may induce a persuasion of its having been the case. The petitioner also claims depreciation on his pay, as assistant commissary of forage, and an allowance for expenses while attending the settlement of his accounts; both which last-mentioned claims are inadmissible with reference either to legal provisions or usage.

The claim of rent for his store-house, while in the occupation of the troops, may be adjusted at the Treasury, if, as the petitioner alleges, the claim was preferred in time; if it was not, there occur no circumstances sufficiently special to render it advisable to except the case out of the operation of the acts of limitation.

The claim of indemnification for the sum recovered by judgment at law is opposed by some general considerations of weight. It is admitted not to have been preferred within the time prescribed by the acts of limitation, and that no notice of the pendency of the suit was given to any public officer or department.

The precedent of indemnification against a judgment so obtained might have extensive mischiefs, whatever probability of fairness there may be in the present case. The guards arising from the acts of limitation might thereby be eluded. In every such case, where the Government is to be considered as the party to pay, it is proper and necessary, that, by timely notice, it should be enabled to interpose for the care of its own interests.

All which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

[NOTE.—See No. 42.]

3d CONGRESS.]

No. 42.

[1st SESSION.]

CLAIMS FOR SUPPLIES FURNISHED THE ARMY, AND FOR HOUSE RENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1794.

Mr. CHRISTIE, from the committee to whom was referred the report of the Secretary of the Treasury on the petition of Stephen Porter, made the following report:

That in November, 1778, Clement Biddle, quartermaster general, purchased of Stephen Porter four hundred and forty bushels of wheat and nine hundred and eighteen bushels of corn; and that it appears, by a letter from the said Clement Biddle, that Stephen Porter was to be allowed the specie price for wheat, and which, by certificate from Clement Biddle, appears to be 7s. 6d; and that, together with the corn delivered the United States, amounted in the whole to £1,748 12s. 6d. That in April, 1778, Stephen Porter was appointed forage-master under Clement Biddle, and received a sum of money in April, May, June, and July, part of which money he laid out for forage, and received credit for the same in his public accounts. That it appears by the accounts of the United States, as settled against Stephen Porter, that he was not allowed the price for his wheat as per agreement with Clement Biddle, but that the same was placed to his credit in continental money. And it further appears, that he was charged with the continental money paid him for the purchase of forage at the value of the said

money at the time he received it, without deducting out of it the amount of what forage he delivered to the United States, which said mode of settling the accounts makes a difference against the said Stephen Porter to the amount of \$1,933; and further, that your committee have examined the vouchers and papers of the said Stephen Porter, and after stating the amount as, in their opinion, is consistent with justice, submit to the House the following resolution:

Resolved, That the sum of \$1,933, with interest thereon, from the — day of November, 1778, be allowed to Stephen Porter, being a balance due to him for forage furnished the army of the United States during the late war, and for which he has not been credited in the settlement of his accounts with the public.

[NOTE.—See No. 41.]

3d Congress.]

No. 43.

[1st Session.]

COMPLAINT OF THE REFERENCE OF PRIVATE CLAIMS TO THE SECRETARY OF THE
TREASURY BY CONGRESS.

COMMUNICATED TO THE SENATE, FEBRUARY 26, 1794.

Sir:

TREASURY DEPARTMENT, *February 22, 1794.*

I have received a late order of the Senate on the subject of a petition of Arthur Hughes. Diligent search has been made for such a petition, and it has not been found; neither have I now a distinct recollection of ever having seen it. Whether, therefore, it may not have originally failed in the *transmission* to me, or may have become mislaid by a temporary displacement of the papers of my immediate office, occasioned by a fire which consumed a part of the building in the use of the Treasury, or by some of those accidents which in an extensive scene of business will sometimes attend papers, especially those of inferior importance, is equally open to conjecture. There is no record in the office of its having been received, nor do any of my clerks remember to have seen it.

A search in the Auditor's office has brought up the enclosed paper,* which it is presumed relates to the object of the petition; but this paper, it will appear from the memorandum accompanying it, was placed in that office prior to the reference of the petition.

The Auditor of the Treasury is of opinion, though his recollection is not positive, that the claim had relation to the services of John Hughes, as forage-master. Two objections opposed its admission: 1. The not being presented in time; 2. The name of John Hughes, in the capacity in which he claimed, not appearing upon any return in the Treasury.

If these be the circumstances, I should be of opinion that it would not be advisable, by a special legislative interposition, to except the case out of the operation of the acts of limitation.

The second order of the Senate, on the subject of this petition, leads to the following reflections:

Does this hitherto unusual proceeding (in a case of no public and no peculiar private importance) imply a supposition that there has been undue delay or negligence on the part of the Secretary of the Treasury?

If it does, the supposition is unmerited; not merely from the circumstances of the paper, which have been stated, but from the known situation of the officer. The occupations necessarily and permanently incident to the office are at least sufficient fully to occupy the time and faculties of one man. The burthen is seriously increased by the numerous private cases, remnants of the late war, which every session are objects of particular reference by the two Houses of Congress. These accumulated occupations, again, have been interrupted in their due course by unexpected, desultory, and distressing calls for lengthy and complicated statements, sometimes with a view to general information, sometimes for the explanation of points, which certain leading facts, witnessed by the provisions of the laws, and by information previously communicated, might have explained without those statements, or which were of a nature that did not seem to have demanded a laborious, critical, and suspicious investigation, unless the officer was understood to have forfeited his title to a reasonable and common degree of confidence. Added to these things, it is known that the affairs of the country, in its external relations, have, for some time past, been so circumstanced, as unavoidably to have thrown additional avocations on all the branches of the Executive Department, and that a late peculiar calamity in the city of Philadelphia has had consequences that cannot have failed to derange, more or less, the course of public business.

In such a situation, was it not the duty of the officer to postpone matters of mere individual concern to objects of public and general concern, to the preservation of the essential order of the department committed to his care? Or is it extraordinary, that, in relation to cases of the first description, there should have been a considerable degree of procrastination? Might not an officer, who is conscious that public observation and opinion, whatever deficiencies they may impute to him, will not rank among them want of attention or industry, have hoped to escape censure, express or implied, on that score?

I will only add, that the consciousness of devoting myself to the public service to the utmost extent of my faculties, and to the injury of my health, is a tranquillizing consolation, of which I cannot be deprived by any supposition to the contrary.

With perfect respect, I have the honor to be, sir, your most obedient servant,

ALEXANDER HAMILTON, *Secretary of the Treasury.*

The VICE PRESIDENT of the United States, and President of the Senate.

* Not now to be found.

3d CONGRESS.]

No. 44.

[1st Session.]

ARREARS OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 5, 1794.

Mr. SWIFT, from the committee to whom was referred the petition of Josiah Witter, made the following report:

That the said Josiah Witter, agreeably to an act of the Congress of the United States, entitled "An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions," applied to the Circuit Court of the United States, holden in the district of Connecticut, on the 1st day of October, 1794, and, on legal examination, obtained a certificate that he ought to be placed on the pension list of the United States, signed by James Iredell and Richard Law, as commissioners by the said act. That the said Witter presented the said certificate to the Secretary of War, and required that he should be placed on the pension list of the United States, in pursuance of said certificate. That the Secretary of War refused to do the same, for the sole reason that the said certificate was issued by commissioners, and not by the Circuit Court of the United States. That, pursuant to an act of the Congress of the United States, entitled "An act to regulate the claims to invalid pensions," a decision has been given by the Supreme Court of the United States, that such certificates signed by commissioners are not valid, and that the said Witter has yet a right to be placed on the list of invalid pensions, by virtue of an act of Congress, entitled "An act to regulate the claims to invalid pensions."

The committee observe that there are a number of claimants in a similar predicament with the petitioner, who have, pursuant to an act of Congress, made application, and obtained certificates which are in every respect valid, excepting that they are signed by commissioners, and not by the Circuit Court. That when the plain principles of justice are only considered, this must be deemed a very material circumstance; and it bears hard upon the unfortunate claimants, after having been once at the expense of substantiating their claims, pursuant to an act of Congress, that they should now be rejected solely for a defect in point of form, and thus be again compelled to incur the expense of supporting their claims before another tribunal. The committee are of opinion that it would not be expedient for Congress to take into consideration any particular claim of this description, but that the peculiar situation of these claimants, collectively, merits their attention; the committee, therefore, submit the following resolution to the consideration of the House:

Resolved, That the Secretary of War be directed to make a report of the cases of all claimants to be placed on the pension list of the United States, who have obtained certificates from the Circuit Courts, signed as commissioners, or from the district judge of the court of Maine, for the purpose that Congress may place on the pension list those claimants whose cases come clearly within the description of law.

3d CONGRESS.]

No. 45.

[1st Session.]

INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 21, 1794.

Mr. BOUDINOT, from the committee appointed to report whether any, and what, alterations or amendments are, in their opinion, necessary to the act entitled "An act to regulate the claims to invalid pensions," made the following report:

That by the resolve of the 11th of June, 1788, officers were barred from claims to be put on the list of invalid pensions, unless they were made within six months thereafter. That by the act of Congress of the 23d of March, 1792, the above act of limitation was repealed, with regard to officers complying with the directions of that act, excepting as to those who had received the commutation of half-pay. That by the act of the 28th of February, 1793, the last act is repealed; but, from inattention to the language of that law, it is now construed as to leave no provision against officers who have received their commutation from being put on the pension list, in case of returning their commutations, and, therefore, it is said, they became again entitled, though, in the opinion of committee, not within the intention of Congress. The committee, therefore, report it as their opinion that a committee be appointed to bring in a bill barring the claims of all commissioned officers to be placed on the pension list who have heretofore received their commutation of half-pay, unless such claimants shall return the said commutation, or public certificates of the United States of the same description, and to the same amount, and otherwise support their claims according to law within eight months from the passing of the act.

3d CONGRESS.]

No. 46.

[1st SESSION.]

CLAIM OF KENTUCKY FOR EXPENSES ATTENDING CERTAIN EXPEDITIONS AGAINST
THE INDIANS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 8, 1794.

TREASURY DEPARTMENT, *April 7, 1794.*

The SECRETARY OF THE TREASURY, to whom was referred, by an order of the House of Representatives of the 24th of January last, a representation from the Legislature of the State of Kentucky, concerning the expenses of certain expeditions carried on against the Indians since the 1st day of January, 1785, respectfully makes the following report thereupon:

The general principles of the settlement of accounts between the United States and individual States suppose the adjustment of all similar matters which originated prior to the separation of Kentucky from the State of Virginia. Accordingly, it is understood that the expenses of the above-mentioned expeditions were comprised in that settlement, as a claim on behalf of the State of Virginia upon the United States, and were substantially admitted to the credit of that State.

The Secretary does not perceive that the desire of the State of Kentucky could be complied with, but upon grounds which would demand the entire exoneration of all the States from debts of contemporary or antecedent dates.

Which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

3d CONGRESS.]

No. 47.

[1st SESSION.]

COMPENSATION OF THE CLERKS IN THE EXECUTIVE DEPARTMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 17, 1794.

Mr. TRACEY, from the committee to whom was referred the petition of Leighton Wood, Jun., Joseph Stretch, and Joshua Dawson, in behalf of themselves and other clerks in the Treasury Department, made the following report:

That Leighton Wood, Clement C. Brown, Joshua Dawson, Joseph Stretch, Charles Tompkins, William Shepperd, John Little, John Hindman, John Matthews, George Mitchel, John Thomson, George Walker, Jacob S. Howel, Charles Wilson, and Thomas O'Hara, were clerks in the several departments of the Treasury of the United States, at the time in the last year when the yellow fever took place in Philadelphia.

That all the heads of Departments, (excepting the Comptroller,) and almost all the clerks, went into the country, some in consequence of sickness, and others to avoid it. That the persons above named continued in Philadelphia, at the risk of their lives, and to the great inconvenience and expense of themselves and families, and rendered services extremely beneficial to the public. And that the five last-mentioned clerks, while thus employed, died of the fever, apparently communicated to them by their attention to public business, and being in a more exposed situation that they would have otherwise been, leaving families under indigent circumstances.

The committee are of opinion that, from motives of policy and strict justice, some allowance ought to be made to the above-named clerks, and to the families of such as have died; for which purpose, the committee recommend the following resolution, viz:

Resolved, That Leighton Wood, Clement C. Brown, Joshua Dawson, Joseph Stretch, Charles Tompkins, William Shepperd, John Little, John Hindman, John Matthews, George Mitchel, John Thomson, Miles F. Closesey, and the families of George Walker, Jacob S. Howel, Charles Wilson, Thomas O'Hara, and Matthew Walker, be allowed, out of the Treasury of the United States, the sum of ——— dollars.

The committee further report:

That Aaron Laurence, George Bond, Gervas Hall, John Ripley, William Felch, George Nixon, William Alricks, Stewart Cummins, Miles F. Closesey, John Woodsides, John Woodsides, Jun., William Barton, ——— Foreman, and ——— Footman, were at the same time clerks in the Treasury Department. These last-named persons were a part of them employed at Schuylkill Falls, and part were not employed in public service during the time of said sickness; and all have received their stipulated salaries for the last year, without any diminution for said period, even those who rendered no service. They say, they were ready to do business, if called upon, and that they ran a risk in continuing in Philadelphia, and ought to receive some further compensation.

The committee are of opinion that the last-mentioned clerks, who were employed at Schuylkill Falls, and those who were not, ought not to have any further compensation.

3d CONGRESS.]

No. 48.

[1st SESSION.]

CLAIMS OF ARTHUR ST. CLAIR FOR NEGOTIATING AN INDIAN TREATY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 22, 1794.

Mr. FITZSIMONS, from the committee to whom was recommitted the report of the Committee on the Mémorial of Arthur St. Clair, made an amendatory report, as follows:

That there has been deducted from the accounts of Governor St. Clair, exhibited at the Treasury, the sum of two thousand nine hundred and eighty-one dollars and sixty cents, for wages, expenses, &c., as stated in the papers marked A, received from the Comptroller of the Treasury, as not being authorized by law.

| | | | | |
|--|---|---|---|-------------------|
| The first item is for travelling expenses, on the business of treaties, | - | - | - | \$963 00 |
| The second, for his pay as commissioner for holding the treaties, two hundred and eighteen days, at six dollars, | - | - | - | 1,308 00 |
| The third, for expenses from New York to Pittsburg, and while there, twenty days, | - | - | - | 60 00 |
| The fourth, for two horses purchased at New York, one of which was killed, | - | - | - | 180 00 |
| The fifth, for a negro, the property of a Mr. Duncan, killed in defending the public stores, | - | - | - | 200 00 |
| The sixth, for an advance made to Major Hamtramck for services with Indian Department, and for which he is to account, | - | - | - | 250 00 |
| | | | | <u>\$2,961 00</u> |

Governor St. Clair claims, moreover, interest on his account.

From a reference to the journals of Congress, it appears, by a resolution of October —, 1787, that the Governor of the Western Territory was authorized to treat with the Indians in the Northern district, if, in his judgment, he should deem it necessary; and, from a correspondence between him and the Secretary of War, it appears that he set out from New York to Pittsburg about the 8th of November, with a view of ascertaining the disposition of the Indians, and the necessity of holding the treaty, and that he returned to New York about the 8th of February, 1788. The result of his inquiries was, that a treaty was indispensable to preserve the peace of the country. A contract was actually made by the Governor for the supply of provisions, and preparatory measures commenced after his return to New York. Part of the money to be applied to that purpose was to be obtained from Pennsylvania, and twenty-eight days were spent by the Governor in negotiating the payment of a warrant granted on that State. He set out from New York on the 22d day of October, 1788, to make preparations for the treaty, and remained at Pittsburg some days to direct the embarkation of the goods, stores, &c.

The Indians were invited to attend the treaty the 1st day of May, but it did not commence till the 10th day of June, and ended on the 13th January, 1789.

After the conclusion of the treaty, Governor St. Clair judged it necessary to return to New York, for the purpose of laying before the President a statement of the past transactions, of the situation of affairs, as it respected the Indians generally, and in order to settle the accounts. The passage from Muskingum to Fort Pitt was attempted by wafer, but, by reason of ice in the river, and an accident to the boat, the party were obliged to put on shore, and make the journey by land, which, of course, occasioned additional expense. It is stated to the committee that the necessary communications to the President, and the attendance at the Treasury to obtain a settlement of the accounts, detained Governor St. Clair at New York till the 3d of May. It appears, by a certificate from the Register of the Treasury, that the salary of one thousand dollars for the Governor of the Western Territory commenced on the 6th day of February, 1788, and the additional salary, as Superintendent of Indian Affairs, on the 14th of August of the same year.

From this statement of facts the committee draw the following conclusions:

1st. That the journey to Fort Pitt, in November, 1787, being made under a resolution of Congress, and at a time when Governor St. Clair was not receiving any emolument whatever from the United States, he is entitled to a compensation for that service.

2d. That having been employed as a commissioner for holding a treaty with the Indians, and having performed that important service, he is entitled to a like compensation as other commissioners for holding Indian treaties have been allowed.

3d. That the negro being killed in defending the public stores, and the owner having claimed compensation for him, it ought to be allowed.

4th. That the sum advanced to Major Hamtramck was for an important public service, and at a time of peculiar difficulty; and as he can be called to account for the expenditure by the officers of the Treasury, the sum ought to be allowed to the memorialist.

5th. With respect to interest, it is stated that the sums originally destined for the treaty had been partly diverted to other purposes by the then Board of Treasury, besides a deduction made for expenses incurred by the former agent of Indian affairs; so that the sum received was not sufficient.

6th. That when the accounts were exhibited at the Treasury for settlement, the whole expenditure was charged, but as some of them had not been paid, nor receipts obtained, that part could not be allowed; and it became necessary for the Governor to give his private obligations, in order to get the receipts; and as he has been obliged to pay interest on those obligations, it appears reasonable that interest should be allowed to him.

The Comptroller of the Treasury informs the committee that no personal expense was allowed while holding the treaty. The committee think it proper to remark, that other important services appear to have been intrusted to the memorialist, for which no charge is made, and submit the following resolutions:

Resolved, That there be allowed to Governor St. Clair at the rate of — dollars per day for the time he was employed in going from New York to Pittsburg, and till his return to New York, between November, 1787, and February, 1788.

That he be allowed at the rate of — dollars per day for the time he was employed in holding a treaty with the Indians, commencing in June, 1788, and that the time be computed from his commencing that business till the treaties were delivered to the President of the United States.

That he be allowed, in the settlement of his account, two hundred dollars for a negro killed in the public service, and the sum of two hundred and fifty dollars advanced to Major Hamtramck, and that interest be allowed on his account.

[NOTE.—See Nos. 35 and 205.]

2d CONGRESS.]

No. 49.

[1st SESSION.

CLAIM OF STEPHEN SAYRE FOR DIPLOMATIC SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 23, 1794.

The SECRETARY OF STATE, to whom was referred, by an order of the House of Representatives, bearing date the 7th day of January, 1794, the petition of Stephen Sayre, has the honor to report:

That it appears, from a report made by the Secretary of Foreign Affairs, on the 7th day of April, 1785, to the Congress under the confederation, that a letter of Mr. Sayre of the 15th of February, in the same year, on the same subject with his present petition, had been referred to the last-mentioned Secretary.

That the said report contains so much information respecting Mr. Sayre's claims, that it is transmitted entire in the following words:

OFFICE FOR FOREIGN AFFAIRS, April 7, 1785.

The Secretary of the United States for the Department of Foreign Affairs, to whom was referred back Mr. Sayre's letter of the 15th February last, "*to investigate the facts, and report thereon,*" reports:

That, agreeably to the order of Congress, he proceeded to investigate the facts in question, and, in sundry conferences with Mr. Sayre, heard and received all that he thought proper to say or offer on the subject.

That the several matters laid before him by Mr. Sayre may be arranged under the following heads, viz:

- 1st. His station and character.
- 2d. His political conduct, and his losses occasioned by it.
- 3d. His employment by the American commissioners.
- 4th. His services to America when not so employed.
- 5th. His account for expenses and right to compensation.

1st. On these points Mr. Sayre stated that, in the year 1775, he was an eminent banker in London, and in support of this fact produced a letter, dated the 29th of June, 1775, from Sir Simeon Stewart, a Member of Parliament for the county of Hampshire. This letter is in packet No. 1, herewith sent.

That he enjoyed the friendship and good opinion of very distinguished characters, such as the late Lord Chatham, Lord Mahon, Lord Effingham, Baron Vander Capellan, &c.; and, as evidences of this fact, produced sundry letters from them to him; which are also enclosed in packet No. 1, herewith sent.

That although his friends suffered by the failure of his bank, yet that their opinion of his honor and integrity remained unchanged. In proof of this he produced three letters, two from William James, a merchant in London, of the 18th of November, 1779, and the 18th of September, 1782; the latter of these is not signed, and the letters W. I. are subscribed to the former; the third letter was from John Robert Reynolds, a clergyman in London, dated in April, 1782, and signed John Robert R. These three letters are also enclosed in the packet No. 1, herewith sent.

2d. His political conduct, and his losses occasioned by it. On these points Mr. Sayre stated that, from the commencement of the late troubles, he took the American side of the question.

That he was one of the sheriffs of the city of London, and that he zealously promoted the opposition made to the then anti-American administration.

That, becoming by such conduct very obnoxious to the ministry, he was, on the 23d of October, 1775, committed to the Tower; and that the failure of his bank, and the loss of a very considerable part of his property, was owing to that circumstance.

That a strong attachment to the cause and service of his country induced him to quit England and go to Paris, at a time when Lord Rockingham and other noblemen endeavored to prevail upon him to stay, by promising him a seat in the House of Commons and a respectable place under Government, as soon as a change in the ministry should be effected.

3d. His employment by the American commissioners. On this point Mr. Sayre stated that in 1777 he went, at the instance of the American commissioners, with Mr. A. Lee, to Berlin. In support of this fact, there are in this office two letters from Mr. Lee to the secret committee, of the 13th May, and 11th June, 1777; extracts from which are enclosed in the packet No. 2, herewith sent.

That at the time the commissioners requested him to go to Berlin, they promised to recommend him to Congress for some appointment.

That Mr. Lee staid at Berlin about five weeks, and then returned to Paris.

That he remained at Berlin five months at the request of the commissioners; but no other evidence of their having made such request appears.

That in 1778 he went to Copenhagen, at the request of the commissioners, and for evidence of this he referred to the subject and tenor of a letter he wrote the 7th of November, 1778, to Doctor Franklin, and the doctor's answer of 25th of December, 1778; and to a letter from Francis Lewis, Esq. to your secretary, dated the 16th ultimo. These three papers are enclosed in packet No. 2, herewith sent.

4th. His serving America, though not actually employed by the commissioners. On this point Mr. Sayre stated particularly—

That in 1779, the French minister at Copenhagen advised him to go to Stockholm, where there was a prospect of his being useful to America. Of this advice no other evidence appears; but for proof of his being there he referred to two letters, one from Jacob De Rou, of the 26th February, 1779, and the other from Doctor Franklin, of 31st of March, 1779; both of which are enclosed in the packet No. 3, herewith sent. Mr. Sayre explained the nature of his negotiations there; and, from his account of them, they were on great subjects and of extensive influence.

Mr. Sayre was apprized that the evidence of the foregoing facts, which resulted from his letters and papers, was less full and particular than might have been expected, and he assigned two reasons for it: 1st. That during the war, and especially in 1777, many letters passing from France to America miscarried; and, 2d. That the disputes which then subsisted between the commissioners occasioned his receiving so few letters from them.

5th. His account for expenses and right to compensation.

His account is herewith sent, and marked No. 4.

Your Secretary is of opinion, that Mr. Sayre is entitled to a reasonable compensation for his expenses and services while *actually* employed by the American commissioners; for that, although unsolicited and meritorious

exertions in the cause of one's country may create claims to acknowledgment and attention, yet that they cannot (unless in certain rare and particular cases) be considered as a proper foundation for pecuniary demands.

Your Secretary therefore thinks that a copy of this report should be transmitted to Dr. Franklin and Mr. A. Lee, and that they be desired to inform Congress exactly how far, and in what manner and capacity, and upon what terms or expectations of reward, they had employed Mr. Sayre, to the end that Congress may thereby be enabled to do full justice to him as a public servant. As to such of Mr. Sayre's services as do not fall within that line, he thinks it would not become him to suggest whether any or what degree or kind of acknowledgment should be made to him, especially as the order of reference, in pursuance of which this report is made, does not appear to him to comprehend either of those delicate questions.

All which is submitted to the wisdom of Congress.

JOHN JAY.

That in the interviews which the Secretary of State has had with Mr. Sayre, the documents, upon which the said report was founded, have been examined, and justify it:

That additional circumstances are now exhibited by Mr. Sayre, to wit: a letter from Mr. Silas Deane, of the 14th of December, 1786, affirming that Mr. Sayre was appointed by the American commissioners at Paris as secretary to Mr. A. Lee, on his mission to Berlin; that the former Congress do not appear to have acted upon the above report, or to have directed a copy thereof to be transmitted, as was suggested by the Secretary for Foreign Affairs to Dr. Franklin or Mr. A. Lee; that he is now deprived of their testimony by death; that not a single letter in their correspondence with Congress, though supported with diligence and attention, reached that body from the 2d June to the 8th September, 1777, whereby he has lost the opportunity of finding any mention of himself, or of the engagements of the commissioners to him; that he cannot get access to the letter-books of those gentlemen, and, consequently, has no other chance for proof than by his own affidavit hereto annexed.

Upon these several representations, Mr. Sayre presents the following account:

| DR. | <i>The United States to Stephen Sayre.</i> | £ s. d | Contra, | CR. |
|--|--|---------------------|--|------------|
| September 5, 1779. | | | May, 1777. | £ s. d. |
| To his services, acting as secretary to the commissioners from 1st May, 1777, to 5th September, 1779, and two months for his return to America, being two years and six months, at £1,000 per annum, | | 2,500 00 0 | By cash received of the commissioners 2,000 livres, - - - | 83 6 8 |
| January, 1794. | | | Balance to S. Sayre, - - - | 4,291 13 4 |
| To interest on the above, fifteen years, at five per cent. per annum, | | 1,875 00 0 | | |
| | <i>Sterling,</i> | <u>£ 4,375 00 0</u> | | |

PHILADELPHIA, January 1, 1794.

Errors excepted:

STEPHEN SAYRE.

The Secretary of State, not conceiving himself at liberty, by the reference to him, to depart from the legal rules of evidence, cannot say that he is satisfied, according to those rules; of any other facts than these: that Mr. Sayre was certainly appointed secretary to Mr. A. Lee, on his mission to Berlin, on the 1st of May, 1777; that Mr. Lee did not return to Paris until about four months afterwards, and Mr. Sayre remained at Berlin; that the allowance to a secretary was at the rate of £1,000 sterling per annum, with the expenses of his passage out and home; and that Mr. Sayre ought to be considered as secretary for the above period of four months, and settled with as such, after deducting a credit of £83 6s. 8d. received by him in May, 1777.

The Secretary of State, proceeding upon these principles, at the same time submits to the consideration of the House of Representatives whether the additional circumstances above mentioned do or do not place the claim of Mr. Sayre upon more favorable ground.

ED. RANDOLPH.

APRIL 21, 1794.

Mr. Sayre's affidavit.

I, Robert Henry Dunkin, Esquire, notary public for the Commonwealth of Pennsylvania, duly admitted and sworn, residing in the city of Philadelphia, and by law authorized to administer oaths and affirmations, do certify, declare, and make known unto all whom it doth or may concern, that, on the day of the date hereof, personally came and appeared Stephen Sayre, Esquire, at present of the city of Philadelphia, who, being duly sworn, did depose, declare, and say, that, when the commissioners at Paris requested him (this deponent) to attend Mr. Lee to Berlin, he made them promise him, in the most solemn manner, to use their influence with Congress to appoint him Secretary of Legation at Paris, or to some other situation where he might serve them in the diplomatic line; that he, this deponent, would not have changed his purposes of coming over to America for any temporary employment whatever; that the commissioners advised him to accept their offer, as leading to some other more worthy of his acceptance; that the same reasons which made it necessary for him, this deponent, to go to Berlin, viz: his supposed knowledge in mercantile matters, remained equally in force for his continuing there; that although Mr. Lee departed as soon as the court had refused to acknowledge our independence, contrary to the opinion of the other commissioners, yet he had not abandoned the idea of getting supplies for our army of arms, clothing, &c. &c., which Prussia had originally offered, and continued to urge us to take, and which had been the very object of our journey; that upon Mr. Lee's departure from Berlin he took samples of cloth, stockings, shirts, and many other things, such as were supposed by us jointly to come at low or moderate prices; that when Mr. Lee left this deponent at Berlin, he did so with assurances that this deponent should be immediately informed, on his arrival at Paris, what sorts, or if any of those articles, would be demanded; and also, that he, this deponent, should be supplied with a credit to bear his expenses, &c. &c.; that both the other commissioners had assured this deponent that if Mr. Lee pressed the question as to our independence at the moment, he would do wrong; that our business was to get the necessary supplies, to cement mutual interests, and wait events; that this deponent followed those instructions, and remained at Berlin nearly six months, under daily expectation of receiving orders either for doing business for the public, or to return; that, during that time, this deponent found himself extremely embarrassed as to his apology for delay, being pressed by Baron Schulenberg repeatedly to form some

contracts for the above articles; that though this minister was mortified to have given the King assurances of such contracts, so long delayed, yet this deponent improved that time in recommending a combination of European Powers to support the principles of a free commerce, as necessary to secure those very articles a passage to America, and our produce on its return; that these propositions, some time after supported by the armed neutrality, were approved by the heads of all the Departments, who recommended His Majesty to adopt them; that though the King, whose object was peace, declined taking the lead, he instructed Baron Schulenberg to give this deponent his assistance at the courts of Copenhagen and Stockholm, with assurances that he would accede to them in conjunction with the other Powers; that this deponent having written many letters to no effect, and finding the commissioners at Paris busied only in personal disputes, supposing it clearly his duty to follow up an object of so much consequence under such fair appearances of success, relying on the faith of those who had sent him, contrary to his intentions, on the public business, expecting every moment some respectable and regular appointment from Congress, through their recommendation, he made no hesitation to repair immediately to Copenhagen; and afterwards, from the like motives, made a journey to Stockholm, where, in a personal interview with the King himself, he, this deponent, had his assurances that he would pursue it incessantly; that he, this deponent, conceived himself entitled to the support commonly allowed to *chargés des affaires*, on Mr. Lee's quitting Berlin, because he was so actually, though not under a regular commission. And this deponent further says, that, in his opinion, had he not suggested the principles to the court of Berlin, and pursued this object, as he before stated, the armed neutrality would never have existed.

STEPHEN SAYRE.

In testimony whereof, I have hereunto set my hand, and affixed my seal of office, at Philadelphia, this [L. s.] twenty-ninth day of March, in the year of our Lord one thousand seven hundred and ninety-four.

ROBERT HENRY DUNKIN, *Notary Public*.

[NOTE.—See Nos. 54 and 110.]

3d CONGRESS.]

No. 50.

[1st SESSION.]

SUPPLIES TO THE ARMY AT THE SIEGE OF QUEBEC.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 24, 1794.

Mr. GORDON, from the committee to whom was referred the petition of Louis Ayott, made the following report:

That he claims payment for sundry articles furnished the American troops, when besieging Quebec, in the year 1775, amounting to \$512 10 cents; and also presents, to eighty dollars, in old continental money, which he says he received in pay from the said troops, for sundry merchandise sold them. As to the latter article, the committee are of opinion he ought to receive no allowance. But as the committee have great reason to suppose that it was owing to his good wishes to the American cause that he furnished the other articles, and for which he has receipts from officers who appear to have been of the continental troops, and it may reasonably be presumed that the unsettled situation of affairs when the American army lay before Quebec, and their abrupt departure from thence, prevented him from obtaining any compensation at that time, they are of opinion that, as his situation is very remote from the United States, and, consequently, his means of obtaining information of the proper time to exhibit his accounts very different from those enjoyed by an immediate citizen of the United States, it would be hard that the statute of limitations should operate as a bar to his receiving what may be justly due to him. They therefore submit the following resolution:

Resolved, That the accounting officers of the Treasury be authorized to liquidate and settle the accounts of Louis Ayott, an inhabitant of Lower Canada.

3d CONGRESS.]

No. 51.

[1st SESSION.]

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 25, 1794.

WAR DEPARTMENT, *April 25, 1794.*

The SECRETARY FOR THE DEPARTMENT OF WAR, in obedience to the act entitled "An act to regulate the claims to invalid pensions," respectfully reports to the Senate and House of Representatives of the United States:

That the list hereunto annexed contains the names of the applicants for pensions as invalids to the judges of the respective enumerated districts, together with the circumstances of each, as far as the same could be ascertained from the evidences received.

That the number of applicants from the several districts are as follow:

| | | | | | | | | | |
|------------------------|---|---|---|---|---|---|---|---|-----|
| Maine | - | - | - | - | - | - | - | - | 17 |
| Massachusetts | - | - | - | - | - | - | - | - | 5 |
| Connecticut | - | - | - | - | - | - | - | - | 40 |
| Rhode Island | - | - | - | - | - | - | - | - | 5 |
| Vermont | - | - | - | - | - | - | - | - | 3 |
| New York | - | - | - | - | - | - | - | - | 60 |
| New Jersey | - | - | - | - | - | - | - | - | 9 |
| Pennsylvania | - | - | - | - | - | - | - | - | 52 |
| Maryland | - | - | - | - | - | - | - | - | 5 |
| Virginia | - | - | - | - | - | - | - | - | 8 |
| Kentucky | - | - | - | - | - | - | - | - | 1 |
| North Carolina | - | - | - | - | - | - | - | - | 4 |
| South Carolina | - | - | - | - | - | - | - | - | 2 |
| The total amounting to | | | | | | | | | 211 |

That of the said number are six who were commissioned officers during the late war, and who, at the end thereof, received the certificates of the commutation of the half-pay for life; some of these officers have a less sum assigned them as a pension than half their monthly pay while in service; and others have not any rate assigned. Having received the commutation, they cannot be placed upon the invalid list until they shall have first returned it, in pursuance of the following clause in the resolves of Congress of the 7th of June, 1785: "*Provided*, That no officer who has accepted his commutation of half-pay shall be entered on the list of invalids, unless he shall have first returned his commutation."

The invariable construction of this resolve at the public offices has prevented any officer who had received the commutation from being placed on the pension list, whatever may have been the rate of the pension assigned, until the commutation was first returned, excepting David Cook, who was provided for by a particular law, passed the 16th December, 1791.

The reasons which operated in his favor, it is also presumed, will operate in favor of the present applicants, and obtain the sanction of Congress to their admission upon the pension list, provided they first return such a proportion of their commutation as the pension assigned bears to a full pension.

It is to be understood, that all the officers who were deranged after the 31st of December, 1780, as well as those who continued in service to the end of the war, were entitled to the half-pay for life, or to the commutation thereof.

It therefore occurred in many cases that officers, entitled by their wounds and disabilities to be placed on the invalid list, were at the same time entitled, by the length of their services, to the commutation of the half-pay.

And probably there were several of this class who supposed that they should be entitled to both provisions, and accepted of the commutation in 1783 and 1784 under this impression, although the act of the 7th of June, 1785, convinced them of their error; yet it was too late to be remedied, as the pecuniary distresses of themselves and families constrained them to alienate their commutation certificates, which they have not since been able to return to the public, so as to be entered upon the list of invalids.

The time has nearly arrived when an officer disabled in the highest degree, and having complied with the several acts of Congress relative to invalid pensions, would be enabled, by the arrears of his pension, to return the commutation of his half-pay. But the case is different with those officers who have less than full pensions assigned them, and who, from the peculiarities of their case, seem justly to claim the interference of a law, as in the before-recited case of Captain Cook, to enact that they shall return only the proportion of their commutation to the pension assigned as invalids.

That the number of eighty-five certificates of the examining physicians are defective and not according to law, inasmuch as they do not certify the degree of disability of the applicants; which defect will, in a great measure, prevent the precision necessary in the assignment of the pensions.

That of the number of cases on which the examining physicians have given opinions, twenty are full pensions, one *nine-tenths*; two *seven-eighths*; one *six-sevenths*; three *five-sixths*; one *four-fifths*; one *five eighths*; four *three-fourths*; fifteen *two-thirds*; forty *one-half*; fourteen *one-third*; sixteen *one-fourth*; two *one-sixth*; two *one-eighth*; and one *one-twelfth* pensions.

That it will appear by the remarks contained in the list, that the proof of the greater part of the applicants having been wounded in the service of the United States must depend upon the affidavits they produce, as very few muster-rolls of the militia of the late war were deposited in the public offices, and in many cases the muster-rolls even of the regular troops, more particularly of the southern departments, were never received at the said offices.

All which is respectfully submitted to the Senate and House of Representatives.

H KNOX, *Secretary of War.*

List of certificates transmitted by the Judge of the District Court for the District of Maine, of Invalid Pensioners, examined by him.

| Names. | Rank. | Regiment or company. | Disability. | When & where disabled. | Residence. | To what pension entitled. | Remarks. |
|-----------------|-------------|---|--|-------------------------------|-----------------------------|---------------------------|--|
| Noah Clough, | - Private, | Colonel B. Arnold's regiment. | Received a wound at the siege of Quebec, by a musket ball through his right leg, which broke and scattered both the bones, and carried away some portion of them; that the wounded leg is about one inch and a half shorter than the other, and left the upper end of one of the bones out of its proper socket, which still continues out of joint; that the said wound must have required a long while to digest and heal. | December 31, 1775, Quebec. | Arundel, | - One-fourth, | There is no evidence in this office whatever to ascertain the facts stated in favor of Noah Clough. (1) |
| James Crummitt, | - Private, | 2d New Hampshire regiment. | Badly wounded in an action at Fort Ann, on the retreat from Ticonderoga; the ball entered his left shoulder and came out the back part of his neck, in the actual line of his duty. | July 7, 1777, Fort Ann, | Washington, | - Two-thirds, | James Crummitt mustered in September, 1777; wounded, and in general hospital; discharged January 25, 1780. (1) |
| William Foster, | - Sergeant, | Colonel E. Bridge's regiment. | Wounded in the left wrist by a musket ball, in the action of Bunker's Hill, in the actual line of his duty. | July 17, 1775, Bunker's Hill. | Bristol, county of Lincoln. | - Four-fifths, | William Foster. There is no evidence in this office whatever to ascertain the facts stated in his favor. (1) |
| Daniel Horn, | - Sergeant, | 2d New Hampshire regiment. | Wounded in his arm in the battle at Hubbardtown, and was made prisoner by the British and carried back to Ticonderoga, where he was put under the care of a surgeon, who pronounced his wound incurable, and would have taken the arm off, but attempted a cure without it; that in the course of the fifteen months he remained a prisoner, the surgeon took out fourteen pieces of bone from said wound; that after he returned to New Hampshire, had one piece of bone taken from said wound. | July 7, 1777, Hubbardtown. | Shapley, | - One-third, | Daniel Horn mustered in September, 1777, missing the 7th July, 1777; joined March 2, 1779. (1) |
| William Symms, | - Private, | Captain Peter Kimball's company of militia. | Wounded by a musket ball, at the battle of Bennington, in his right arm, and has fractured the os-humeri, and a loss of part of it; that the muscles are injured, and impeded in their operation. | Aug. 1777, Bennington. | Washington, | - Five-eighths, | William Symms. There is no evidence in this office whatever to ascertain the facts stated in his favor. (1) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 7, 1794.

JOSEPH HOWELL, *Accountant.*

Remarks on the evidence transmitted by the Judge of the District Court.—(1) Evidence complete.

LIST OF CERTIFICATES FOR MAINE—1792—Continued.

| Names. | Rank. | Regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. | Remarks on the evidence by the District Judge. |
|---------------------|------------|------------------------------|---|-----------------------------------|-------------------|--------------------|-------------|--|---|
| George Airs, | Matross, | Colonel Crane's artillery. | Hurt by the sudden discharge of a cannon to which he was stationed. He had the misfortune of losing the sight of his right eye. | Sept. 1777, battle of Brandywine. | Arundel, | \$4 16 | \$180 | Enlisted May 5, 1777, and continued to the end of the war. | Evidence complete. |
| John Bean, | Corporal, | 3d N. Hampshire regiment. | Wounded in the left arm while acting against the Indians, in the expedition under the command of General Sullivan. | Aug. 29, 1779, | Washington, | 3 33 | 230 | Enlisted February 15, 1777, and discharged February 15, 1780. | Evidence complete. |
| Dudley Bradstreet, | Private, | Colonel Francis's regiment. | Hurt by an unlucky blow on his breast, at Ticonderoga, while at work on a bridge there in 1777; that afterwards, on the 19th September, 1777, he was wounded by a musket ball in the jugular artery, and was also wounded in his thumb, on board a guard ship, at Boston. | Sept. 19, 1777, | Portland, | 3 33 | 560 | Joined invalid regim't 1778, discharged December 14, 1779. | Evidence complete. |
| Squire Bishop, Jun. | Private, | Col. McCobb's, | Wounded near the back bone by a musket ball; was taken prisoner. | 1779, Penobscot, | Washington, | 3 33 | 200 | There are no militia rolls in this office. | Evidence complete. |
| Moses Cass, | Private, | 3d N. Hampshire, | Wounded in the right arm and right hand, | - - - | Hallowell, | 3 33 | 230 | Enlisted Mar. 8, 1777, | Evidence complete. |
| Levi Chadbourn, | Private, | Colonel Edward Wigglesworth. | Wounded through the trunk of the body by a musket ball, which entered near the spine of the back, and came through near the breast-bone, between the ribs. | August, 1778, Rhode Island, | County York, | 3 33 | 280 | Enlisted May 21, 1777, discharged May 21, 1780. | Evidence complete. |
| Seth Delano, | Sergeant, | 10th Massach'tts regiment. | Wounded in an action at Tarrytown, which wound he received on the head, and at times occasions a dizziness, and renders him incapable of getting a livelihood. | 1779, Tarrytown, | Winthrop, | 2 67 | 120 | Enlisted Jan. 8, 1777, returned prisoner January 21, 1779. | Evidence complete. |
| Peter Hopkins, | Private, | Col. Hitchcock's regiment. | In consequence of sickness, while in the service of the United States, in 1776, an ulcer, or fever sore, settled in his left leg, and has almost deprived him of the use of it. | 1776, | Winthrop, | 3 33 | 250 | There are no militia rolls in this office. | Evidence not complete. (1) |
| Joseph Roberts, | Carpenter, | Ship of War, | Lost his left arm on board the armed ship of war Hampden, Titus Salter, commander in the service of the United States at the siege of Penobscot. | Aug. 15, 1779, Penobscot. | Berwick, | 5 00 | 263 | - - - | Evidence complete. |
| Benj. Thompson, | Lieuten't, | Colonel Brewer's regiment. | Labors under a rheumatic and bilious complaint, which originated while in the service of the United States, and renders him incapable of pursuing the business of a blacksmith, which he follows for a livelihood. | 1777, | Topsham, | 8 89 | 300 | Commissioned November 6, 1776, supernumerary January 16, 1779. | Evidence incomplete, viz: Disability not proved to have arisen from known wounds. |
| Ezekiel Spaulding, | Sergeant, | 7th Massach'tts regiment. | Received a hurt while in the service of the United States, by loading a wagon, which at times renders him incapable of doing any kind of labor. | 1777, | Georgetown, | 2 00 | 70 | Enlisted February 10, 1777. | Evidence not complete. (2) |
| Anthony Starbard, | Private, | Colonel Vose's regiment. | Lost the sight of one eye by the small-pox, and the sight of the other much injured. | April, 1777, | Pepperrelborough. | 3 33 | 150 | Enlis'd Jan. 13, 1777, & disch'd Jan. 12, 1780. | Evidence not complete. (3) |

(1) 1st. Disability from known wounds are not proved. 2d. No evidence of his being in the line of his duty at the time alleged. 3d. No examination whatever of surgeons. 4th. No evidence of his leaving the service. 5th. No evidence why he did not apply before. (2) 1st. No examination of physicians or surgeons. 2d. The depositions of the freeholders do not fully substantiate the continued disability after leaving service. 3d. No reason whatever assigned why he did not apply before. (3) 1st. No deposition of being in service, and in the line of his duty, at the time alleged. 2d. No examination whatever of surgeons. 3d. The depositions of freeholders do not fully substantiate the continued disability to any degree.

List of certificates transmitted by direction of the Judge of the District Court for the District of Massachusetts, of Invalid Pensioners, examined by him.

| Names. | Rank and Regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. | Remarks on the evidence transmitted by the Judge of the District Court. |
|------------------|-------------------------------------|---|-------------------------------------|-----------------------|---------------------------|---|--|
| Robert Bancraft, | Private, | Wounded while in the service of the U. States, in the right foot, with the stroke of an axe, which has disabled him one-sixth from getting a livelihood. | - - - | Middleton, | One-sixth, | Enlisted May 10th, 1778. | Evidence incomplete as to the time and place where he received the said wound. 2d. No evidence of his receiving said wound while in the service. |
| Nathan Putnam, | Private Capt. Hutchinson's company. | Wounded in the right arm near the shoulder by a musket ball, which broke the bone, and disables him equal to the loss of one-twelfth part of his usual labor. | April 19, 1775, Menotomy. | Danvers, | One-twelfth, | There are no rolls in this office for the year 1776. | Evidence complete. |
| Silas Amsden, | Private 2d Massachusetts. | Wounded in the left knee by a sled load of wood running over it, which he was drawing for the use of the garrison at West Point, which wound has never been cured, and in all probability never will. | 1783, West Point, | South Boro'gh, | Full pension, | Discharged September 17, 1783. | Evidence complete. |
| John Crane, | Col. United States artillery. | Wounded in the foot by a cannon ball from the British ship of war commanded by Captain Wallace, which disables him from performing more than one-half of his usual labor. | 1776, | Boston, | One-half, | Col. Crane has received his commutation, which is not returned. | Evidence complete, except as to his place of residence for the first two years after he left the service, as required by law. |
| Michael Jackson, | Colonel, | Wounded by a musket ball in the right leg, which fractured the bone and injured the muscular parts; the limb is essentially disabled, and for two-thirds of the time deprives him from obtaining a livelihood by labor. | Sept. 24, 1776, Montessor's Island. | Newton, in Middlesex. | Two-thirds, | Col. Jackson has received his commutation, which is not returned. | Evidence complete. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 27, 1794.

JOSEPH HOWELL, *Accountant.*

List of certificates transmitted by the Judge of the District Court for the District of Connecticut, of Invalid Pensioners, examined by him.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|----------------------|---|---|---------------------------------------|-------------|---------------------------|--|
| Thomas Sheppard, - | Private, Col. Douglas, | Wounded in his left leg by a cannon ball from a British ship, while in the service of the United States. | September, 1776, Turtle Bay. | East Haven, | One-fourth, | There are no militia rolls in this office.(1.) |
| John Smith, - | Lieutenant, Connecticut militia. | Wounded in the back by a musket ball, which renders him incapable of getting a living by labor. | 28th April, 1777, Campo. | Milford, | Seven-eighths, | The same remark applies as above.(1.) |
| Chandler Pardee, - | Private, Colonel Sabin's militia. | Wounded in the small of the back by a musket ball, which disables him very much. | 5th July, 1779, New Haven. | East Haven, | Seven-eighths, | The same remark applies as above.(1.) |
| Samuel Hart, - | Lieutenant, Col. Cook's, | Wounded in the right shoulder by a musket ball, which came out near the breast blade, which renders his right arm almost useless. | 19th September, 1777, | Durham, | Six-sevenths, | The same remark applies as above.(2.) |
| Aner Bradley, - | Private, - - | Wounded by a musket ball, which entered his back, broke one of his ribs, and has rendered him ever since unfit for labor. | April, 1777, Campo, | Watertown, | One-half, | The same remark applies as above.(1.) |
| Ambrose Smith, - | Mariner, Captain McCleave's galley. | Wounded in his right hand by a nine pound shot, which fractured the bone of his middle finger, and prevents him from having a full use of that hand. | August, 1776, Toppon Bay. | East Haven, | One-half.(1.) | |
| Edmond Smith, - | Private, Captain Bradley's company artily. | Wounded by a musket ball, which entered his right wrist, and was extracted about midway between the wrist and elbow. | 5th July, 1779, New Haven. | New Haven, | One-half, | There are no militia rolls in this office.(1.) |
| Aaron Tuttle, - | Private, Colonel Cook's, | Wounded by a musket ball in the foot, which entered between the first and second toe, and came out some distance above the great toe joint; that he lost one toe, and is very much disabled in consequence of said wound. | October 7, 1777, capture of Burgoyne. | Hamden, | One-half, | The above remark applies here. (1.) |
| Benjamin Howd, - | Private, 2d regiment militia. | Wounded by a musket ball in the thigh, which at times totally disables him from walking. | July 5, 1779, East Haven. | Branford, | Three-fourths, | There are no militia rolls in this office.(1.) |
| Theophilus Goodyear, | Corporal, Col. Meigs's, | Wounded by a musket ball in the back, which disables him from performing daily labor. | October, 1776, White Plains. | Reading, | One-fourth, | Enlisted April 1, 1777, for the war.(2.) |
| William Washington, | Colonel, militia, - | Wounded by a musket ball on his right temple, which deprived him of hearing with his right ear, and injures the sight of his right eye. | July 6, 1779, East Haven. | New Haven, | One-fourth, | There are no militia rolls in this office.(1.) |
| Silas Hubbard, - | Private, Col. Chandler's eight months' men. | Very much debilitated by a fit of sickness he had while in the service of the United States at White Marsh. | 1777, White Marsh, - | Tolland, | One-half, | Enlisted April 28, 1777, for eight months; discharged January 1, 1778.(3.) |
| Samuel Burdwin, - | Private, 5th regiment, - | Wounded by a musket ball, in and through his right side and intestines, by which means he is very much disabled. | August 29, 1782, near Fishkill, | Tolland, | One-half, | Enlisted April 27, 1781, for 3 yrs; transf. to inval. June 27, '82.(2.) |
| Daniel Hewett, - | Sergeant, Col. Denison's militia. | Wounded in the hand and wrist by a musket ball, by which he has been very much disabled ever since. | July, 1778, Wyoming, | Tolland, | One-third, | There are no militia rolls in this office.(1.) |
| John Fulfords, - | Sergeant, Col. Meigs's, | Disabled in a great measure by a wound he received while in actual service. | July, 1789, Stony Point, | Watertown, | One-half, | Not to be found on the rolls.(2.) |
| Jacob Frisbie, - | Private, Col. Silliman's, | Disabled by a fall which he got while in the service of the United States from the top of a house, he being ordered there to watch the motion of the enemy, who were then on Long Island. | August 30, 1776, New York. | Litchfield, | Nine-tenths, | There are no militia rolls in this office.(2.) |

CLAIMS.

(1.) Evidence complete, except the time of leaving the service.

Remarks on the evidence transmitted by the Judge of the District Court.

(2.) Evidence complete.

(3.) Disability by sickness, not by wounds; therefore not entitled by law to a pension.

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------|--|--|--------------------------------------|--------------|---------------------------|---|
| Jabez Tomlinson, | Private, Col. Sheldon's dragoons. | Disabled when on fatigue cutting wood; he having cut off the two smallest toes of his left foot, and almost cut off the two next toes on the same foot, which occasions much pain when he walks. | November, 1780, | New Milford, | One-fourth, | Enlisted October 23, 1780; time in service unknown.(1.) |
| John Horsford, | Private, Captain Buel's company militia. | Wounded in the fourth finger of the left hand, by a shot which broke the bone, by which his hand was for a long time totally useless, and continues now quite lame. | August, 1776, Harlem heights. | Litchfield, | One-eighth, | There are no militia rolls in this office.(2.) |
| Samuel Sawyer, | Private, Capt. Rogers's company militia. | Wounded in the body by a musket ball which passed through, broke two of his ribs, and passed through his liver, and renders him incapable of getting a livelihood. | April 27, 1777, Wilton, | Cornwall, | One-half, | The same remark applies as above.(2.) |
| Jared Knapp, | Sergeant, Col. Bradley's, | Disabled by the explosion of gunpowder while in the service of the United States, by which means he is in a great measure unable to get a livelihood. | November, 1777, | Litchfield, | One-half, | Enlisted March 5, 1777, and continued to the end of the war.(1.) |
| Ashbel Hosmer, | Corporal, General Waterbury's. | Wounded in the back by a musket ball while in the service of the United States, which produces cramps in his legs, arms, and neck, with violent pain, and in a great measure disables him from getting a living. | July, 1781, Frog's Neck. | Wallingford, | One-half, | There are no militia rolls in this office.(1.) |
| Joel Camp, | Private, Colonel Patter-son's. | Wounded on board a batteau when crossing Lake Champlain; which wound occasioned an ulcer, and renders him almost unable to get a living by labor. | June, 1776, Lake Cham-plain. | Litchfield, | Two-thirds, | There are no returns of this regi-ment for 1776 in this office.(1.) |
| Levi Pierce, | Private, | Wounded in the right hand by a musket ball, which took off the two middle fingers, and disables him one-half from getting a livelihood. | August, 1777, Croton river. | Litchfield, | One-half, | Enlisted April 2, 1777, and dis-charged April 8, 1778.(1.) |
| Lazarus Ruggles, | Lieutenant, | Wounded in the left wrist and right hand by a cannon shot while in the service of the United States, and that he is disabled so as to prevent him from doing one-half the labor he otherwise would have been able to do. | October 28, '76, White Plains. | New Milford, | One-half, | Not mustered in the Connecticut line; supposed to be a militia officer.(1.) |
| Isaiah Bunce, | Private, Colonel Swift's, | Disabled while in the service of the United States, by a wound he received in his leg, which has occasioned an ulcer, and renders him incapable of performing his accustomed labor. | April 27, 1777, New Milford. | Washington, | Three-fourths, | Enlisted March 26, 1777, for three years; discharged March 31, 1780.(1.) |
| Oliver Bostwick, | Ensign, Colonel Beebe's, | Wounded in the left shoulder by a musket ball while in the service of the United States; which wound disables him two-thirds from obtaining a livelihood by labor. | July 2, 1780, King-street, New York. | New Milford, | Two-thirds, | There are no militia rolls in this office.(1.) |
| Gorshom Dorman, | Private, 2d dragoons, | Wounded in the arm by the stroke of a broadsword while in the service of the United States; which wound disables him one-third from obtaining his livelihood by labor. | June, 1779, Pound-ridge. | Sharon, | One-third, | Enlisted April 16, 1777, for the war.(2.) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1.) Evidence complete.

(2.) Evidence complete, except the time of leaving the service.

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------|--------------------------------|---|--------------------------------------|-------------|---------------------------|---|
| William Leech, | Private, Colonel Webb's, | Disabled by a wound he received in his leg by the rolling of a cannon ball, which injured the bone to that degree as to occasion a carious ulcer; and that he is disabled one-half from performing his usual labor. | October, 1778, Rhode Island. | Litchfield, | One-half, | Enlisted February 14, 1778, for three years; discharged March 20, 1779.(1.) |
| Benjamin Seeley, | Private, Col. Elmore's, | Disabled by a fall from the second story of the barracks, while in the service of the United States; by which fall he broke his left thigh, which disables him one-fourth from obtaining his livelihood by labor. | August, 1776, Albany, | Litchfield, | One-fourth, | There are no militia rolls in this office.(1.) |
| Lyman Kenney, | Private, Colonel Webb's, | Wounded by a musket ball in the right thigh, while in the service of the United States; the musket being accidentally discharged in the lower room of the guard-house while he was lying in the upper room of said house, and that he is disabled one-third from obtaining a livelihood by labor. | January 9, 1786, New Milford. | Litchfield, | One-third, | Enlisted May 27, 1777, for eight months; discharged January 9, 1778.(1.) |
| Stephen Dunham, | Private, Colonel Huntington's. | Lost the sight of his right eye by the smallpox while in the service of the United States, and that he is disabled from obtaining his support by labor to the amount of one-third. | June, 1777, | Tolland, | One-third, | Enlisted April 12, 1777, and discharged April 12, 1780.(2.) |
| Jedediah Smith, | Private, Colonel Jamet's, | Disabled while in the service of the United States, in an action between Jamestown and Green Springs in Virginia, when driven through a creek by the enemy took a severe cold, and is to the present time disabled to the amount of two-thirds from obtaining a livelihood by labor. | Jamestown and Green Springs. | Tolland, | Two-thirds, | There are no musters of the militia in this office.(2.) |
| Nathan Bradley, | Private, Colonel Webb's, | At the storming of Stony Point, in jumping over the abatis, was struck in the heel and leg, and badly wounded; which wound caused a lameness that continues to the present day. | Stony Point, | Fairfield, | One-half, | Enlisted Aug. 1, 1777, for the war; discharged April 24, 1780.(1.) |
| Stephen Barnum, | Private, Col. Gemott's, | Wounded by a musket ball in the shoulder, in the action near Jamestown, in Virginia. | July, 1782, Green Springs, Virginia. | Danbury, | One-half, | There are no militia muster-rolls in this office.(1.) |
| Thomas Starr, | Captain, alarm company, | Wounded by a party of British horse, very badly, at the time when Danbury was burnt by the enemy. | April, 1777, Danbury, | Danbury, | One-third, | No musters in the office of this company.(1.) |
| James Shepherd, | Private, Gen. Putnam's, | Wounded by a musket ball at the action at Bunker's Hill, whereby he lost the use of his left hand. | June 19, '76, Bunker's Hill. | Ashford, | One-half, | There are no rolls in this office for 1775.(1.) |
| Isaac Buell, | Colonel Baldwin's artificers. | In removing a stick of timber was badly hurt and ruptured; in consequence of which he was discharged. | July, 1780, | Lebanon, | One-third, | Enlisted Feb. 17, 1778, for 3 y'rs; omitted in the year 1780.(2.) |
| Samuel Grose, | Private, Colonel Chandler's. | Epileptic fits, occasioned by hardships endured in service when the army was encamped at Valley Forge, in 1778. | 1778, Valley Forge, | Lebanon, | One-half, | Enlisted April 29, 1777, for 3 y'rs; discharged March 7, 1779.(2.) |
| Isaiah Beaumont, | Private, Col. Durkee's, | Wounded in his arm at the battle of Princeton, | Jan. 3, 1777, Princeton, | Lebanon, | One-fourth, | Not on the rolls.(1.) |
| Samuel Rosseter, | Private, Connecticut line, | Ruptured by overstraining himself in carrying timber for the erection of a redoubt in the State of N. York. | Aug. 1781, Neilson's Point. | Litchfield, | One-half, | Enlisted January 15, 1778, for the war.(2.) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 15, 1794.

JOSEPH HOWELL, Accountant.

(1.) Evidence complete.

Remarks on the evidence transmitted by the Judge of the District Court.
(2.) Evidence incomplete; disability not being proved to be the effect of known wounds; therefore not entitled by law to a pension.

List of certificates transmitted by the Judge of the District Court for the District of Rhode Island, of Invalid Pensioners, examined by him.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. | Remarks on the evidence by the District Judge. |
|-----------------------|--|--|-------------------------------------|----------------------------------|---------------------------|---|--|
| Jonathan Davenport, - | Private Colonel Thomas Church's regiment. | Hurt in the service of the United States while throwing up works near Penny Ferry, near Charlestown; that in passing and repassing with handbarrows, the end of the handbarrow struck the rim of his belly, which has occasioned an inguinal rupture. | 1775, Penny Ferry near Charlestown. | Portsmouth, county of Newport. | - | Jonathan Davenport. There is no evidence in this office whatever to ascertain the services of this man. | Evidence not perfect. (1) |
| Benjamin Fowler, - | Private Rhode Island regiment. | Had the misfortune to lose one of his eyes by the small-pox while in the service of the United States, and under the command of Colonel Benedict Arnold, at Quebec; that since the war he has had one leg amputated, which has reduced him to great want and distress, having for several years subsisted on charitable contributions, being unable to obtain a livelihood by labor. | 1775, - - | Providence, - | - | Benjamin Fowler, of Colonel Angel's regiment, enlisted March 15, 1777, and continued to the end of the war. | Evidence not complete. (2) |
| George Popple, - | Sergeant 1st Rhode Island battalion. | Wounded in his right thigh by a ball which he received in an engagement with the Hessian troops, while in the service of the United States. | October 22, 1777, Red bank. | Hopkinton, county of Washington. | One-eighth, | George Popple, sergeant of Col. Green's reg't, enlisted May 1, 1777, and was discharged April 1, 1780. | Evidence not complete. (3) |
| Job Snell, - | Private Colonel William Richmond's regiment. | Wounded while in the service of the United States, by the loss of the index finger of his right hand, occasioned by long and extreme exertion in rowing a boat when removing the regiment from Newport to New Haven, as rendered the amputation, first of one finger, afterwards of a portion of the hand, absolutely necessary for the preservation of life. | 1776, Sound, - | Little Compton, - | One-fourth, | Job Snell. There is no evidence in this office whatever to ascertain the services of this man. | Evidence not complete. (4) |
| Samuel Blevin, - | Deputy Forage-master of Colonel C. Greene's brigade. | Hurt by a fall from a horse while in the actual line of his duty, in the service of the United States. | April, 1779, East Greenwich. | Westerly, - | One-half, | Samuel Blevin. There are no returns of the Forage Department in this office. | Evidence not complete. (5) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 7, 1794.

JOSEPH HOWELL, *Accountant.*

(1) No evidence or reason why he did not apply before. (2) 1st. No certificate of any freholder. 2d. No examination of surgeons. These are accounted for under the hand of Henry Marchant, District Judge, by declaring that Benjamin Fowler's loss of an eye and a leg render a surgeon's certificate unnecessary; and that the said Fowler was not able to obtain any certificates from reputable freholders, on account of his wandering and unsettled life. Small-pox is the known cause of the loss of his eye, and not a wound. (3) No evidence or reason why he did not apply before. (4) No evidence or reason why he did not apply before. (5) 1st. Disability from known wounds not proved. 2d. No evidence of his being in service, and in the line of his duty, at the time alleged. 3d. No evidence of his leaving the service. 4th. No evidence why he did not apply before. This description of persons never promised a pension.

List of certificates transmitted by the Judge of the District Court for the District of Vermont, of Invalid Pensioners, examined by him.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. | Remarks on the evidence transmitted by the District Judge. |
|------------------|---------------------------------|--|----------------------------|------------|---------------------------|--|---|
| Stephen Barnum, | Sergeant, 7th Connecticut. | Fistula in ano, occasioned by straining and excessive exertions, and from being overheated, at the battle of Monmouth. | 1778, Monmouth, | Monckton, | Half pension, | Enlisted April 21, 1777, and discharged April 5, 1781. | Evidence complete, except disability from known wounds not proved, and therefore not entitled by law. |
| Elisha Reynolds, | Private Colonel Dyer's militia. | Wounded by a musket ball in his left arm, | August 5, 1777, Kingston. | Alburgh, | One-half, | There are no militia rolls in this office. | Evidence complete. |
| Gershom Clark, | Private Col. Putnam's, | Wounded in the body at the battle of Bunker's Hill. | June, 1775, Bunker's Hill. | - | Half pension, | No rolls for 1775, | Evidence complete. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 14, 1794.

JOSEPH HOWELL, *Accountant.*

List of certificates transmitted by the Judge of the District Court for the District of New York, of invalid applicants for pensions, examined by him.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. | Remarks on evidence transmitted by the Judge of the District Court. |
|-----------------------|------------------------------------|---|-----------------------------------|----------------------------|---------------------------|--|---|
| Henry Bradt, | Lieutenant, Col. Coxe's, | Two wounds received on his head and under his left eye. | Aug. 7, 1777, battle of Herkimer. | Cherry Valley, Otsego. | - | By supplementary evidence, physicians report no disability by reason of his wounds. There are no militia rolls in this office. | Evidence comp. |
| Jonas Belknap, | Sergeant, Col. J. Brooks', | Wounded in the left side in an action with the Indians. | May 30, 1778, Cobuskill. | Cherry valley, Otsego. | - | There are no militia rolls in this office. | Evidence comp. |
| Henry Bouce, | Private, Col. Willett's, | Wounded in the side in an engagement with the Indians. | June, 1781, Tourlock, | Watervliet, Albany. | - | This man is mustered in the York line. | Evidence comp. |
| Rudolph Cook, | Captain, Col. Klock's, | Loss of sight, occasioned by having an eye struck out in assisting some women to draw water out of a well at Stone Arabia ft. | July, 1780, Stone Arabia fort. | - | - | There are no militia rolls in this office. | Evidence incomplete. (1) |
| James Cole, | Sailor, Sloop Mechias Liberty. | Wounded in the leg in an action with a British tender. | June, 1775, | Westfield, | - | - | Eviden. comp. (2) |
| John Creamer, | Private, Col. S. Clyde's, | Wounded in his left hip. | July, 1782, fort Clyde, | Connajorharrie, | - | Physicians report "somewhat disabled." There are no militia rolls in this office. | Evidence incomplete. (1) |
| John M. Charlesworth. | Sergeant, Colonel Van Cortlandt's. | Ulcer in his left knee from disease contracted in the service. | 1780, | Connajorharrie, | Full pension, | The same remark as above, | Evidence comp. (3) |
| Francis Courtney, | Private, 1st New York, | Lost his sight by hardships endured at Quebec. | Jan'y 7, 1776, Quebec. | Montgomery, Ulster county. | - | Enlisted December 24, 1776, | Evidence incomplete. (4) |
| Phineas Cox, | Private, | Ruptured in stretching a chain across the North river. | October, 1776, fort Montgomery. | Minisink, | - | Not found on the musters of the N. York line. | Evidence incomplete. (4) |

(1) Every document and evidence wanting, except the reason why he did not apply before.
 (3) Disability not proved to have arisen from known wounds.

(2) Persons of this description never had a pension stipulated.
 (4) 1st. No examination of surgeons; 2d, No evidence of his leaving the service.

LIST OF CERTIFICATES FOR NEW YORK—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------------|----------------------------------|--|--------------------------------------|---------------------------|---------------------------|--|
| 13 7 Nathan Davis, | - Private, Colonel Gansevoort's. | Wounded by accident in his leg by an axe whilst scoring timber. | 1778, Fort Stanwix, | - New Galloway, Saratoga. | - | Enlisted January 1, 1777, returned sick, and omitted Sep. 1778. (1) |
| Isaac Davis, | - Sergeant, Col. Fisher's. | Lameness from swelling and inflammation contracted in service. | - - - | - Conewaga, | - Full pension, | There are no militia rolls in this office. (2) |
| Jacob Edegh, | - Private, Col. Bellenger's. | Wounded in the back by a tomahawk by the Indians, | Sep. 1779, Thompson's place. | Schuyler, | - | Wound of no consequence. The same as above. (3) |
| Elisha Frizzle, | - Private, Col. M. Jackson's. | Wounded in the shoulder in the action at Behmus's Heights. | October 7, 1777, | - Salem, in Washington. | - | Enlisted May 1, 1777; invalided February 14, 1779; discharged January 1, 1780. (1) |
| Daniel Flanuegan, | - Private, Col. Dubois's. | Wounded in the knee whilst quelling a riot in winter quarters. | Decem. 12, 1777, Newburgh. | Warwick, | - | Physicians do not designate disability. Enlisted Aug. 28, 1777; disch'd August 28, 1780. (4) |
| John Garnet, | - Private, artillery, | Wounded, and lost two fingers at the taking of Fort Montgomery. | October 6, 1777, | - Goshen, | - | This man continued to the end of the war. (5) |
| John Holdridge, | - Sergeant, 3d Massachusetts. | Violent contusion received by a fall from a precipice, in the night. | July, 1777, Kingsbury, | Hillsdale, | - | Appears a sergeant in the 3d regiment, and promoted an ensign. Has received commutation. (1) |
| John G. Helmer, | - Private and corporal, | Bruises and debility received and contracted in the service. | - - - | - Palatine, | - No disability. | Enlisted Oct. 25, 1776; continued to the end of the war. (6) |
| Samuel Hull, | - Corporal, Col. J. Clinton's. | Wounded by a musket ball in the breast in an action in Canada. | 1776, St. Pierre, | - Poughkeepsie, | - No disability. | There are no musters of this regiment in this office. (7) |
| Peter Hogaboom, | - Private, Col. Harker's. | Had his leg hurt by a fall from a rock while on a scout in the woods. | June, 1780, | - Mohawk town, | - | There are no militia rolls in this office. (1) |
| Thomas Hill, | - Private, Colonel Livingston's. | Wounded in the breast by a musket ball at Behmus's Heights. | Sept. 19, 1777, Behmus's Heights. | Rensselaerville, | - | Enlisted Jan'y 1, 1777; continued to January, 1782. (1) |
| Frederick Hills, | - Private, 1st New York. | Disease contracted in the service, | - - - | - Herkimer county, | - | Enlisted March 29, 1777. (8) |
| Joseph Hager, | - Private, Col. Vrooman's. | Wounded in an action with the Indians by a musket ball. | Nov. 10, 1781, head of the Delaware. | - Schoharie, | - | There are no militia rolls in this office. (1) |
| Robert Johnson, | - Private, | Wounded at the capture of Fort Montgomery, | October 6, 1777, | - New Windsor, | - | The same remark applies as above. (4) |
| Henry Lewis, | - Ensign, Col. Vischer's. | Wounded in the shoulder in an action with the Indians, | Aug. 6, 1777, Oriskie, | Mohawk town, | - | The same remark applies as above. (1) |
| John Little, | - Captain, Col. Fisher's. | Wounded in the shoulder in an action with the enemy, under Major Ross. | Johnstown, | - Johnstown, | - | No disability. The same remark applies as above. (9.) |
| William Martin, | - Private, | Wounded in an engagement with the enemy in his neck, | June, 1781, near Kingsbridge. | Newburgh, | - | The same remark applies as above. (1.) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence complete. (2) Evidence incomplete, viz: The evidences are wanting to prove this claim, except the reason why he did not apply before. (3) Evidence incomplete, viz: Disability from known wounds not proved. (4) Evidence incomplete, viz: 1st. No examination of physicians. 2d. No evidence of his leaving the service. (5) Evidence incomplete, viz: 1st. No evidence of his quitting the service. 2d. No examination of surgeons. (6) Evidence incomplete, viz: Only one evidence to prove disability, and that very dubious. (7) Evidence incomplete, viz: 1st. No affidavits of his situation after. 2d. No evidence of his leaving the service. 3d. The affidavits of freeholders are wanting to prove his continued disability. (8) Evidence incomplete, viz: 1st. Disability from known wounds not proved. 2d. No evidence of physicians. 3d. His continued disability not sufficiently authenticated. (9) Evidence incomplete, viz: 1st. Disability from known wounds not properly proved. 2d. No authentic proof of his being in service, and in the actual line of his duty. 3d. No examination by surgeons. 4th. No testimony of freeholders, or of the continuance of disability.

LIST OF CERTIFICATES FOR NEW YORK—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------|---------------------------------------|--|----------------------------------|-----------------|---------------------------|--|
| George Mour, | Private, Col. Vischer's, | Wounded in both shoulders in an action with the Indians. | Aug. 7, 1777, Oriskie, | Mohawk town, | Full pension, | There are no militia rolls in this office. (1) |
| John Malone, | Private, Col. Willett's, | Had his feet frozen, and lost some of his toes, | February, 1783, | Connajorharrie, | - | This man appears on this regiment's rolls for 1783. (2) |
| Donald McDonald, | Private, Batteau's, | Wounded by a kick from a horse, in the service, | - | Albany, | - | There are no returns of Batteauxmen in this office. (3) |
| Francis Monty, | Lieutenant, Colonel J. Livingston's. | Wounded in his thigh by a musket ball in an action with the enemy. | 1778, Rhode Island, | Lake Champlain, | - | Commiss'd Nov. 25, 1775; deranged Jan. 1, 1781; receiv'd commutation, which is not returned. (1) |
| Amos Miner, | Orderly Sergeant, Col. C. Burrall's. | Wounded in his left arm by the accidental discharge of a musket of one of the men with whom he was ordered on particular duty. | Novem. 1776, Mount Independence. | Canaan, | - | There are no militia rolls in this office. (1) |
| John Miller, | Private, Colonel Hawthorn's. | Received several wounds in an action with the Indians at Minisink. | July, 1779, | Warwick, | - | The same remark applies as above. (4) |
| Simon Nicolls, | Private, Colonel Nicholson's. | Had his thigh broken by a baggage wagon going over him, on a march. | June, 1776, | Palatine, | - | Not injured so as to prevent him from laboring. The same remark applies as above. (5) |
| Gotlieb Nestle, | Private, Col. Vischer's, | Wounded in his eye by the oversetting of a baggage wagon on a march. | 1777, | Palatine, | - | No injury. The same remark applies as above. (6) |
| Henry W. Nellis, | Private, Col. J. Klock's, | Wounded in the breast by accident, whilst acting as fogleman in exercising. | 1776, | Palatine, | - | The same remark applies as above. (7) |
| James Philips, | Private, Col. J. Klock's, | Wounded in the leg in a battle with the Indians under General Herkimer. | Aug. 6, 1777, Oriskie, | Watervliet, | - | No injury. The same remark applies as above. (8) |
| James Slater, | Private, Col. Brown's, Massachusetts. | Wounded in the head and eye by a musket ball, which nearly deprives him of the use thereof, in an action with the Indians on the Mohawk. | October, 1780, | Canaan, | Half pension, | The same remark applies as above. (9) |
| Wm. Reynolds, | Private, volunteer, | Wounded at the taking of Fort Montgomery, and taken prisoner. | October 6, 1777, | New Cornwall, | - | The same remark applies as above. (4) |
| Henry Schafer, | Sergeant, Colonel Kooman's. | Wounded in the thigh by a musket ball at an engagement with the British Tories and Indians. | May 30, 1778, Cobuskill. | Cobuskill, | - | No injury. The same remark applies as above. (10) |
| Peter Schafer, | Private, Col. Kooman's, | Wounded in his left arm in an action with the Indians, Tories, and British. | May 30, 1778, Cobuskill. | Cobuskill, | - | No injury. The same remark applies as above. (11) |
| Johannes Schell, | Private, Col. Bellenger's, | Wounded in his left side in an action with the Indians, | Oriskie, | Herkimer, | - | No injury. The same remark applies as above. (11) |
| William Sloan, | Sergeant, Col. Herrick's, | Wounded in five places whilst in an ambuscade, | October, 1777, Skinesborough. | Westfield, | - | The same remark applies as above. (12) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence complete. (2) Evidence incomplete, viz: No proper evidence of this claim, except his reason why he did not apply before. (3) Evidence incomplete, viz: 1st. No examination by or of surgeons. 2d. No evidence of his leaving the service. 3d. The testimony of his continued disability not sufficient. (4) Evidence incomplete, viz: 1st. No examination of surgeons. 2d. No evidence of his leaving the service. (5) Evidence incomplete, viz: 1st. No evidence of freeholders. 2d. Disability from known wounds not proved. 3d. No evidence of his leaving the service. 4th. No testimony of the continuance of his disability. (6) Evidence incomplete, viz: 1st. The physicians prove his wound of no injury. 2d. No evidence of his leaving the service. 3d. No evidence of freeholders to prove continued disability. (7) Evidence incomplete, viz: The only evidence produced is the reason why he did not apply before. (8) Evidence incomplete, viz: 1st. Surgeons prove the wound trifling. 2d. No testimony of freeholders. 3d. No evidence of discharge. (9) Evidence incomplete, viz: No evidence of his leaving the service. (10) Evidence incomplete, viz: 1st. Disability from known wounds not sufficiently proved. 2d. The wound declared to be trifling by the surgeons. 3d. No Evidence of his leaving the service. 4th. There are no depositions of freeholders to prove his continued disability. (11) Evidence incomplete, viz: 1st. The physicians declare that this wound is not injurious. 2d. No proof of his leaving the service. 3d. The testimony of freeholders do not prove continuance of disability, but that he is able to labor. (12) Evidence complete except as to when he left the service.

LIST OF CERTIFICATES FOR NEW YORK—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|--|---|---|--------------------|---------------------------|---|
| Joab Stafford, | Captain, Col. Simmons's, | Wounded in his foot and nose in an action at Bennington. | August, 1777, Bennington. | Herkimer, | - | There are no militia rolls in this office. (1) |
| Findley Stewart, | Private, Batteaux's, | Wounded in the left shoulder, being fired upon by the enemy when landing. | Aug. 1777, Fort Stanwix. | Greenbush, | - | The same remark applies as above. (2) |
| John Stevens, | Private, Col. T. Clinton's. | Lost the sight of one eye during the siege of Quebec, | 1775, Quebec, | Ulster county, | - | No returns of this regiment for 1775. (3) |
| Joseph Sheldon, | - | Wounded in the leg at the battle of Connecticut farms, New Jersey. | Connecticut farms, | New Cornwall, | - | Enlisted May 30, 1777, for the war. (3) |
| James Steel, | Private, Col. Dubois's, | Wounded in the breast at the taking of Fort Montgomery. | October 6, 1777, Fort Montgomery. | Goshen, | - | Enlisted December 2, 1776, for the war. (3) |
| John Van Antwerp, | Private, Col. Vischer's, | Wounded in his left heel in an action with some Indians. | Aug. 7, 1777, Oriskie, | Mohawk town, | - | There are no militia rolls in this office. (4) |
| Peter Wolleber, | Sergeant, Major Cope- man's militia. | Wounded in the right thigh by a musket shot from a party of Indians. | July 18, 1781, Conna- jorharrie. | Palatine, | - | The same remark applies as above. (5) |
| Charles Bishop, | Private, General Her- kimer. | Wounded in the left arm by buck shot, but of no great consequence. | August, 1777, Oriskie, | Montgomery county, | - | The same remark applies as above. (6) |
| Amos Camp, | Private, Colonel Hale's New Hampshire. | Wounded in the left arm and belly by a musket ball, | Sep. 19, 1777, Behmus's Heights. | Columbia county, | - | Enlisted April 14, 1777; discharg- ed May 1, 1780. (7) |
| Henry Crawford, | Dragoon, Col. Sheldon's, | Wounded by a musket ball in the thigh in an action with the enemy. | November, 1777, Mile square. | Washington county, | - | Enlisted May 7, 1777; discharged November 15, 1780. (7) |
| James Dole, | Lieut., Col. Sheldon's, | Wounded in his hip by a gun shot, | August 17, 1780, King- street, New York. | Lansingburg, | - | Enlist. May 7, 1777; promo'd lieut. He has received the commutation, which is not returned. (7) |
| Hachaliah Foster, | Sergeant, Colonel Shep- herd's Massachusetts. | Wounded by a musket ball in his right hand which renders one finger useless. | Aug. 29, 1778, Rhode Island. | Saratoga, | - | Enlisted March 1, 1777. (7) |
| Allen Gilbert, | Private, Col. Sheldon's, | Wounded in divers places, viz: in the head, hand, and leg, but of no great consequence. | July 2, 1779, Pound- ridge. | Otsego county, | - | Enlisted April 1, 1778; continued to the end. (8) |
| John Hawgerdon, | Private, Col. Vrooman's, | Wounded by a musket ball in the left hip, but not much injured. | June 10, 1780, near Delaware. | Otsego county, | - | There are no militia rolls in this office. (9) |
| Elijah Janes, | Lieutenant, Col. Shel- don's. | Wounded by a horseman's sword on the right wrist, greatly hindering the use of it. | November 20, 1780, | Lansingburg, | - | Commissioned Novem'r 16, 1779; has received the commutation, which is not returned. (7) |
| Eman'l Waggerman, | Private, Colonel Ganse- voort's. | Wounded through his left hip by the accidental dis- charge of a musket. | July, 1777, Mohawk river. | Montgomery county, | - | Enlisted April 18, 1777; continued to the end. (10) |
| John Whileber, | Private, Col. Morgan's, | Wounded in the right thigh by a musket ball, but of little consequence. | October 7, 1777, Beh- mus's Heights. | Otsego, | - | Not on the rolls of New York or Virginia. (11) |
| Ely Gladhill, | Private, 2d New Jersey, | Wounded through the left leg while in an engagement with the British. | Dec. 31, 1775, Quebec, | New York, | - | There are no rolls in this office for 1775. (7) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence incomplete, viz: No evidence when he left the service. (2) Evidence incomplete, viz: 1st. No evidence when he left the service. 2d. No deposition of freeholders to prove a continuance of disability after he left the service. (3) No evidence whatever. (4) Evidence incomplete, viz: 1st. Physicians declare that his wound is not injurious. 2d. Disability not proved to be the effect of known wounds. 3d. No proof when he left the service. 4th. No proof of a continuance of disability. (5) Evidence incomplete, viz: 1st. Physicians declare that his wound is not injurious. 2d. No proof when he left the service. 3d. No evidence of freeholders to prove a continuance of disability after he left the service. (6) Evidence incomplete, viz: By the physicians' certificate this wound is of no consequence. (7) Evidence complete. (8) Evidence complete except as to physicians' certificate, which certifies that he has lost the use of one finger; the other wounds of no consequence. (9) Evidence incomplete, viz: 1st. As to a continuance of disability for two years after he left the service. 2d. Physicians are of opinion the wounds are of little consequence. (10) Evidence incomplete, viz: 1st. Physicians certify the wound is of very little consequence. 2d. As to a continuance of his disability for two years after he left the service. (11) Evidence complete. Physicians certify the wound is of very little consequence.

List of the certificates transmitted by the District Judge for the District of New Jersey, of invalid pensioners examined by him.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------|--|---|---|----------------------------------|---------------------------|---|
| Isaac Bennet, | Sergeant, 2d bat. New Jersey militia. | Wounded in a skirmish with the enemy by a musket ball, which lodged in his right arm just above the elbow, while he was on actual service with a detachment ordered to remove a boat from Rahway to Elizabethtown. | September 30, 1777, Rahway creek. | Somerset county, - | Half, | There are no militia rolls in this office.(1.) |
| John Cooper, | Private, Col. E. Martin's regiment. | Wounded in the head and in the thigh, in the county of Westchester, in the State of New York, in an action with the British army; of which wounds he lay some time in camp very ill. | October, 1776, Westchester county, N. York. | Morris county, - | - | Enlisted January 28, 1777; time in service unknown.(2.) |
| Thomas Carhart, | Corporal, Capt. T. Patterson's comp'y of N. Jersey line, 3d reg't. | Wounded by a ball in the knee, in a skirmish with the enemy at Elizabethtown Point, while in the line of his duty; that the said Carhart was taken prisoner at the same time, and continued so about three months. | July 21, 1778, Elizabethtown Point. | Flemington, county of Hunterdon. | - | Enlisted January 13, 1777; prisoner Aug. 23, 1778; discharged June 1, 1779.(1.) |
| Elijah Knapp, | Sergeant, Lieut. Col. Gimet's regiment. | Wounded by a ball which passed through his right thigh, and was in consequence of said wound taken prisoner by the enemy, and continued in their hands for some months; after which he joined the company again as an invalid. | July, °1781, James-town. | Bernard's town, c'y of Somerset. | - | There are no militia rolls in this office.(1.) |
| John McComb, | Private, 2d New Jersey regiment. | Lost the sight of the right eye by the smallpox, which he caught in the natural way in the summer of 1777, when down on the lines near the place called the Short Hills; was removed to the hospital in Mendham; that he was transferred to the corps of invalids, where he continued to serve as an invalid until July, 1783, when he was discharged the service by General Lincoln. | 1777, Short Hills, | Bernard's town, - | - | Enlisted December 15, 1776; discharged in October, 1777.(3.) |
| Joel Phelps, | Private, Capt. S. Hardy's company. | Wounded in the body doing duty at Wyoming, in Fort Jenkins; that, being ordered out on a scout under the command of a sergeant, when they returned the said Joel Phelps received the aforesaid wound, of which he lay confined eighteen days at Wyoming. | June 16, 1778, Fort Jenkins. | Hanover, Morris county. | Half, | Not to be found on the rolls.(2.) |
| Powles Hopseker, | Private, | When on an expedition at Staten Island, in the year 1782, his feet and legs were frosted; and that some short time after, when under military orders at the White Plains, and in actual service, his feet and legs were again injured by the frost, and ever since that time he has suffered much from the effects. | 1782, Staten Island, | Somerset county, - | Full, | Not to be found on the rolls of the New Jersey line; supposed to have been a militia man.(1.) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1.) Evidence complete.

(2.) Evidence imperfect. No evidence whatever of his leaving the service.

(3.) Evidence complete, provided this be considered as a wound received.

LIST OF CERTIFICATES FOR NEW JERSEY—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|----------------|--|--|------------------------------|----------------|---------------------------|--|
| Daniel Barhyt, | Private, Capt. Morrell's company of 5 months' men. | Disabled when in the service of the U. States, owing to his being taken prisoner at the battle of L. Island and thrown into a prison ship, where he continued some time, and from thence was conveyed to New York and put into a church with a number of other prisoners, and was so ill treated that he was taken with a severe fit of sickness which continued for some months, which terminated in an ulcerated leg, and disables him from getting a living by his trade, which is that of a shoemaker. | 1776, New York, | Elizabethtown, | Full, | No rolls of the Jersey line in this office for 1776.(1.) |
| William Crane, | Lieutenant, 4th N. York regiment. | Disabled when in the service of the United States, owing to a wound he received in his left leg by the bursting of a shell at the siege of St. John's, in Canada. | 1775, St. John's, in Canada. | Elizabethtown, | Full, | No rolls in this office for 1775. (2.) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 17, 1794.*

JOSEPH HOWELL, *Accountant.*

Remarks on the evidence transmitted by the Judge of the District Court.

(1.) No evidence of known wounds received while in service.

(2.) Evidence incomplete; decisive disability not being proved.

List of certificates transmitted by the Judge of the District Court for the District of Pennsylvania, of invalid pensioners examined by him.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|---|--|-------------------------|---------------------------|---|
| John Browne, | - 1st Lieutenant, marines, | Wounded in his hip and the small of his back by a large chest giving way out of the wardroom. | May 28, 1777, frigate called the Boston. | County of Philadelphia. | Half, | (1.) |
| William Dunton, | - Sailingmaster, marines, | Wounded in the left arm in an action between the Hyder Ally and the British ship of war the Monk. | April 8, 1782, Hyder Ally. | County of Philadelphia. | Half, | (2.) |
| Daniel Forbes, | - Sergeant, 4th Pennsylvania regiment of artillery. | Hurt by the oversetting of a six pound cannon, a field piece, whilst in the service, by which means he had his left arm broke, and his head much bruised by the accident. | May 18, 1780, Short Hills, New Jersey. | County of Philadelphia. | Half, | - Corporal, August 31, 1777, promoted sergeant 1st of March, 1778.(3.) |
| William Hebron, | - Sergeant, 3d New York regiment. | Hurt by a branch of a crooked tree, on the brink of Hudson river, on his passage from West Point to Dobb's ferry in the State of New York; which branch struck the eye of said Hebron, after which he lost the sight thereof and became blind. | Hudson's river, | County of Philadelphia. | Full, | - Enlisted May 10, 1777; continued to the end of the war.(4.) |
| Oswald Kesselbach, | Private, Pelaski's legion. | Wounded in action with a part of the British troops in the year 1778, with three bayonet wounds in his private parts, and five in his back; that he was then put into the military hospital at Trenton, and afterwards discharged by his commanding officer as unfit for duty; that he then entered into the corps of artillery artificers of Pennsylvania, in which he served four years two months and seven days, and until the end of the war, and was discharged by Brigadier General R. Hampton on the 31st day of October, 1783. | 1778, Little Egg Harbor. | County of Philadelphia. | Half, | - Discharged March 15, 1779.(3.) |
| Robert Moscat, | - Rough rider, 1st troop of Philadelphia Lt. horse. | Wounded by a fall from his horse; the horse fell upon him, and afterwards kicked him in such a manner as to disable him from doing any business of a laborious kind. | Jan'y 13, 1777, Morristown. | County of Philadelphia. | Half, | - There are no militia returns in this office.(5.) |
| Charles McClane, | - Private, 3d Pennsylvania regiment. | Wounded in his left leg and thigh at the battle of Stony Point, by two musket balls. | July 16, 1779, Stony Point. | County of Chester, | Half, | - Enlisted February 17, 1777, for the war.(3.) |
| Michael Ornor, | - Private, 9th Pennsylvania regiment. | Wounded in the service of the United States, in the actual line of his duty, being on the bullock guard, the day previous to the Augusta, an armed ship of war in the service of Great Britain, was blown up in the river Delaware; he made a slip with his foot by which he fell, and one of the wagons in the service of the United States went over him, by which his hip was put out of its place, and was otherwise much injured. | - | County of Philadelphia. | Fourth, | - Enlisted July 11, 1777; mustered unfit for service, March, 1778. (6.) |

Remarks on the evidence transmitted by the Judge of the District Court.

- (1.) Complete, except as to disability from known wounds and time when he left the service. (2.) Incomplete; no proof when he left the service. No pension stipulated to persons of this description.
 (3.) Complete. (4.) Incomplete; no evidence to prove disability from known wounds, nor where he has resided since he left the service, as required by law.
 (5.) Incomplete; no proof when he left the service, as he did not belong to any regular troops. (6.) Incomplete; no proof when he left the service.

LIST OF CERTIFICATES FOR PENNSYLVANIA—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------------|---|--|--|-------------------------------------|---------------------------|---|
| George Robinson, | Sergeant, Congress regiment. | Wounded by an accidental fall in endeavoring to assist a sick soldier; which fall dislocated his left shoulder, and which from that time has not been reduced; that, some time in the latter part of the year 1777, he was discharged as unfit for duty; and that since his discharge he has had no established place of residence in any city, town, or country, but wandered about the country begging charity for his support, being unable to follow any labor or employment whatever. | March, 1778, barracks at Lancaster. | - - | Full, - | Enlisted in January, 1777; discharged June 15, 1777.(1.) |
| Griffith Rees, | Private, Capt. Brooke's detachment of Pennsylvania militia. | Wounded in the body and on the head, in the month of October or November, 1777, in Chester county, near Darby; being attacked by the British, said Rees was left on the field supposed to be dead. | October or November, 1777, Chester county. | Upper Merion, county of Montgomery. | Half, - | There are no militia returns in this office.(2.) |
| John Stiller, | Private, Capt. Nathaniel Irish's company of artificers. | While in the line of his duty he received a wound, by which means he lost two of the fingers of his left hand; which wound rendered him incapable of being a soldier, or acting any longer as an artificer. | March, 1780, | County of Philadelphia. | One-third, - | Enlisted August 19, 1778; appears to have left service in September, 1780.(3.) |
| Adam Sybert, alias Syfat. | Private, Congress regiment. | Wounded in both his legs by two musket balls, at the storming of one of Cornwallis's redoubts in Virginia, just before his capture. | Virginia, | County of Philadelphia. | - | This man is mustered in Hazen's regiment, but date of enlistment not known.(3.) |
| Charles McCormick, | Private, 2d Pennsylvania regiment. | Wounded in his left leg by a musket ball, while in the actual line of his duty, in an engagement at Germantown with the British army; he has had no established place of residence in any city, town, or county, but wandered about the country, having been employed as an express rider, &c. | October 4, 1777, Germantown. | - - | Full, - | This man is mustered discharged January, 1778.(4.) |
| Robert McGee, | Lieutenant, Rifle battalion of militia of Philadelphia. | Wounded in the neck and right shoulder, while in the actual line of his duty, in an engagement with a detachment of the British army, at Millstone, in New Jersey. | January 20, 1777, Millstone. | County of Philadelphia. | Three-fourths, | There are no militia returns in this office.(5.) |
| Henry Weiss, | Private, 2d Pennsylvania regiment. | Wounded in the right hand, and in one of his ribs, by a buck shot and bayonet; is also incapable of doing any labor, having a rupture which he received whilst in the service of the United States; the said Henry Weiss was also materially injured by a log falling on him, while assisting to throw up a work to prevent an attack from the British army at White Marsh. | October, 1777, Germantown. | County of Berks, - | Three-fourths, | This man is mustered in this regiment enlisted for the war.(6.) |

Remarks on the evidence transmitted by the Judge of the District Court.

- (1.) Incomplete; no evidence produced but a certificate from the physicians. (2.) Incomplete as to the time of leaving the service, as he did not belong to the regular troops. (3.) Complete.
 (4.) Complete, excepting as to the place of his residence, as required by law. (5.) Complete, except as to the time of his leaving the service, as he did not belong to the regular troops.
 (6.) Incomplete as to two witnesses to prove the continuance of his disability to the time of his making application.

LIST OF CERTIFICATES FOR PENNSYLVANIA—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------|--|--|---|---------------------------|---------------------------|--|
| Andrew Allen, | Private, marines, | Afflicted with a rupture which he received at the fort of New Providence, and while in the actual line of his duty in the service of the United States, in dragging of a large cannon on the ground through the sallyport; said cannon, by a short turn, rolled over, and the drag-rope, taking him by the belly, so much hurt him that it has occasioned the said rupture. | November, 1775, ship called the Columbus. | County of Berks, | Half.(1.) | |
| John Kesler, | Midshipman, marines, | Deprived of the use of the middle finger of the left hand, in the actual line of his duty in the service of the United States. | 1781, frigate called Alliance. | Philadelphia, | One-third.(2.) | |
| James Pickering, | 1st lieutenant, 5th company, 3d battalion, of the militia, Philadelphia. | Wounded in the head and in the left shoulder; that his head was fractured in two places, which occasioned three pieces to be taken out; the shoulder was in that situation, that the joint was severely wounded and laid open; he being debilitated by much bleeding, was taken prisoner, put on horse, supported, and so conducted to the city of Philadelphia by the British when they took possession of said city. | April 17, 1778, Bristol, county of Bucks. | County of Philadelphia. | Half, | There are no militia rolls in this office.(3.) |
| Barney Murphy, | Private, 9th & 5th Pennsylvania regiment. | Received a wound at the battle of Monmouth, on the elbow of his right arm, from the splinter of the carriage of a piece of artillery; that the said wound disqualifies him in a great degree from labor, particularly that kind of labor which requires the raising of the arm, such as chopping, threshing, &c. | June 28, 1778, battle of Monmouth. | County of Dauphin, | Half, | Enlisted April 8, 1778; time of discharge unknown.(4.) |
| Lawrence Hipple, | Private, 4th battalion of Pennsylvania militia. | Wounded by a musket shot which passed through his body, in the fall of 1777, in an engagement with a party of the British troops near the town of Derby, in Chester county. | 1777, Derby, Chester county. | Pikeland, Chester county. | Half, | There are no militia rolls in this office.(5.) |
| John Niblach, | Private, 1st Jersey regiment. | Wounded in the head in an action with the enemy at Rye, in the State of New York; by means of which wound he has lost the sight of an eye, and part of the skull bone, which has so far injured him as to prevent his supporting himself and family by manual labor. | October 20, 1776, Rye, State of New York. | Northumberland county. | Full, | This man does not appear on the rolls from January, 1777; there are no rolls for 1776.(3.) |
| Henry Tillien, | Private, Capt. O'Hara's independent company, | Wounded by a musket or rifle ball, which, passing through the joint of the right arm, produced a contusion which rendered the same stiff. | - - - | - - - | Dead, | No returns of this company in this office.(6.) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1.) Incomplete as to witnesses to prove the continuance of his disability, and his place of residence since he left the service. (2.) Incomplete as to his place of residence, as required by law, by means of his following the sea for several years after he left the service. (3.) Complete. (4.) Incomplete as to his place of residence since he left the service. (5.) Incomplete as to the time of his leaving the service, as he did not belong to any regular troops; but the usual tour of duty was two months. (6.) Incomplete, as he cannot produce any evidence as to his place of residence since he left the service, nor the time when he left the service.

LIST OF CERTIFICATES FOR PENNSYLVANIA—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|----------------------------|---|--|---|-------------------------------------|---------------------------|--|
| 14 7 Samuel Lindsay, | Lieutenant, Colonel T. Bull's battalion of flying camp. | Wounded in the head with the stroke of the butt end of a musket, when the British army attacked and captured Fort Washington, in the State of N. York; by which means he has lost his left eye, the effect of which has also nearly deprived him of the sight of the other eye; that, also, at the same time, he was wounded by the enemy in his right leg by a musket ball, in the actual line of his duty in the service of the United States. | Nov. 16, 1776, Fort Washington, New York State. | Nether Providence, Delaware county. | Three-fourths, | This officer was in the flying camp, and a prisoner.(1.) |
| Joachim J. Brandt, | Marine, Ship Columbus, | At the taking of New Providence, in moving a cannon, was struck by an iron bar and wounded in the lower part of the belly, which brought on a rupture, of which he has become an invalid. | March, 1776, New Providence. | Philadelphia, | Full.(2.) | |
| Thomas Park, | Corporal, Col. Wyll's, | Wounded by a ball which entered the groin, and passed through the left hip or buttock, by a party of Indians, against whom the militia to which he belonged were ordered to scout. | March 29, 1780, Huntingdon. | Luzerne county, | Half, | Enlisted January 15, 1777, for 3 years; discharged January 15, 1780.(3.) |
| John McChesney, | Private, Hendrick's rifle company. | Received a wound in his left leg at the storming of Quebec. | Dec. 31, 1775, Quebec, | - | - | There are no rolls in this office for 1775.(4.) |
| Philip Lauer, | Sergeant, Proctor's artillery. | At the battle of Brandywine was wounded in his head by a musket ball; which ball still remains in his head. | Sept. 11, 1777, Shadford. | Philadelphia, | One-fourth, | Enlisted for the war.(5.) |
| Thomas McFall, | Private, 5th regiment, | At the capture of Fort Washington was wounded in the left leg by a musket ball, and taken prisoner, and after eighteen weeks' captivity was dismissed on parole; his wound yet remains open, and deprives him of support by labor. | Fort Washington, | - | Half, | Not to be found on the rolls.(6.) |
| Jacob Fox, | Private, flying camp, | Was wounded at or near Cuckold's town, New Jersey, in the right hand, the ball still remaining therein, which disables him from following his trade of a weaver. | Cuckold's town, | - | One-third, | There are no militia rolls in this office.(7.) |
| Abraham Pyke, | Private, Hewitt's infantry. | Wounded in an engagement with the Indians through his right thigh, which renders him a cripple. | July 3, 1778, Wyoming, | Luzerne, | One-third, | The above remark applies here.(8.) |
| James Cooney, | Private, Capt. Twine's, | Wounded at the battle of Brandywine in the leg, which renders him incapable of laboring, the only means he has to get a living. | Sept. 11, 1777, Brandywine. | Middleton, | Full, | Enlisted in Nov. 1776, for the war; deserted Dec. 8, 1777.(9.) |
| Jacob Shartel, | Captain, Col. Hartley's, | Wounded by a party of Indians, while on actual duty, by a musket ball, which passed through his right ear; which wound occasions a dizziness, and renders him incapable of following his business. | 1778, Muncy creek, | Berks, | - | Not to be found on the rolls.(9.) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1.) Evidence incomplete as to the time of his leaving the service; but the time for which these troops were enlisted was four or five months. (2.) Evidence incomplete as to the time of leaving the service; also as to his place of residence since he left the service, by means of his going to Europe in the year 1780, and did not return until 1791. (3.) Evidence incomplete as to his place of residence since he left the service, as required by law. (4.) Evidence incomplete as to the time of the service; also as to his place of residence, and in what degree disabled from obtaining a livelihood. (5.) Evidence incomplete as to the time of leaving the service; but by the evidence of the captain who commanded the company, he was discharged on account of said wound. (6.) Evidence incomplete as to the place of his residence since he left the service, as required by law. (7.) Evidence incomplete as to the time of leaving the service, but the usual tour of duty was six months; also as to his place of residence since he left the service, as required by law. (8.) Evidence incomplete as to his place of residence, as required by law. (9.) Evidence incomplete as to his place of residence since he left the service, as required by law; also to what pension entitled.

LIST OF CERTIFICATES FOR PENNSYLVANIA—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled: | Remarks. |
|-------------------|---|--|---|-----------------|---------------------------|---|
| John Kerner, | - Private, Colonel Thompson's. | Wounded near Bunker's Hill, in the State of Massachusetts, while in the service of the United States; in consequence of which he lost two of his fingers. | 1775, Bunker's Hill, | - - - | - | There are no rolls in this office for 1775.(1.) |
| Caspar Kuhl, | - Private, Colonel Cook's, | Rendered incapable of following his trade as a tailor, owing to an injury he received in his hand while in the service of the United States. | - - - | Berks county, | - | There are no militia rolls in this office.(2.) |
| Adam Koch | - Private, 9th Pennsylvania regiment. | Wounded at the battle of Brandywine by a musket ball, in the face, which injured his hearing; likewise, when in actual service at West Point, was severely bruised by a log of wood, which rolled over his breast. | 1777, Brandywine, | Berks county, | - | Enlisted May 18, 1777, for the war.(3.) |
| Daniel Callahan, | - Private, 1st Pennsylvania regiment. | Wounded in the right arm, near the shoulder, by a musket ball, which so disabled him as to render him incapable of getting a living. | Green Springs, Virginia. | Northumberland, | - | Enlisted July 1, '76, for two years; discharged May 16, 1778.(4.) |
| Joseph Burrows, | - Private, Colonel Cook's, 12th regiment. | Wounded by a musket ball in the elbow joint; on which account he was discharged at Valley Forge as being unfit for service. | Short Hills, in Jersey, | - - - | - | Enlisted November 1, 1776, for the war; joined invalids in January, 1778.(5.) |
| Nathaniel Cook, | - Sergeant, Colonel Bradley's. | Wounded by a musket or rifle ball through the back part of the arm, near the shoulder, wounding the muscles, and entering his side, which has produced a disability so as to render him incapable of performing more than five-sixths of the labor he otherwise could have done. | August, Chemung, | Luzerne, | - One-sixth, | Enlisted January 1, 1777; disch'd January 11, 1780.(5.) |
| John Cary, | - Private, Captain Spalding's. | Wounded in the right arm by a musket ball, which fractured the bone; and that he is not able to perform more than three-fourths the labor he otherwise could have done, had he not met with this misfortune. | 1778, when on command down the Susquehanna, from Wyoming. | Luzerne, | - One-fourth, | Time of enlistment of this man is unknown; he was in service in 1781.(5.) There is one of the name of John Graaf in this; but there is a John Grove in this reg't, who enlisted April 27, '77, and was transfer'd to the invalids in Aug. '78.(5.) |
| John Graaf, | - Private, Colonel Hampton's. | Wounded in the left leg with a musket ball, which disables him very much; and that he received said wound while in the service of the United States. | Sept. 17, 1777, Brandywine. | Bucks county, | - One-fourth, | |
| Jonathan Burwell, | - Private, Captain Robinson's company Pennsylvania rangers. | Wounded by a musket ball, which passed through his right arm, near the shoulder, coming out through the shoulder blade, then passing on the left elbow, fracturing the ends of the bones, and disables him one-half from getting a livelihood. | April 16, 1782, Bald Eagle. | Luzerne, | - One-half, | There are no militia rolls in this office.(5.) |
| John Wright, | - Sergeant, Colonel Lee's dragoons. | Wounded in the knee, when in a skirmish with the enemy, which disables him so much that he is not able to perform more than one-half the labor he otherwise could have done. | - - - | Mifflin county, | - One-half, | Enlisted April 7, 1778, for the war.(6.) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1.) Evidence incomplete, 1st, as to his place of residence since he left the service; 2d, as to the time of his leaving the service; 3d, as to what pension entitled. (2.) Evidence incomplete; 1st, as to the nature of his disability; 2d, as to the place of his residence since he left the service; 3d, as to the time of his leaving the service. (3.) Evidence incomplete; 1st, as to his place of residence since he left the service, as required by law; 2d, as to the nature of his disability; 3d, as to the time he left the service. (4.) Evidence incomplete as to his place of residence since he left the service, as required by law. (5.) Evidence complete. (6.) Evidence incomplete, 1st, as to the time and place where he received the said wound, as required by law; 2d, as to the time of his leaving the service.

LIST OF CERTIFICATES FOR PENNSYLVANIA—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|---|--------------------------------------|-----------------------|---------------------------|---|
| David Hickey, | Private, Col. Hartley's, | Wounded in the head, collar, arm, and throat, which renders him totally unable to obtain a livelihood by labor. | October, 1777, Paoli, | - - - | Full, - | Mustered in Sept. 1777; wounded September 21, 1777.(1.) |
| Thaddeus Williams, | Private, Col. Butler's, - | Wounded by a musket ball, which passed through the armpit, and in a great measure deprives him of the use of his arm. | March 23, 1779, Wyoming. | Luzerne, | - One-fourth, - | Not on the rolls in this office.(2.) |
| Thomas Johnson, | - 2d lieutenant, Col. Cunningham's flying camp. | Wounded by a musket ball in the thigh, which disables him as much as one-fourth from obtaining a livelihood by labor. | August, 1776, Flatbush, Long Island. | Managhan, | - One-fourth, - | There are no militia rolls in this office.(3.) |
| Samuel Makins, | - Mate, ship Queen of France. | Wounded when taking an anchor from the wharf to carry on board said ship, by means of his leg being caught between the anchor and wharf; which fractured the bone, and was very near depriving him of the use of that leg. | October 9, '79, Boston, | Philadelphia, | - One-fourth, - | (4.) |
| William Love, | - Quartermaster-sergeant, 3d Jersey regiment | Received a rupture at the battle of Monmouth, while in the actual line of his duty. | Monmouth, | - - - | - | Enlisted March 22, 1777; discharged June 3, 1779.(5.) |
| John Cavanaugh, | - Private, 7th Pennsylvania regiment. | Wounded by a musket ball in the shoulder, while in the service of the United States. | Sept. 11, 1777, Brandywine. | Managhan, | - One-third, - | In hospital, October, 1777.(4.) |
| David Alshouse, | - Private, 2d Pennsylvania regiment. | Disabled by a fall, when in the service of the United States; which fall was from one of the ramparts at West Point, and disables him in a great degree from getting a living by labor, which is his only means of support. | 1780, West Point, | - Northampton county. | - One-third, - | Enlisted for the war.(4.) |
| Elias Utt, | - Private, Hewitt's rangers. | Wounded in his right breast by a musket ball, which came out under his shoulder blade, in an action with the savages. | October, 1778, Wyalusing hills, | Northampton county. | - | No rolls in this office for Hewitt's rangers.(4.) |
| Robert McCullough, | Private, - - | Wounded in an action with the savages in his left arm, at Shamungo, in the Western Territory; also wounded in the left leg at the battle of Germantown. | Shamungo and Germantown. | York county, | - One-third, - | Does not appear on the Pennsylvania musters.(4.) |
| John Holloway, | - Private, 9th Pennsylvania regiment. | Wounded in the eye by a stake which projected into the road, whilst on a march in the night to camp; of the use of which, together with the other eye, he is nearly deprived. | June, 1777, | - Sunbury, | - - | Enlisted April 13, 1777; discharged August 3, 1777.(6.) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 17, 27, and April 3, 7, 1794.*

JOSEPH HOWELL, *Accountant.*

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence incomplete, 1st, as to his place of residence since he left the service, as required by law; 2d, no reasons given why he did not apply on or before December 11, 1788. (2.) Evidence incomplete as to his place of residence since 1790. (3.) Evidence incomplete, 1st, as to the time of his leaving the service. (4.) Evidence complete. (5.) Evidence incomplete from disability of known wounds whilst in the service; 2d, as to his place of residence for the first two years after he left the service. (6.) Evidence incomplete, disability not being proved to have arisen from known wounds.

List of certificates transmitted by the Judge of the District Court for the District of Maryland, of Invalid Pension applicants, examined by him.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-----------------|------------------------------|---|------------------------------|-----------------------------------|---------------------------|---|
| John Bean, | - - - - - | Disabled in his left arm, by a wound received in the service. | 1780, Camden, | - - - - - | - | Enlisted Jan'y 9, 1779, and mustered; deserted Jan. 13, 1782. (1) |
| Simon Fogler, | Private, German regim't, | Severely wounded by a cannon ball, or grape shot, in his hip, which impedes him in his walking. | 1777, Germantown, | - - - - - | - | Mustered; wounded November, 1777; discharged April, 1778. (1) |
| Henry Tomm, | Private, German regim't, | Wounded in his right arm at the battle of Germantown. | 1777, Germantown, | - - - - - | - | Mustered; wounded in August, 1777; invalided March, 1779. (1) |
| Richard Harden, | Sergeant, 10th Pennsylvania. | Wounded by a shot in the left arm, which renders him incapable of hard labor, at the battle of Germantown, | 1777, Germantown, | - - - - - | - | Mustered; wounded in October, 1777. (1) |
| John Jonas, | Private, | Wounded in an action with a party of British troops, near Woodbridge, in New Jersey, in four places, by which he is greatly disabled. | September, 1782, New Jersey. | Allegany county, in Pennsylvania. | - | Not to be found on the musters of Maryland. (1) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 12, 1794.*

JOSEPH HOWELL, *Accountant.*

Remarks on the evidence transmitted by the Judge of the District Court.—(1) Evidence complete.

List of certificates transmitted by the Judge of the District Court for the District of Virginia, of invalid pensioners examined by him.

| Names. | Rank, regiment, or company. | Disability. | When & where disabled. | Residence. | To what pension entitled. | | Remarks. |
|--------------------|---|--|--------------------------------------|-------------------|---------------------------|-------------|--|
| | | | | | Monthly allowance. | Arrearages. | |
| Thomas Toms, | Private, Captain George Maxwell's company of militia. | Severely wounded on the head, being scalped on the left temple with a stroke from a hatchet, which does much injury to that eye; is also disabled in two fingers on the left hand, and wounded in the right hip and his neck; all which he received in the service of the United States, against Major Ferguson, on King's mountain. | 1780, King's mountain, | Albemarle county. | - | - | There are no militia rolls in this office.(1) |
| Benjamin Kendrick, | Private, Capt. Gilliem's company, 10th Virginia regiment. | Wounded in the left hip, which now appears not to be injurious; but that he labors under a large and very ill-looking open ulcer in the left groin, which he says was produced by a musket ball, and that the ball has never yet been extracted. | Brandywine, | - | - | - | Enlisted January 17, 1777, for three years.(2) |
| Jacob Johnson, | Private, Captain Smallwood's company. | Wounded in the head at the Waxsaws, so as to render him incapable of getting a livelihood. | Waxsaws, | - | \$4 16 $\frac{3}{4}$ | \$300 00 | There are no musters of the Virginia line for 1781.(1) |
| John Alverson, | Private, Capt. Smith's company, 11th Virginia regiment. | Wounded in the left hand, at the battle of Brandywine; had two of his fingers shot off; likewise wounded in the right thigh by a musket ball. | Brandywine, | - | 3 33 $\frac{1}{3}$ | 200 00 | This man does not appear on the musters of this regiment.(1) |
| Pittman Wiatt, | Corporal, Col. Campbell's regiment. | Wounded at the battle of Camden, in South Carolina, by a ball which passed across the loins. | April, 1781, Camden, South Carolina. | - | 3 33 $\frac{1}{3}$ | 200 00 | There are no militia rolls in this office.(1) |
| Robert Hart, | Drum-major, Col. Harrison's artillery. | Lost the sight of his left eye, while in the service of the United States, occasioned by a cartridge taking fire. | - | - | 4 16 $\frac{3}{4}$ | 200 00 | This man continued to the end of the war.(1) |
| Patrick Dogherty, | Private, Capt. Minis's company, 1st Virginia regiment. | Wounded in the neck, by a musket ball passing through, at the siege of Charleston. | Siege of Charleston, | - | 3 33 $\frac{1}{3}$ | 150 00 | Not to be found on the rolls.(1) |
| Peter Howard | Private, 3d Virginia regiment. | Wounded in several places, while in the service of the United States, at the defeat of Col. Abraham Buford. | May 29, 1780, South Carolina. | - | - | - | Peter Howard mustered in May, 1779; enlisted for the war.(1) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 15, 1794.*

JOSEPH HOWELL, *Accountant.*

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence perfect. (2) Evidence imperfect, viz: 1st, No evidence of his leaving the service, or of his situation for two years after. 2d, No evidence why he did not apply before.

List of certificates transmitted by the Judges of the District Courts for the Districts of Kentucky, North Carolina, and South Carolina, of Invalid Pensioners, examined by them.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|---|--|-----------------------------------|-----------------------------|---------------------------|---|
| Bryant Sloan, | Private, 8th Virginia regiment. | Wounded by a ball in his left hand in an action with the enemy. | June 28, 1776, Sullivan's Island. | - - - | - | Enlisted January 31, 1776, for two years; not on the rolls in November, 1777. (1) |
| Joseph Singletary, | Lieutenant, N. Carolina militia. | Wounded in the left arm by the accidental discharge of a musket while in the actual line of his duty, in the service of the United States; that for near two years he continued languishing under the wound, and that by the effects of it, and from no other cause, the arm is withered, the joint of the elbow crooked and stiff, and the fingers of the left hand contracted. | 1776, Wilmington, | County of Bladen, | Full pension, | There are no militia rolls in this office. (2) |
| John Benton, | Private, | Wounded in the battle which was fought at the Eutaw Springs, in the State of South Carolina, in the year 1781; at the time he received the wound he was in the actual line of his duty, in the service of the United States. | 1781, Eutaw Springs, | County of Wake, | - | Enlisted in 1781; discharged February 17, 1782. (2) |
| William Moore, | Private, 3d. battalion of North Carolina. | Wounded in the articulation of the knee, while in the actual line of his duty, at the action of the Eutaw Springs, State of South Carolina. | Sept. 8, 1781, Eutaw Springs. | County of Duplin, | - | Enlisted in May, 1781; discharged January 31, 1782. (2) |
| Philip Thomas, | Sergeant, 3d battalion of North Carolina. | Wounded in the left arm, while in the actual line of his duty, at the action of the Eutaw Springs, State of South Carolina. | Sept. 8, 1781, Eutaw Springs. | County of Duplin, | Full pension, | Enlisted in May, 1781, for twelve months. (2) |
| Richard Richardson, | Private, 2d regiment of South Carolina. | Wounded by a musket ball, which went through his breast, at the same time when General Provost marched on Charleston neck, in the year 1779; which wound has disabled him from getting a livelihood by labor. | 1779, Drawgates, Charleston. | Neighborhood of Charleston. | Full pension, | Enlisted November 20, 1775; time in service unknown. (3) |
| William Sawyers, | Dragoon, 3d regiment of light dragoons. | Badly wounded in his head, and three places in his right shoulder, and besides he lost both his thumbs, which altogether prevent him from procuring a livelihood by labor. | Sept. 8, 1781, Eutaw Springs. | Beaufort district, | Full pension, | There are no rolls in this office of the 3d regiment light dragoons, for 1781. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 15 and 17, 1794.

JOSEPH HOWELL, Accountant.

Remarks on the evidence transmitted by the Judges of the District Courts.

- (1) Evidence imperfect: 1st, The depositions do not prove the continuance of disability after he quitted the service. 2d, No evidence or reason why he did not apply before. (2) Evidence perfect.
 (3) Evidence not perfect: 1st, No evidence of his being in service, and in the line of his duty at the time alleged. 2d, No evidence of his leaving the service.
 (4) Evidence not perfect. Not any one evidence agreeable to law, or sufficient to substantiate the claim.

WAR DEPARTMENT, *April 25, 1794.*

The SECRETARY OF WAR, in obedience to the order of the House of Representatives of the 5th of March last, respectfully reports:

A statement of the cases of all claimants to be placed on the pension list of the United States, who have obtained certificates from the circuit courts, signed as commissioners, and also from the judge of the court of Maine. The remarks will exhibit, as far as the same can be ascertained from the documents in the public offices, the circumstances attending each case.

The certificates of the commissioners, and certain affidavits which were presented to them, are now also submitted.

The present statement contains some additional cases which were received subsequent to the list submitted to Congress the 14th of December, 1792.

All which is respectfully submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of New Hampshire, of Invalid Pensioners examined by them at the said court, held at Portsmouth, the 24th day of May, 1792, specifying the monthly allowance, and the arrearages due to them.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|----------------------|--|--|-----------------------------------|-------------------------|----------------------|-------------|---|
| James Crombie, - | Lieutenant, Col. Hale's, | Violently ruptured in the groin, being thrown off his horse. | 1778, " - | County of Cheshire, | \$3 33 $\frac{1}{2}$ | \$20 | <p>Mustered on furlough in December, 1777, & omitted Nov. 1778. There is no evidence in this office of the services of this man. Enlisted April 21, 1777, and discharged April 21, 1780. Enlisted July 16, 1777, and discharged July 16, 1780. There is no evidence in this office of the services of this man. The same remark applies to this as to E. Fielding. Enlisted June 3, 1778, and continued to the end of the war. The same remark applies to this man as to E. Fielding. Commissioned November 8, 1776, and resigned July 5, 1780. The same remark applies to this man as to E. Fielding. The same as above.</p> |
| Ebenezer Copp, - | Sergeant, Col. Read's, | Wounded in the back and left side, and in his groin. | June 17, 1775, Bunker's Hill. | Hampstead, - | 3 33 $\frac{1}{2}$ | 20 | |
| John Clough, - | Private, 2d regiment, - | Wounded by a ball through his leg and in his thigh. | Novem'r, 1779, Highlands. | Henniker, - | 2 22 | 20 | |
| Thomas Eastman, - | Private, Col. Cilley's, - | Dangerously wounded in his head, which makes him subject to convulsions. | Sept. 19, 1777, Behmus's Heights. | Hopkinton, - | 1 66 $\frac{2}{3}$ | 40 | |
| Ebenezer Fielding, - | Private, Col. Read's, - | Taken sick with the small-pox, and other hardships, on the expedition to Canada. | 1776, Canada, - | County of Cheshire, | 2 22 | 40 | |
| Joshua Gilman, - | Private, Col. Hubbard's, | Wounded in the left arm, by which his arm was fractured. | August 16, 1777, Bennington. | Alstead, - | 1 11 | 20 | |
| Thomas Kimball, - | Private, Col. Read's, - | Wounded in the arm by a musket ball, - | 1779, Chemong, - | Hillsborough county, | 1 11 | 15 | |
| Abraham Kimball, - | Private, Col. Stickney's militia. | Wounded in the thigh by a shot from the enemy, | August 16, 1777, Bennington. | Hillsborough county, | 83 $\frac{1}{2}$ | 15 | |
| Jeremiah Pritchard, | Lieutenant & adjutant, Colonel Cilley's. | Wounded in his left shoulder, and ruptured in his groin. | July, 1777, - - | New Ipswich, - | 5 66 $\frac{2}{3}$ | 150 | |
| John Reed, - | Private, Col. Gilman's, | His right arm blown off by discharging a field piece. | March 26, 1777, - | Portsmouth, - | 3 33 $\frac{1}{2}$ | 30 | |
| William Taggart, - | Ensign, Col. Hain's, - | Wounded in the shoulder, and lost the sight of one of his eyes. | July 7, 1777, Hubbardston. | County of Hillsborough. | 5 33 $\frac{1}{2}$ | 120 | |
| Edward Waldo, - | Lieutenant, Col. Hubbard's. | Wounded by a ball passing through his left wrist. | August 16, 1777, Bennington. | Alstead, - | 1 71 | 20 | |
| Weymouth Wallis, | Private, Col. Steake's, | Wounded in the wrist by a shot from the enemy, and considerably injured. | June 17, 1775, Bunker's Hill. | Epsom, - | 2 22 | 40 | |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 10, 1794.

JOSEPH HOWELL, Accountant.

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of Massachusetts, of Invalid Pensioners examined by them at the said court, specifying the monthly allowance and the arrearages due to them—May term, 1792.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|---|--|--------------------------------------|--------------|--------------------|-------------|--|
| Thomas Alexander, | Captain, Col. Vose's, | Had one of his hips dislocated and his thigh bone broken. | 1777, | - - - | \$7 50 | \$250 | This officer does not appear on the rolls of Col. Vose's 1st regiment Massachusetts. |
| Nathaniel Barney, | Corporal, Col. Jackson's, | Wounded with a bayonet, which entered his left breast, and passed through his back, and is now open. | July, 1781, Near Yorktown, Virginia. | Rehoboth, | 2 44½ | 120 | This man is not to be found on the musters of Colonel Jackson's regiment. |
| Caleb Chadwick, | Private, Col. Patterson's, | Wounded in the right thigh by a ball from an accidental discharge of a musket. | June, 1775, in camp, | Tyringham, | 1 11 | 50 | There are no musters in this office for the year 1775. |
| Peter Charlout, | - - - | - - - | - - - | - - - | 5 00 | 200 | Not on the musters of the Massachusetts line, supposed to be militia. |
| Levi Farnsworth, | Private, Col. Bigelow's, | Wounded in the arm by a musket ball from the army of General Burgoyne. | September, 1777, near Stillwater. | Shirley, | 2 22 | 100 | This man enlisted, April, 1777; invalided Jan. 26, 1779, and disch'd, April, 1780. |
| Thomas Gleason, | Private, Massachusetts militia. | Was of the party which opposed the British troops at Lexington and Concord; lost a thumb by the bursting of his gun, and his hand otherwise injured. | April 19, 1775, | Woburn, | 1 66½ | 20 | There are no musters of the militia in this office. |
| Joseph Goodridge, | Private, Col. Gerrish's, | Wounded by a stroke from the muzzle of a musket of another soldier, by which he totally lost his right eye. | 1775, | Boston, | 2 66½ | 60 | The same remark applies as to Thomas Gleason. |
| Jonas Green, | Private, Michael Jackson's. | Wounded at Ticonderoga, | 1777, Ticonderoga, | Pepperell, | 1 66½ | 40 | Enlisted February 4, 1777; discharged October 24, 1779. |
| John Grace, | Lieutenant, 1st Massachusetts regiment. | From his great exertions, and excessive heat, he was so much injured as not to have been well since. | At the battle of Monmouth. | Lenox, | 5 00 | 50 | Ensign, January 1, 1777; promoted lieutenant, November 4, 1777; resigned, 1782. |
| John Heath, | Corporal, 6th regiment, | Received a rupture from the rolling of a log upon his breast while erecting huts to cover troops. | December, 1780, | Sandisfield, | 1 83½ | 50 | This man does not appear on the musters to January, 1781. |
| Peter Hemmenway, | Private, Massachusetts militia. | Was trying his musket, and by its bursting was so wounded that his arm was amputated. | December, 1777, | Boston, | 1 66½ | 60 | There are no militia musters in this office. |
| Daniel Lollar, | Private, 12th Massachusetts regiment. | In transporting stores to West Point with sleds, on the ice, in a snow storm, froze both feet. | - - - | Roxbury, | 1 33½ | 30 | Enlisted in Feb. 1777; invalided Nov. 3, 1779; discharged February, 1780. |
| John Marley, | Captain marines, | Received several wounds and blows in his left leg and shoulder, by which he was lamed, and his toes contracted. | June, 1777, | - - - | 30 00 | 500 | |
| Asa Merrett, | Private, Col. Groaton's, | Lost the sight of one of his eyes in consequence of his being inoculated for the small-pox. | 1777, Prospect Hill, | - - - | 2 96 | 50 | Enlisted Jan'y 15, 1777, and discharged September 2, 1777. |
| Aaron Mason, | Private, Col. Fry's, | Being on fatigue, from excessive labor, was taken down by a fever, which has exceedingly impaired him. | June, 1775, | Woburn, | 1 66½ | 30 | There are no musters in this office for the year 1775. |
| Simeon Noyes, | Sergeant, Johnson's militia. | Wounded at Behmus's Heights in the right hand, lost part of his fore-finger; had fever sores in his leg. | October 7, 1777, | Salem, | 3 33½ | 80 | There are no militia musters in this office. |
| Job Priest, | Ensign, Col. Vose's, | In the retreat from Canada, in assisting to remove ordnance stores, received a rupture. | 1776, | - - - | 3 75 | 80 | Appointed lieutenant January 1, 1777, and resigned November 4, 1777. |
| Amos Pierson, | Sergeant, Col. Little's, | Wounded by a musket ball in his right arm, | June 7, 1775, Bunker's Hill. | Newburyport, | 166½ | 30 | There are no musters in this office for 1775. |

LIST OF CERTIFICATES FOR MASSACHUSETTS, MAY AND OCTOBER TERMS, 1792—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|---------------------|--|---|---|-----------------|--------------------|-------------|--|
| Benjamin Pressey, - | Private, Col. Wesson's, | By his exertions, and the excessive heat of the day, was so injured in health as to subject him often to convulsions. | June, 1778, Monmouth, | Haverhill, - | \$2 22 | \$50 | Enlisted Feb'y 11, 1777; joined the invalids December 12, 1779. |
| Abner Pier, - | Private, Col. J. Brown's, | Wounded in the leg, thigh, and shoulder, in the back and front of the head, and scalped. | October, 1780, Stone- arabia. | Egremont, - | 3 33½ | 100 | There are no militia musters in this office. |
| Joseph Peabody, - | Private, Colonel R. Putnam's. | Wounded by Indians by a musket ball in his right side passing through his body. | June 29, 1777, - | Haverhill, - | 1 66½ | 40 | Enlisted April 15, 1777, and discharged April, 1780. |
| Patrick Shanley, - | Private, 10th Massachu- setts regiment. | Wounded in the right ankle, and left arm, near the wrist. | 1781, near King's Bridge. | Boston, - | 1 66½ | 30 | This man is returned sick in hos- pital, July, 1781. |
| Cæsar Spragues, - | Private, 4th Massachu- setts regiment. | Had his left foot shot off by a cannon in the ac- tion at Monmouth. | 1778, Monmouth, - | Dudley, - | 2 96 | 80 | Enlisted Jan. 1, 1777; inval. May 10, '79; disch'd April 15, 1780. |
| William Warren, - | Lieutenant, Col. J. Nix- on's. | Wounded by the bursting of a shell. | June 17, 1775, Breed's Hill. | Watertown, - | 3 33½ | 50 | There are no musters for the year 1775 in this office. |
| OCTOBER TERM. | | | | | | | |
| Spafford Ames, - | Private, Col. Fry's, - | Received two wounds, one in his thigh, the other in his right hand. | June, 1775, Bunker's Hill. | Andover, - | 2 22 | 50 | There are no musters for the year 1775 in this office. |
| Lemuel Barns, - | Private, Cady's detach- ment. | Diseases contracted in the retreat of Canada, and afterwards in the battle of Monmouth. | - - - | Stockbridge, - | 3 33½ | 30 | There are no musters for the mi- litia in this office. |
| Joseph Bates, - | Dragoon, Sheldon's re- giment. | Received a rupture in the side from fatigue, - | Brookfield, - | Egremont, - | - | 30 | Enlisted December 3, 1779. |
| Ebenezer Bement, - | Brigade Major, General Patterson's. | Wounded in battle in his shoulder, - | Hubbardston, - | Lenox, - | - | 100 | Appears by the books of this office to have been an aid-de-camp. |
| Sampson Brown, - | Private, Col. Bigelow's, | Wounded in the hip by a cannon ball at the cap- ture of Burgoyne's army. | September, 1777, - | Boston, - | 2 22 | 30 | Enlisted May 20, 1777, for 3 years; the time of discharge unknown. |
| Barnabas Chapman, | Private, Col. Bayley's, | Wounded in his right hand by a musket ball, - | September, 1777, Beh- mus's Heights. | - - - | 1 11 | 30 | Enlisted April 15, 1777; wounded and transferred to the invalids. |
| Thomas Cook, - | Private, 2d regiment N. Hampshire. | Wounded in the side, breaking a rib, and lodg- ing the ball in his body. | Sep. 19, 1777, Behmus's Heights. | Salisbury, - | 3 33½ | 80 | Enlisted Jan. 28, 1777; continued to the end of the war. |
| Joseph Cox, - | Private, Col. Bigelow's, | Lost his right leg, - - - | Monmouth, - | Cambridge, - | 3 33½ | 30 | Enlisted March 10, 1777, for three years; time of service not known. |
| James Easton, - | Colonel, - - - | Diseases contracted in Canada, - - - | 1775, - - - | Pittsfield, - | 16 67 | 100 | There are no musters for the year 1775 in this office. |
| William Eaton, - | Sergeant, 8th Massachu- setts regiment. | Lost the sight of his left eye by an accidental wound. | 1779, Tarrytown, - | Boston, - | 2 00 | 30 | Enlisted March 17, 1777; dis- charged March 17, 1780. |
| Benjamin Farnum, - | Captain, Col. Fry's, - | Received two wounds, one in his left leg, the other near the right hip. | June 17, 1775, Bun- ker's Hill. | - - - | - | 80 | There are no musters for the year 1775 in this office. |
| Moses Fitch, - | Private, Col. E. Brook's, | Wounded by a cannon ball, having part of his right shoulder-blade carried away. | White Plains, - | Bedford, - | 2 22 | 80 | This man does not appear on the muster-rolls in this office. |
| Henry Gates, - | Private, Col. J. Nixon's, | Wounded by a ball, that entered his cheek, and was taken out of the back part of his head; lost his hearing. | June 17, 1775, Bun- ker's Hill. | Framingham, - | 3 33½ | 50 | There are no rolls for the year 1775 in this office. |
| Uriah Goodwin, - | Private, 15th Massachu- setts regiment. | Wounded by a musket ball, which passed through his body. | January, 1780, White Plains. | Bedford, - | 1 66½ | 30 | Enlist. July 19, 1779, for 9 months; time of discharge not mentioned. |
| Wardwel Greene, - | Sergeant, Col. Greene's, | Wounded in the throat and shoulder in an en- gagement with the enemy. | October, 1777, Mud Fort. | Lanesborough, - | 2 00 | 30 | No notice is taken of this man on the musters of the R. Island line. |

LIST OF CERTIFICATES FOR MASSACHUSETTS, OCTOBER TERM, 1792—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|--|--|-----------------------------------|-----------------|--------------------|-------------|---|
| Henry Hawks, | Private, 8th Massachusetts regiment. | Diseases contracted in the service, whereby he has lost the use of one of his arms and one leg. | - - - | Newton, | \$3 33½ | \$30 | Enlisted April 30, 1777, and discharged April 30, 1780. |
| Samuel Joy, | Private, Col. Willett's, | In an expedition from Fort Plain, on Mohawk river, to Oswego, had both his feet frozen. | - - - | Egremont, | 3 33½ | 30 | Enlisted May 5, 1778, for nine months; re-enlisted, and omitted on the rolls, June, 1780. |
| Ozias Judd, | Sergeant, Col. Porter's, | Diseases contracted in the campaign of Canada, | 1776, - - - | W. Stockbridge, | 2 67 | 40 | There are no musters of this regiment in this office. |
| Ebenezer Kent, | Ensign, Col. H. Jackson's, | From his exertions at the battle of Monmouth, and otherwise in the service, greatly impaired his constitution. | - - - | Watertown, | - | 100 | Mustered as a sergeant-major, but not found as an ensign. |
| Job Lane, | Private, Col. E. Brooks's, | Wounded in his left side by a musket ball, | June 17, 1775, Bunker's Hill, | Bedford, | 3 33½ | 100 | There are no musters for the year 1775 in this office. |
| Thomas Lilly, | Private, 5th Massachusetts regiment. | Diseases contracted in the campaign at Saratoga. | September, 1777, | Marblehead, | 3 33½ | 30 | Enlisted March 15, 1777, for three years; time of leaving service unknown. |
| Jacob Loomes, | Fifer, Col. Bayly's, | Diseases contracted in the service, particularly by fatigue and heat at the battle of Monmouth. | Monmouth, | Boston, | 3 67 | 30 | Enlisted April 1, 1777, and discharged April 15, 1780. |
| Joseph Loring, | Lieutenant, Col. Knox's artillery. | A very diseased arm, occasioned by the small-pox, which he had while a prisoner at New York. | December, 1775, | Boston, | - | 80 | There are no musters for the year 1775 in this office. |
| John Nixon, | Brigadier, | Wounded in his privates, and from sickness contracted afterwards in the service. | June 17, 1775, Bunker's Hill, | Sudbury, | 16 67 | 100 | There was a General Nixon in the service of the United States. |
| Jonah Scovel, | Private, Gen. Gates's, | Wounded in his left shoulder by two balls, | September 19, 1777, | Partridgefield, | 2 22 | 50 | There are no musters of militia in this office. |
| John Taylor, | Sergeant, 15th Massachusetts regiment. | Ruptured by a wound received, and injured in his knee. | May 20, 1780, West Point. | Marlborough, | 2 67 | 40 | Enlisted September 4, 1779, for nine months; time of discharge not mentioned. |
| Samuel Warner, | Private, Col. Ashley's, | Ruptured by lifting heavy timber and other fatigues at the capture of Burgoyne's army. | September, 1777, | Stockbridge, | 2 22 | 50 | There are no musters of militia in this office. |
| Robert Wyley, | Ensign, 8th Massachusetts regiment. | Wounded in the head, | Sept. 19, 1777, Behmus's Heights. | Dalton, | - | 50 | Appointed January 1, 1777, and left the service August 14, 1778. |
| Ebenezer Learned, | Colonel, | Ruptured by a wound received in the groin by falling on a stake in the night at Dorchester Heights. | March, 1776, | Oxford, | 8 33½ | 70 | Appointed brigadier general 24th March, 1778; resigned. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 14, 1794.

JOSEPH HOWELL, *Accountant.*

1794.]

INVALID PENSION CLAIMS.

111

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of Connecticut, of Invalid Pensioners examined by them at the said court, held at New Haven, in May and October, 1792, specifying the monthly allowance and the arrearages due to each of them.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|--------------------|---------------------------------------|--|-----------------------------|--------------|--------------------|-------------|---|
| Samuel Andrews, | Corporal, Captain Asa Bray's. | Wounded by a musket ball in the wrist; the hand of which is amputated. | October 1, 1777, | Southington, | \$3 25 | \$150 00 | There are no militia rolls in this office. |
| Jedediah Brown, | Sergeant, Capt. U. Raymond's militia. | Wounded in his left hand, by the bursting of his musket. | February 19, 1779, | Norwalk, | 3 56 | 160 00 | The above remark applies here. |
| Samuel Bennet, | Fifer, Capt. E. Abel's, | Lost the toes from both of his feet; his feet being frozen while prisoner at New York. | 1776, New York, | Stratford, | 3 66 $\frac{2}{3}$ | 200 00 | The above remark applies here. |
| Enos Blaksley, | Private, Col. E. Huntington's. | Infirmity, a cripple, being cut for the stone, | 1782, Hospital, | North Haven, | 3 33 $\frac{1}{3}$ | 100 00 | Enlisted June 5, '77, for the war; in hospital, and disch'd in '83. |
| Silas Baldwin, | Private, Colonel R. J. Meigs's. | Small-pox, inoculated by general orders, by which he lost one of his eyes. | - - | Derby, | 2 22 | 100 00 | Enlisted March 27, 1777; deserted in August, 1779. |
| Reuben Chapman, | Private, Colonel P. B. Bradley's. | Contracted sickness and consumption, while prisoner at New York. | 1776, New York, | Derby, | 4 45 | 200 00 | Not to be found on the rolls. |
| Burr Gilbert, | Sergeant, 1st regiment, | His constitution impaired; being overheated at the battle of Monmouth, and wounded. | June 28, 1778, Monmouth. | Weston, | 3 56 | 100 00 | Enlisted April 12, 1777, for the war. |
| Thurston Hilliard, | Artificer, Capt. F. Patton's. | Wounded by a piece of timber, which fractured his breastbone. | Yorktown, | Reading, | 4 00 | 160 00 | Enlisted in March, 1778, for the war. |
| Isaac Higgins, | Fifer, | Ruptured about his abdomen, | - - | Weston, | 3 25 | 100 00 | Enlisted July 5, 1780; on the rolls in March, 1782. |
| William Leeds, | 1st Lieutenant, marines, | Badly wounded by a musket ball, which entered his breast and shoulder, and lodged in the shoulder-blade. | 1777, brig Resistance, | Groton, | 6 00 | 250 00 | |
| Elnathan Norton,* | Private, Capt. C. Norton's militia. | Wounded by a musket ball, which entered below his breast, broke one of his ribs, and came forth at his back. | July 4, 1779, | Durham, | 3 33 $\frac{1}{3}$ | 130 00 | There are no militia rolls in this office. |
| Ebenezer Patchin, | Private, Capt. S. Comstock's. | Lost, by sickness, while in service, the use of his left eye; the sight of the right much impaired. | - - | Norwalk, | 3 33 | 100 00 | Enlisted Jan. 11, 1777, for three years; discharged Jan. 11, '80. |
| David Pendleton, | Private, 2d regiment, | Wounded by a musket ball in his thigh, | - - | Weston, | 1 66 $\frac{2}{3}$ | 30 00 | Enlisted April 1, 1778, for the war. |
| Samuel Perker, | Private, Capt. J. Walker's. | Wounded by a cannon ball, which shot away the rim of his belly about two inches. | Expedition on Rhode Island. | Weston, | 3 70 | 100 00 | There are no militia rolls in this office. |
| Isaac Richards, | Private, Capt. E. Reed's militia. | Decrepited by a musket ball in his left leg, | April 27, 1777, Ridsfield. | Norwalk, | 2 22 | 100 00 | The above remark applies here. |
| Thaddeus Reed,† | Private, Lieutenant N. Slason's. | Disabled by violent pains and inflammation, while in service. | - - | Norwalk, | 2 22 | 100 00 | The above remark applies here. |
| John Smith, | Private, Col.M. Willett's, | Lost the toes of his feet by severe frost, | February, 1783, | Bristol, | 2 96 | 100 00 | This man was in this regiment in 1783. |

* To the certificate of Elnathan Norton a proviso is made by the court. "Provided, It is considered that said Norton, at the time of receiving said wound, was in the service of the United States."

† The company of Thaddeus Reed was for defending of the sea-coast, he being enlisted for two months; and a proviso is made: "Provided, The said company is to be considered as in the service of the United States."

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|--|---|----------------------------|----------------|----------------------|-------------|---|
| Toney Turney, | Private, 2d regiment, | Wounded by Barmore's corps of light horse, in several places, and who rode over him. | 1779, | Stratford, | \$3 33 $\frac{1}{2}$ | \$100 00 | Enlisted June 1, 1780. |
| Yale Todd, | Private, Gen. Wooster's, | Disabled by hardships to which he was exposed, and which occasioned a lameness. | - | North Haven, | 5 55 $\frac{1}{2}$ | 150 00 | There are no rolls for '75, when it is supposed this man was disabled. There are no militia rolls in this office. |
| Enoch Turner, | Private, Col. T. Cook's, | Wounded with a musket ball below his knee, | September 19, 1779, | New Haven, | 2 22 | 100 00 | There are no militia rolls in this office. |
| James Wayland, | Private, Colonel S. B. Webb's. | Disabled by great cold, while in service and in the way of his duty. | - | Stratford, | 3 33 $\frac{1}{2}$ | 100 00 | Enlisted April 7, '78, for the war; transf'd to invalids Sept. 1, '82. |
| Richard Watrous, | Private, Colonel R. J. Meigs's. | Wounded by several stabs of bayonets, particularly near his left breast; also wounded by musket balls in his arm and hands. | - | Derby, | 3 33 $\frac{1}{2}$ | 120 00 | Enlisted April 1, 1777, for three years; disch'd March 29, 1780. |
| William Anderson, | Corporal, Col. Bradley's, | A greatly impaired constitution from diseases contracted in the service. | - | East Hartford, | 4 88 | 150 00 | Transferred to the invalids, October 29, 1780. |
| Theodore Andrus, | Private, Col. S. Webb's, | Ulcerous wound in his thigh, from a fall while on guard. | 1779, Tiverton, | New Hartford, | 6 67 | 300 00 | Enlisted April 11, 1777; disch'd April 11, 1780. |
| Clement Andrus, | Private, 1st Connecticut regiment. | Wounded in his leg by a piece of timber, which occasioned an open ulcer. | - | Farmington, | 3 33 $\frac{1}{2}$ | 200 00 | Enlisted December 20, 1780; discharged May 17, 1783. |
| Asa Bunce, | Corporal, 3d Connecticut regiment. | Diseases contracted by being overheated at the battle of Monmouth. | - | Hartford, | 3 67 | 150 00 | Enlisted April 27, 1777; disch'd April 24, 1780. |
| Ebenezer Bevins, | Private, 1st Connecticut regiment. | Rheumatic disorders contracted in the service, | - | - | 2 22 | 150 00 | Transferred to the invalids, May 1, 1781. |
| Francis Baxter, | Private, Captain B. Wright's. | Badly wounded in the left arm, and both legs, by a party of light horse. | May 23, 1780, Greenwich. | East Windsor, | 3 33 $\frac{1}{2}$ | 200 00 | Enlisted February 18, 1777; discharged February 2, 1780. |
| Salmon Burr, | Private, Colonel Eno's, | Crippled by a disorder which he contracted from colds and severities, which fell into his legs and feet. | Near Hudson river, | Farmington, | 5 00 | 150 00 | There are no militia rolls in this office. |
| Isaac Buell, | Private, Colonel Baldwin's artificers. | Ruptured by an accidental hurt, | 1780, | Lebanon, | 2 22 | 150 00 | Enlisted February 17, 1778; omitted in 1780. |
| Elijah Boardman, | Sergeant, | Lame and infirm, by an inflammatory rheumatic disorder contracted in the service. | - | Weathersfield, | 5 00 | 200 00 | Enlisted April 22, 1777; in service in 1781. |
| Hartwell Barns, | Private, 3d Connecticut regiment. | Lost his hearing, and is otherwise debilitated by disorders contracted in the service. | - | Farmington, | 2 22 | 100 00 | Enlisted March 1, 1777. |
| Amos Barns, | Private, 3d Connecticut regiment. | Ruptured in a dangerous manner. | - | - | 3 33 $\frac{1}{2}$ | 100 00 | Enlisted March 1, 1777. |
| Moses Boardman, | Private, Colonel Webb's, | From hardships endured, contracted rheumatic disorders. | - | Bristol, | 3 33 $\frac{1}{2}$ | 100 00 | Enlisted April 22, 1777; invalidated April 5, 1781. |
| David Blackman, | Private, Captain Fitch's, | Wounded in boarding a sloop of war, so that his entrails came out at the wounds. | September 10, 1781, | Huntington, | 1 67 | 100 00 | Enlisted May 11, 1777; discharged April 30, 1780. |
| Daniel Barns, | Captain, 8th Connecticut regiment. | Diseases contracted from extreme fatigue at the battle of Monmouth. | August 21, 1780, Monmouth. | Bristol, | 6 67 | 100 00 | Commissioned Jan. 1, 1777, and resigned August 21, 1780. |
| Job Bartram,* | Captain, 4th regiment militia. | Wounded by a musket ball in his right breast, | July 7, 1779, Fairfield, | Norwalk, | 10 00 | 200 00 | There are no militia rolls in this office. |

* In the certificate of Job Bartram is contained the following proviso: "Provided, That an officer of militia, wounded in actual service, repelling the attack of a detachment of the British army, be within the provisions of said act."

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|---------------------------------------|---|---------------------------------|------------------|--------------------|-------------|---|
| James Beers, | - Private, Col. Warner's, | Withered leg, occasioned by the smallpox, | - April, 1777, Canada, | Fairfield, - | \$4 45 | \$100 00 | The musters of this regiment are very imperfect; this man is not found. Enlisted March 26, 1777; discharged March 31, 1780. |
| Isaiah Bunce, | - Private, 7th Connecticut regiment. | Lame from a wound received in his leg, | - - - | Washington, - | 4 45 | 100 00 | |
| Nathaniel Beach, | - Private, 3d Connecticut regiment. | Wounded, accidentally, by an axe, in one of his feet. | - - - | Weston, - | 1 67 | 100 00 | Enlisted April 25, 1777; continued to the end of the war. |
| Jonathan Bowers, | - Corporal, 1st regiment militia. | Wounded in his right arm, which broke the bones thereof. | October 19, '77, Still-water. | - - - | 3 67 | 200 00 | There are no militia musters in this office. |
| Thaddeus Beebe, | - Private, 1st Connecticut regiment. | Lost his right eye by the smallpox, for which he was, by order of Congress, inoculated. | - - - | New London, - | 1 67 | 100 00 | Enlisted January 27, 1777; discharged April 21, 1778. |
| William Case, | - Sergeant, Col. Mott's, | An ulcerous sore on his right leg, from diseases contracted in the service. | - - - | Berkhamstead, - | 4 00 | 150 00 | There are no militia musters in this office. |
| Simon Crosby, | - Dragoon, Sheldon's regiment. | Wounded in his right wrist, by a party of light horse. | 1779, Poundridge, - | East Windsor, - | 4 17 | 150 00 | Enlisted May 7, 1777; discharged August 1, 1780. |
| James Campbell, | - Private, Colonel J. Topham's. | Wounded in his leg, | - August 29, '78, Rhode Island. | Voluntown, - | 1 67 | 200 00 | There are no militia musters in this office. |
| Elisha Clark, | - Artificer, laboratory, Springfield. | In erecting a carriage for public service, accidentally cut off all the toes of his right foot, except the great toe. | Springfield, - | Southington, - | 5 00 | 100 00 | Enlisted March 9, 1778; discharged March 7, 1781. |
| Ebenezer Curtis, | - Private, 1st Connecticut regiment. | Lost the use of both his arms, occasioned by the smallpox. | - - - | Canterbury, - | 4 45 | 150 00 | Does not appear on the musters of the Connecticut line. |
| Abijah Cady, | - Private, 4th Connecticut regiment. | From hardships contracted diseases that fell into his limbs, and lamed him. | 1777, - - - | Canterbury, - | 3 33½ | 200 00 | Enlisted June 11, 1777; discharged August 26, 1779. |
| Jonah Cooke, | - Private, 5th Connecticut regiment. | Ruptured, dangerously, by an accidental fall in the service. | 1781, - - - | - - - | 3 33½ | 150 00 | Enlisted July 5, 1781, for six months. |
| Aaron Cooke, | - Private, Col. Learned's, | Wounded in his ankle, and is a running sore, | - - - | Roxbury, - | 5 00 | 200 00 | There are no musters for the year '75 in this office. |
| John Chandler, | - Colonel, - - - | Diseases contracted from severities in the service. | - - - | Newtown, - | 18 75 | 500 00 | Commissioned January 1, 1777; resigned March 5, 1778. |
| John Chapple, | - Private, 6th regiment, - | Wounded by two balls, in his shoulder and side, which fractured his shoulder-blade, and injured his arm. | June 17, 1775, Bunker's Hill. | Montville, - | 2 22 | 100 00 | There are no rolls for the year 1775 in this office. |
| Joseph Dunbar, | - Corporal, 2d regiment dragoons. | Injury in his private parts, occasioned by leaping his horse, causing a rupture. | - - - | Watertown, - | 7 45 | 200 00 | Enlisted March 1, 1777; discharged July 1, 1780. |
| John Downs, | - Sergeant, 3d Connecticut regiment. | Weakness in his breast, blood spitting, and general debility, from hardships suffered in service. | - - - | Huntington, - | 5 00 | 150 00 | Enlisted March 20, 1777, and continued to the end of the war. |
| Eliphalet Easton, | - Private, Col. Chandler's, | In removing casks of salt wounded in his left hand, by which he lost the use of two fingers. | Danbury, - | - - - | 5 00 | 200 00 | Enlisted May 21, 1777; discharged May 23, 1780. |
| Samuel Easton, | - Sergeant, 3d regiment, | Ruptured by excessive fatigues and hardships, | 1780, - - - | East Hartford, - | 3 33½ | 150 00 | Enlisted April 12, 1777, for the war; did not continue to the end. |
| Moses Evans, | - Private, Colonel Huntington's. | Loss of sight, by inflammation occasioned by the smallpox, and otherwise disabled. | March, 1777, New London. | East Hartford, - | 3 33½ | 100 00 | Enlisted February 15, 1777, and continued to the end of the war. |

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|---|--|----------------------------------|------------------|--------------------|-------------|---|
| Jonathan Flag, | - Artificer, Colonel Baldwin's. | Weakness in his breast, and blood spitting, | - - - | Hartford, - | \$5 45 | \$250 00 | Enlisted April 1, 1777; returned sick in August, 1780. |
| Joel Fox, | - Private, 4th Connecticut regiment. | Wounded at the battle of Germantown; lost his sight by the smallpox, and otherwise injured. | - - - | Hebron, - | 3 33½ | 150 00 | Enlisted April 24, 1777; discharged April 24, 1780. |
| Ebenezer Gilbert, | - Private, 1st Connecticut regiment. | Ruptured by hardships sustained in the service, | 1780, - - | Brooklyn, - | 1 67 | 100 00 | Enlisted April 29, 1777, and continued to the end of the war. |
| Joel Gillet, | - Ensign, Colonel Huntington's. | Hardships sustained, while captive in a prison ship, impaired his health and constitution. | - - - | Haurnton, - | - | 150 00 | This officer being a prisoner, was not arranged afterwards. |
| Amos Gray, | - Private, 4th Connecticut regiment. | Wounded by a musket ball, which broke the trunk of his body, and went through one of his arms. | April 27, '77, Campod Hill. | Fairfield, - | 1 67 | 100 00 | This man does not appear on the musters of the Connecticut line. |
| David Hall, | - Sergeant, Captain Bushell's company sappers and miners. | Diseases contracted from hardships suffered at the siege of Yorktown. | Yorktown, - | Weston, - | 2 67 | 200 00 | Continued to the end of the war. |
| Abijah Hubbel, | - Corporal, 2d Connecticut regiment. | Weakness in his breast and eyes, occasioned by sickness contracted in the service. | December, 1782, - | Stratford, - | 1 83 | 100 00 | Enlisted May 19, 1777, for the war, but not continued to the end. |
| Thomas Hobby, | - Major, Colonel Waterbury's. | Wounded at the siege of St. John's by a musket ball, which passed through his hip. | St. John's, - | Greenwich, - | 8 33½ | 200 00 | This officer became supernumerary after his release from captivity. |
| Cornelius Hamlin, | - Corporal, 7th Connecticut regiment. | Diseases contracted in the service, from hardships suffered. | 1780, - - | Washington, - | 5 50 | 150 00 | This man was transferred to the invalids, October 23, 1780. |
| Robert Jerom, | - Fifer, Douglas's levies, | Broke the bones of his left knee, in the retreat from New York, by a fall. | 1776, - - | Watertown, - | 2 44 | 150 00 | There are no musters of this regiment in this office. |
| Lyman Kinne, | - Private, Col. Webb's, | Wounded by a musket ball in his right thigh, which cut and affected the cords thereof. | January, 1776, - | Washington, - | 1 67 | 100 00 | Enlisted May 27, 1777, for 8 months; discharged January 9, 1778. |
| Ashbel Kilbourn, | - Private, Col. Webb's, | Had his feet frozen, so that some of his toes dropped off, whilst prisoner with the enemy. | December 17, 1777, Philadelphia. | East Hartford, - | 3 33½ | 150 00 | Enlisted June 6, 1777, for 8 months; prisoner December 7, 1777. |
| William Leech, | - Private, Col. Webb's, | Wounded in the leg by the rolling of a cannon ball. | 1778, - - | Winchester, - | 3 33½ | 150 00 | Enlisted February, 1778; discharged March 20, 1779. |
| Samuel Loomis, | - Corporal, 1st Connecticut regiment. | Fractured the bones of his arm, when pursued by a party of the enemy. | - - - | Colchester, - | 2 44 | 200 00 | Enlisted April 28, 1777, and continued to the end of the war. |
| Josiah Lacey, | - Captain, 5th Connecticut regiment. | Rheumatic diseases contracted in the service, whereby he is unable to walk. | 1780, - - | Stratford, - | 10 00 | 100 00 | Commissioned Jan. 1, 1777; resigned July 20, 1780. |
| Jabez Lewis, | - Private, Col. Bunnel's, | Lame and ulcerated leg, from being beaten by the Indians at St. Lawrence, where he was captured. | Cedars, - - | - | 4 45 | 200 00 | There are no returns of this regiment in this office. |
| Nathaniel Lewis, | - Private, 18th militia, - | Wounded in the thigh by a grape shot, in the retreat from New York. | - - - | Berkhamstead, - | 2 22 | 150 00 | There are no militia rolls in this office. |
| Joseph Loring, | - Artificer, Colonel Baldwin's. | Ruptured by strains and hardships sustained in building a wharf. | 1778, West Point, - | Huntington, - | 5 50 | 100 00 | Enlisted December 2, 1777; mustered deserted, September, 1779. |
| George Lord, | - Private, Capt. Wright's, | Wounded in the back of his neck and small of his back. | Greenwich, - | East Windsor, - | 3 33½ | 100 00 | Not found on the musters of the Connecticut line. |
| John McKinsey, | - Private, Col. Silliman's, | Wounded by the stroke of a musket in his face, and his arm fractured and broken. | - - - | New Haven, - | 3 33½ | 100 00 | There are no returns of this regiment in this office. |

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

| Names. | Rank, regiment, or company. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|---------------------|--|---|--------------------------|----------------|--------------------|-------------|---|
| John McKinsey, | Private, Colonel Chandler's. | Diseases contracted in the service, | - - - | Stratford, | \$1 67 | \$100 00 | Enlisted June 9, 1777; invalided April 7, 1781. |
| David Morehouse, | Private, 2d Connecticut regiment. | Rheumatic disorders, from hardships suffered in the service. | - - - | Fairfield, | 3 33½ | 150 00 | Enlisted December 28, 1776, and continued to the end of the war. |
| Stephen Minor, | Soldier and quarter-gunner, Ledyard's matrosses. | Had his wrist broken, so that it is now much distorted, and his arm withered. | 1779, Fort Trumbull, | New London, | 2 08½ | 150 00 | There are no militia rolls in this office. |
| Josiah Merriman, | Corporal, 2d dragoons, | Diseases, particularly on the thumb and shoulder of the right arm, in consequence of wounds received. | - - - | Wellingford, | 6 67 | 150 00 | Enlisted December 28, 1776; continued to the end of the war. |
| Gideon Noble, | Fifer and corporal, Col. Webb's. | Ruptured, by extraordinary exertion of bodily strength, at the battle of Monmouth. | - - - | Middletown, | 3 67 | 150 00 | Enlisted March 1, 1777; invalided November, 1780. |
| Francis Nicholson, | Sergeant, 3d Connecticut regiment. | Weakness and debility, occasioned by smallpox, and excessive fatigue and hardships. | 1781, - - - | Glastonbury, | 6 67 | 150 00 | Enlisted July 28, 1778; continued to the end of the war. |
| Jeremiah Osborne, | Sergeant, 10th artillery, | Diseases contracted, by being overheated and surfeited on a march. | 1779, - - - | Weston, | 2 50 | 200 00 | There are no militia rolls in this office. |
| Levi Pierce, | Private, 2d Connecticut regiment. | Wounded, and lost the two middle fingers of his right hand by a shot, while on an advanced guard. | Near Valley Forge, | Cornwall, | 3 33½ | 150 00 | Enlisted April 2, 1777; discharged April 8, 1778. |
| David Pratt, | Drum-major, 3d Connecticut regiment. | Ruptured by excessive fatigue and hardship, | 1780, - - - | Glastonbury, | 3 33½ | 150 00 | Enlisted October 7, 1777; continued to the end of the war. |
| Isaac Palmer, | Sergeant, 3d Connecticut regiment. | Epileptic fits, by reason of excessive fatigue and hardships. | 1780, - - - | Weathersfield, | 2 50 | 150 00 | Enlisted January 21, 1777; invalided April 1, 1781. |
| Elijah Rice, | Private, 3d Connecticut regiment. | Dangerously wounded in the right shoulder, | - - - | Southington, | 4 45 | 200 00 | Enlisted April 21, 1777; discharged April 21, 1780. |
| John Roberts, | Trumpeter, 2d dragoons, | Rupture, occasioned by a violent cold, and blowing the trumpet. | - - - | New Hartford, | 5 00 | 150 00 | Enlisted January 13, 1777; discharged May 1, 1778. |
| David Ranny, | Private, Col. Gemott's, | Crippled in the left knee, by a sore occasioned by a fever. | - - - | Chatham, | 4 45 | 200 00 | There are no returns of this regiment in this office. |
| Jedediah Smith, | Private, infantry, | Disease, from fatigue and great exertion while in action. | Green Springs, | Stafford, | 4 45 | 200 00 | Enlisted May 27, 1777; continued to the end of the war. |
| Elihu Sabin, | Private, Gen. Putnam's, | Wounded by a musket ball, through his right leg. | Bunker's Hill, | Pomfret, | 3 33½ | 150 00 | No returns of this regiment in this office. |
| Zachariah Sanford, | Sergeant, 1st Connecticut regiment. | Diseases contracted in the service, from hardship. | North River, | Hartford, | 4 00 | 150 00 | This man does not appear on the rolls of this regiment. |
| Heber Smith, | Sergeant, | Diseases from a wound by a musket ball, and hardships sustained. | White Plains, | Huntington, | 2 67 | 150 00 | Enlisted March 10, 1777; invalided April 7, 1781. |
| Moses Smith, | Private, Colonel Swift's, | Injury in his body, by an accidental fall while at work. | Skenesborough, | Washington, | 1 67 | 100 00 | This man does not appear on the musters of this regiment or line. |
| Nathaniel Scribner, | Captain, Colonel Ludington's militia. | Wounded by a musket ball in his left arm, | June, 1778, | Norwalk, | 10 00 | 200 00 | There are no militia rolls in this office. |
| John Watson, | Private, Colonel Hoit's, | Sprain in the right shoulder, | - - - | - | 1 67 | 100 00 | There are no militia returns in this office. |

LIST OF CERTIFICATES FOR CONNECTICUT—Continued.

16

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|-------------------------------------|--|---------------------------|---------------|--------------------|-------------|---|
| Charles Webb, | Colonel, | Ruptured in the service, | - - - | Stamford, | \$18 75 | \$200 00 | Commissioned January 1, 1777; left service June 1, 1778. |
| Joel Wilcox, | Private, Colonel Swift's, | Lost the use of his right leg, by fever sores contracted in the service. | - - - | Killingworth, | 1 45 | 200 00 | Enlisted June 27, 1780, for 6 months; discharged December 3, 1780. |
| William Woodruff, | Corporal, 5th Connecticut regiment. | Wounded at the battle of Monmouth, and ruptured, by overstraining in launching boats. | 1778 and 1781, | Bristol, | 2 45 | 100 00 | This man does not appear on the musters of this regiment or line. |
| Philip White, | Private, 1st Connecticut regiment. | Lamed, from having his leg jammed by two boats, on Hudson's river, where he was stationed. | - - - | Chatham, | 2 22 | 150 00 | Enlisted June 28, 1779, and continued to the end of the war. |
| Azel Woodworth, | Matross, F. Griswold's, | Wounded in the neck by a musket ball, at the storming of Fort Griswold. | September 6, 1781, | Groton, | 1 67 | 100 00 | There are no militia returns in this office. |
| William Weare, | Private, Col. Wylly's, | Wound in the head; fractured skull, and other disabilities. | 1776, | Hartford, | 2 22 | 150 00 | Enlisted January 19, 1777; invalidated April 1, 1781. |
| Bayze Wells, | Lieutenant, Col. Chandler's. | Disease contracted in the service, | 1777, | Farmington, | 8 67 | 200 00 | Commissioned January 1, 1777; resigned March 1, 1778. |
| Samuel Whiting, | Colonel, 4th regiment, | Various diseases from hardships suffered in the service. | - - - | Stratford, | 15 00 | 100 00 | This officer appears to be of the militia. I have no returns. |
| Josiah Witter, | Lieutenant, | Wounded by four musket balls, in various parts of the body, in an action with the enemy, and captured. | March, 1783, Long Island. | Brooklyn, | 10 00 | 200 00 | This officer does not appear on the rolls of the Connecticut or New York lines. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 15, 1794.

JOSEPH HOWELL, Accountant.

1794]

INVALID PENSION CLAIMS.

117

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of Rhode Island, of Invalid Pensioners examined by them at the said court, specifying the monthly allowance, and the arrearages due to them.

118

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-----------------------------|-------------------------------------|---|---------------------------------|-----------------|----------------------|-------------|--|
| <i>June Term, 1792.</i> | | | | | | | |
| Clarke Albro, | - Private, Kingston Reds, | Wounded by a musket ball in his left arm, in an action against the enemy's fleet, at Newport. | August, 1778, Newport. | Newport, | \$1 66 $\frac{2}{3}$ | \$30 | There are no muster-rolls of militia in this office. |
| James Bliven, | - Foragemaster, Colonel C. Green's. | Lamed by a violent contusion in his right leg, received in removing hay. | July, 1779, Prudence Island. | Newport, | 3 00 | 50 | There are no returns of this department in this office. |
| John Baggs, | - Sergeant, Col. Dyer's, | Badly wounded by the splitting of a gun, which he discharged in cleaning it. | South Kingston, | Richmond, | 3 33 $\frac{1}{3}$ | 60 | The same remark applies to this man as to Clarke Albro. |
| Robert Carr, | - Private, Col. J. Olney, | Wounded by a musket ball in his cheek, in a skirmish with the enemy. | July 2, 1781, Kingsbridge. | Providence, | 1 66 $\frac{2}{3}$ | 20 | This man does not appear on my record of musters of this line. |
| Daniel Eldridge, 2d, | Sergeant, - - | Received several wounds at Fort Griswold, when attacked under Arnold. | September, 1781, Fort Griswold. | New Shoreham, | 3 33 $\frac{1}{3}$ | 100 | The same remark applies to this man as to Clarke Albro. |
| Edward Vose, | - Sergeant, Col. W. Barton's. | Ruptured by the stroke of an oar, in the pursuit of some prisoners. | 1779, - | Newport, | 3 33 $\frac{1}{3}$ | 30 | This man does not appear on my record of the R. Island line. |
| <i>November Term, 1792.</i> | | | | | | | |
| Esek Aldridge, | - Drummer, - - | Disease contracted from severities endured in the service. | - - - | Smithfield, | 3 67 | 60 | The same remark applies to this man as to Edward Vose. |
| Burton Briggs, | - Private, Col. C. Greene's, | Disease contracted from severities endured in the service. | - - - | Coventry, | 3 33 $\frac{1}{3}$ | 30 | This man does not appear on my record of the R. Island line. |
| Nathan Jaquays, | - Private, - - - | Wounded by a musket ball, in the breast and shoulder, | July, '81, Kingsbridge, | S. Kingston, | 3 33 $\frac{1}{3}$ | 100 | There are no muster rolls of militia in this office. |
| William Lunt, | - Private, Kingston Reds, | Wounded by firing an alarm gun at Rest Hill, at which he was stationed. | May 7, 1779, South Kingston. | N. Kingston, | 3 33 $\frac{1}{3}$ | 60 | The same remark applies to this man as the one above. |
| David Lewis, | - Private, Connecticut line, | Rheumatic disorders and lameness, from hardships endured in the service. | - - - | Westerly, | 3 33 $\frac{1}{3}$ | 30 | Enlisted Feb. 23, 1777, and discharged November 11, 1781. |
| Christopher Moore, | Private, Rhode Island regiment. | Rheumatic complaints contracted in service, and infirmity of age. | - - - | Providence, | 2 22 | 30 | This man is not on my record of the Rhode Island line. |
| Joseph Spencer Taylor. | Assistant Commissary of Issues. | Disorders contracted from exposure and great exertions to save public property lying on the beach, at the storming of Rhode Island by General Sullivan. | 1778, - - | East Greenwich, | 5 00 | 50 | There are no returns of this department in this office. |

CLAIMS.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 13, 1794.

JOSEPH HOWELL, Accountant.

No. 51.

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of Vermont, of Invalid Pensioners examined by them at the said court, specifying the monthly allowance, and the arrearages due to them.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|---------------------|---|---|-----------------------------------|----------------|----------------------|-------------|---|
| Samuel Ball, | Private, 10th regiment, | Disabled by hardship, fatigue, and sickness; also lost one eye whilst in the service of the United States; that he is at present, very much debilitated, and unable to labor. | - - - | Windsor, - | \$3 33 $\frac{1}{3}$ | \$50 00 | There are no militia rolls in this office. |
| Samuel Bartlett, | Captain, Col. Weston's, | Infirm and debilitated, owing to the fatigue and hardships he underwent while besieged by the British in Fort Stanwix, which renders him incapable of acquiring subsistence. | 1777, Fort Stanwix, - | Bennington, - | 5 00 | 100 00 | There are no musters of this regiment in this office. |
| Elijah Bennet, | Private, Colonel Putnam's. | Wounded in the right arm, at the battle of Bunker's Hill, while in the service of the United States; which wound renders it, in some measure, useless. | Bunker's Hill, - | Rutland, - | 2 22 $\frac{1}{3}$ | 50 00 | There are no musters of this regiment in this office. |
| David Brydia, | Private, Col. Herrick's, | Wounded at the battle of Bennington by two balls; one passed through his right breast and right arm, the other through the right knee, which enlarged it very much. | August 16, 1777, Bennington. | Ferrisburgh, - | 1 16 $\frac{2}{3}$ | 30 00 | There are no musters of this regiment in this office. |
| Jared Dixon, | Private, Col. Chandler's, | Disabled by a rupture, while in the service of the United States; that, in consequence of said rupture, he is, in a considerable degree, unable to support himself. | 1777, Germantown, - | Chittenden, - | 2 22 $\frac{1}{3}$ | 40 00 | Enlisted May 26, 1777. |
| Samuel Eyres, | Private, Col. Starke's, | Wounded in his left arm, while in the service of the United States; which wound fractured the bone, and rendered his arm incapable of performing some of its offices. | 1775, Bunker's Hill, | Windham, - | 94 | 10 00 | There are no musters of this regiment in this office. |
| Stephen Gates, | Sergeant, Col. Selden's, | Wounded near the White Plains, in his left leg, while in the service of the United States; in consequence of which wound he is incapable of supporting himself. | October, 1776, White Plains. | Windham, - | 1 25 | 40 00 | There are no musters of this regiment in this office. |
| Jonathan Haynes, | Private, Col. Robinson's, | Wounded at the battle of Bennington, by a musket ball which entered his breast; which wound, in a great measure, renders him incapable of getting a livelihood. | - - - | - - - | 2 50 $\frac{1}{2}$ | 100 00 | There are no musters of this regiment in this office. |
| Limri Hill, | Private, Colonel Stone's militia cavalry. | Wounded in his right hand, while in the service of the United States; which wound renders his thumb and two of his fingers useless. | 1779, Horse Neck, | Chittenden, - | 2 08 | 30 00 | There are no militia rolls in this office. |
| Elijah Tray, | Sergeant, Col. Warner's, | Disabled on an expedition at Joseph's Patent, in the State of New York, owing to a fit of sickness while on said expedition. | 1777, Joseph's Patent, | Bennington, - | 3 33 $\frac{1}{3}$ | 30 00 | Not found; supposed in consequence of the deficiency of muster-rolls. |
| Abraham Merrifield, | Private, Col. Learned's, | Wounded at Boston light-house by a musket ball, which passed through his right leg; which wound, at times, breaks out afresh. | August, 1775, Boston light-house. | Bennington, - | 2 22 $\frac{1}{3}$ | 50 00 | There are no musters of this regiment in this office. |

LIST OF CERTIFICATES FOR VERMONT—Continued.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|---------------------------------------|---|------------------------------|----------------|--------------------|-------------|---|
| Richard Millin, | Sergeant, Col. Marshall, | Disabled, while in the service of the U. States, by hardships and fatigue, which occasioned an incurable sore on his leg, which disables him very much. | - - - | Windham, - | \$2 50 | \$60 00 | Enlisted December 24, 1776, and discharged December 20, 1779. |
| John Sergeant, | Corporal, Col. Wait's, | Wounded by a musket ball, which entered his right breast, and came out under his right shoulder blade, while in the service of the U. States. | October 16, 1781, - | Bennington, - | 2 44½ | 50 00 | There are no militia rolls in this office. |
| Isaac Webster, | Sergeant, Col. Warner's, | Wounded in his right arm, while in the service of the United States; likewise wounded in the wrist of the same arm, which renders it somewhat useless. | July 8, 1777, Hubbardston. | Bennington, - | 1 25 | 15 00 | This man appears to have enlisted March 1, 1777; but I cannot ascertain how long he continued in service. |
| Ephraim Wilmarth, | Sergeant, Colonel Robinson's militia. | Wounded by a musket ball in the arm, which remains lodged under the shoulder blade, and almost deprives him of the use of said arm. | August 16, 1777, Bennington. | Shaftesbury, - | 2 50 | 20 00 | There are no muster-rolls of militia in this office. |
| William Yates, | Private, Col. Butler's, | Disabled by a rupture, while in the service of the United States; which was occasioned by moving a piece of timber, and on which account he was discharged. | 1778, Reading, - | Bennington, - | 1 66½ | 20 00 | Enlisted May 5, 1777, and discharged December 23, 1781. |
| Thomas Torrence, | Private, Colonel Moseley's militia. | Wounded by a musket ball, which entered three inches above the anus, and lodged in his body; in consequence of which he is greatly disabled. | April 1777, Campo, - | Bennington, - | 3 33½ | 100 00 | There are no muster-rolls of militia in this office. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 12, 15, 1794.*

JOSEPH HOWELL, *Accountant.*

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of New Jersey, of Invalid Pensioners examined by them at the said court, specifying the monthly allowance, and the arrearages due to them—October term, 1792.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-------------------|-----------------------------------|--|--------------------------|-------------------------------------|----------------------|-------------|--|
| John Obert, | - Private, 1st New Jersey, | Diseases contracted from the small-pox, and from cold caught soon after, by being put on duty before his strength was sufficiently restored, which affected his limbs, and occasioned an ulcer, which destroyed part of his under lip. | - - - | New Brunswick, - | \$1 33 $\frac{1}{2}$ | \$60 | Enlisted for nine months, and discharged February 23, 1779, agreeably to his enlistment. |
| Sylvester Tilton, | - Private, Col. Forman's militia. | Wounded in the breast by a ball in an action with a party of refugees, who invaded the coast of Monmouth county. | - - - | Stafford township, Monmouth county, | 1 66 $\frac{2}{3}$ | 50 | There is no evidence in this office of the services of this man. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 8, 1794.

JOSEPH HOWELL, *Accountant.*

List of certificates transmitted by the Judges of the Circuit Court for the District of Maryland, of Invalid Pensioners examined by them, specifying the monthly allowance, and the arrearages due to them.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|--------------|-------------------------------|--|--------------------------|------------|--------------------|-------------|---|
| John Coates, | - Captain, 11th Pennsylvania. | Wounded in his right hand by a musket ball, which renders his middle finger useless, and in a great measure deprives him of the use of his hand. | May, 1777, N. Jersey, | Easton, - | \$5 | \$250 | Commissioned Septem. 30, 1776; mustered; wounded in May, 1777, and appears to have left the service in October, 1777. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 12, 1794.

JOSEPH HOWELL, *Accountant.*

List of certificates transmitted by direction of the Judges of the Circuit Court for the District of Virginia, of Invalid Pensioners examined by them at the said court, specifying the monthly allowance, and the arrearages due to them.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|--|---|---|--|-------------------------------------|--------------------|--------------|--|
| Jacob Valentine, - Joshua Davidson, - | Captain, Col. Gibson's, Dragoon, Col. Lee's, - | Lost the sight of one of his eyes while in the service of the United States. Wounded in the right arm while in the service of the United States; likewise wounded in the shoulder, by which wounds he has lost the use of his arm. | 1778, Valley Forge, - March 15, 1781, Guilford. | Princess Ann, - Prince Edward, - | \$13 33 4 72 | \$200 150 | Returned sick in October, 1777; mustered to May, 1778. Enlisted in January, 1779, and continued to 31st December, 1781. |
| William Dalby, - | Corporal, Col. Innis's, | Wounded at the battle of Germantown by a musket ball, while in the service of the United States, by which wound he lost his right eye. | October 4, 1777, Germantown. | Norfolk, - | 3 50 | 205 | Mustered; wounded October 4, 1777. |
| Christopher McCannon. | Sergeant-major, Colonel Campbell's. | Wounded at the battle of Guilford by a musket ball while in the service of the United States, which wound has almost deprived him of the use of his left arm. | March 15, 1781, Guilford. | - - - | 4 00 | 150 | There are no muster-rolls of the Virginia line for 1781, whereby to ascertain the fact. |
| John Bell, - | Lieutenant, 6th regiment, | Wounded at the battle of Brandywine in the knee by a musket ball while in the service of the United States, by which wound he has lost the use of his leg. | 1777, Brandywine, - | - - - | 8 89 | 200 | Commissioned Decem'r 28, 1776; supernumerary Septem. 1778. |
| David Welch, - | Sergeant, Col. Hannow's, | Wounded at the battle of Monmouth by a musket ball while in the service of the United States, by which he has had his right foot and ankle so injured as to be almost useless. | June 28, 1778, Monmouth. | Henrico, - | 5 00 | 200 | There are no musters of the militia in this office. |
| William McIntosh, | Private, Colonel Campbell's. | Wounded at the battle of Guilford by a musket ball in the leg while in the service of the United States, by which wound his leg is almost useless. | March 15, 1781; Guilford. | Richmond, - | 3 33½ | 150 | The same remark applies to this man as to Christopher McCannon. |
| John Burton, - | Sergeant, 5th regiment, | Wounded at the battle of Germantown, in the service of the United States, in the head, and in one of his hips. | October 4, 1777, Germantown. | Henrico, - | 5 00 | 200 | Mustered; wounded and taken prisoner October 4, 1777. |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, March 12, 1794.

JOSEPH HOWELL, Accountant.

3d CONGRESS.]

No. 52.

[1st SESSION.]

CLAIMS OF NORTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 30, 1794.

Mr. HILLHOUSE, from the committee appointed to report a state of facts, with their opinion thereon, relative to the settlement made by the State of North Carolina for certain claims against the United States, made the following report:

That, in the month of December, 1791, all claims and demands against the United States, for personal services rendered during the late war, were, by the existing limitation, laws, and resolves of Congress, barred; that the said State of North Carolina, in the said month of December, 1791, passed a law appointing commissioners to settle and allow certain claims of that description to sundry of the citizens of the said State; that, on the 27th day of March, 1792, Congress passed the act entitled "An act providing for the settlement of the claims of persons under particular circumstances, barred by the limitations heretofore established;" that, after passing the said act of the 27th of March, the said commissioners did proceed, under the said law of North Carolina, to settle and allow the claims of sundry persons, who would have been entitled to settlement and payment from the United States under the said act of the 27th of March, and the said State is possessed of the necessary documents and vouchers to have entitled the individuals to such settlement and payment; that the said State did make out a statement of such claims, which, with the said documents and vouchers, they presented to the commissioners for settling the accounts between the United States and individual States, and claimed a credit therefor in such settlement, but the said commissioners were not authorized to make such allowance, and the same was not done; and thereupon the agent for the said State lodged the said claims and papers in the public offices of the United States, where the same now remain; and that the said act of the 27th of March did expressly preclude from settlement and allowance all claims not presented in the name of the original claimant; and that no certificate should issue in any other name. But as the said State of North Carolina did, in fact, pay and satisfy the said claims, upon an expectation of obtaining a credit therefor in their account with the United States, and did present their claim to the said commissioners before they had closed the settlement, your committee are of opinion, that, although the said State has no legal claim, by the existing laws of the United States and resolves of Congress, to any allowance or payment on account of the said claim, yet that it would be equitable that the said State of North Carolina should have a credit upon the books of the Treasury, towards the debt reported by the said commissioners to be due from the said State to the United States; and, therefore, submit the following resolution:

Resolved, That the State of North Carolina be allowed a credit on the books of the Treasury of the United States, towards the debt reported to be due from the said State by the commissioners for settling the accounts between the United States and individual States, for the amount of all such claims as have been paid by the said State, and presented to the said commissioners for allowance, as would have been allowed and paid under the act of the 27th of March, 1792, entitled "An act providing for the settlement of the claims of persons under particular circumstances, barred by the limitations heretofore established," to the individual claimant, had the same been presented by him.

3d CONGRESS.]

No. 53.

[1st SESSION.]

CLAIM OF STEPHEN SAYRE FOR DIPLOMATIC SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 5, 1794.

Mr. PARKER, from the committee to whom was referred the report of the Secretary of State, to whom was referred the memorial of Stephen Sayre, made the following report:

That it appears to your committee that Stephen Sayre was appointed, by the American commissioners at Paris, in the year 1777, to attend Arthur Lee, one of the commissioners, as secretary to the legation at the court of Berlin; that he served with him in that capacity four months, at which time Mr. Lee left Berlin for Paris; that, in this time, Mr. Sayre received no compensation for his services but two thousand livres tournois, equal to eighty-three pounds six shillings and eight pence, sterling money of Great Britain; that the pay fixed by Congress, at that time, for a secretary to the commissioners at Paris, was one thousand pounds sterling per annum.

The committee is unanimously of opinion that Stephen Sayre is entitled to pay for his services whilst acting as secretary to commissioner Arthur Lee at Berlin, and going thence, at the rate of one thousand pounds sterling per annum; and also entitled to three months' pay, at the same rate, for subsistence in returning to the United States, with interest until paid, after deducting eighty-three pounds six shillings and eight pence sterling, paid him by the commissioners at Paris.

It appears also to your committee, that Mr. Sayre remained in Berlin, and visiting the northern courts in Europe, near two years after the departure of Arthur Lee from Berlin, using his best endeavors to serve the cause of his country, with an expectation of receiving a regular appointment from the United States, in the diplomatic line, in which he expended his time and money in the service of the United States; that, when he engaged with the American commissioners, he was a banker in London, and had been sheriff thereof; that his ardor for the service of his country caused him to leave a Government in which he had prospects of honors and emoluments, because it was engaged in a war with his native country.

The committee submit the following resolutions:

Resolved, That the accounting officers of the Treasury be directed to audit and settle the account of Stephen Sayre, as secretary to the legation of the American commission at Berlin; and that they allow him seven months' pay, at the rate of one thousand pounds sterling per annum, with interest thereon till paid.

Resolved, That Stephen Sayre, late secretary to Arthur Lee, one of the commissioners from the United States at Berlin, be allowed the sum of _____ dollars, for extra services rendered the United States subsequent to the departure of Arthur Lee from the court of Berlin.

[NOTE.—See Nos. 52 and 112.]

3d CONGRESS.]

No. 54.

[1st SESSION.]

CLAIM OF CLERKS FOR EXTRA PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 16, 1794.

Mr. FINDLEY, from the committee to whom were referred the petitions of several of the chief clerks in the Executive Departments of Government—of Philip Audebert and others, clerks in the Department of War; of Benjamin Bankson, a clerk in the Department of State; of Joseph Parker and Benjamin Betterton, clerks in the office of the Accountant of the War Department; and of Walter W. Heyer and others, clerks in the Loan Office of the State of New York—made the following report:

That the memorialists continued in the city of Philadelphia, and performed the duties of clerks, during the time of the late sickness, at the risk of their lives, and when the expense of living was considerably increased. The committee are therefore of opinion that an additional compensation ought to be allowed to them for their services, and submit the following resolution to the consideration of the House:

Resolved, That Benjamin Bankson, Philip Audebert, Benjamin Betterton, and Joseph Parker, be allowed the sum of _____ dollars each, for their services as clerks in the public offices during the late sickness in Philadelphia.

3d CONGRESS.]

No. 55.

[1st SESSION.]

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 22, 1794.

WAR DEPARTMENT, *May 22, 1794.*

The Secretary of War respectfully submits to the Senate and House of Representatives twenty-three additional claims for compensation as invalids, in pursuance of the act entitled "An act to regulate the claims to invalid pensions."

All which is respectfully submitted.

J. KNOX, *Secretary of War.*

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Connecticut, of invalid pension applicants examined by him.

| Applicant's name. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|--------------------------|---|-----------------------------------|------------|---------------------------|---|
| Henry Cone, | Private, 3d Connecticut, | Lost the sight of one of his eyes by the small pox in the service; and afterwards, being ordered out against the enemy, the party to which he belonged was surprised and attacked by light horsemen, when he received several cuts in his head, and was taken prisoner. | 1777, and July, 1781, Horse Neck. | Lyme, | - - | Enlisted Nov. 24, 1776, for three years; discharged 1st December, 1779. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete, except that no examination of physicians is produced to prove the nature or degree of his disability.

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Vermont, of invalid pension applicants examined by him.

| Applicant's names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--|--|--|--|------------------------|---------------------------|--|
| Benjamin Goulds, - Gideon Brownson, - | Private, Colonel Seth Warner. Major, Colonel Seth Warner. | Wounded by a ball or buck shot in his right knee, - Received thirteen gunshot wounds, viz: one through his left shoulder, at the battle of Bennington; the other, on Fourteen Mile Island, in Lake George, in an action with savages, in different parts of his body. | August, 1777, Bennington. August, 1777, and July, 1779, Bennington and Lake George. | Brattleborough, - - | - - - - | On the rolls June, 1779.(1) Received commutation, which is not returned.(1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of New York, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|---|---|---|--------------------------------|---------------------------|--|
| James See, | Sergeant, Colonel James Harman. | Inflammation caused by hurting his left leg by a fall out of bed in a fit of delirium, when he had the smallpox, in captivity in the sugar house, New York. | 1779, New York, | Mount Pleasant, West Chester. | - | No rolls of this regiment of militia in the office.(1) |
| Samuel Miller, | Private, General McDougall. | Had his leg mashed and broken in hauling a sleeper for a bridge building over Croton river by order of General McDougall. | April, 1779, | Mount Pleasant, West Chester. | Full pension, | Militia; no rolls in the office.(2) |
| John Rogers, | Private, Colonel Meigs, | Wounded in his left leg by a musket ball, which passed through the same, and cut off one of the sinews. | Nov. 1779, Hackensack, New Jersey. | Stephentown, | - | Enlisted Feb. 27, 1777, for war; on the rolls in 1781.(2) |
| William Chanpenois, | Private, Colonel Thomas's militia. | Wounded by a ball in his forehead, received from a party of the enemy who lay in ambush, while on a march. | 1781, King street, | West Chester county. | Three-fourths, | No rolls in office.(3) |
| John Utter, | Matross, Col. Lamb's artillery. | Lameness from a bruise or wound received when exercising a piece of ordnance. | December, 1782, West Point. | West Chester county. | Three-fourths, | Enlisted for the war; on the rolls in May, 1783.(3) |
| Thomas Brooks, | Private, Colonel Van Cortland. | Wounded in his right knee by a musket ball received from the enemy. | September 7, 1777, Behmus's Heights. | West Chester county. | - | Enlisted Jan. 2, 1777, for war; on the rolls in 1782.(2) |
| Wm. Smith Scudder, | - | Lost two fingers and the use of both his hands by being frozen in a snow storm, when he went with his men to Long Island in a boat to take certain pieces of ordnance that had belonged to the enemy's shippings; which duty he was ordered on by General Putnam. | March 3, 1778, | West Chester county. (2) | - | No rolls in the office.(2) |
| Abraham Blauvelt, | Private, Lieut. Colonel Cooper's militia. | Wounded by a bayonet in his breast, and by a ball in his left thigh, and otherwise hurt, in an action with the enemy. | October, 1778, Orangetown. | Orange county, | - | No rolls in the office.(2) |
| Henry Snagg, | Private, General Knox's artillery. | Wounded in his left leg by the dragrope of a field piece at the battle of Princeton. | October, 1777, Princeton, New Jersey. | Orange county, | - | Not found on the rolls.(4) |
| Garret Oblenis, | Private, Captain Johnson's company. | Received a shot from one of the enemy's boats then in the North river, which broke his arm and two of his ribs. | November 17, 1777, Bergen county, N. J. | Orange county, | One-half, | No rolls of this comp'y.(2) |
| Shepherd Johnson, | Private, Colonel McDougal's regiment. | Being on a scout in pursuit of a party of refugees, was wounded, and had his arm broken by a musket shot received from the enemy. | May, 1777, Bergen county, N. Jersey. | Orange county, | - | Militia; no rolls in the office.(5) |
| Stephen Powell, | Private, Colonel Van Cortland. | Received an injury in his left shoulder, occasioned by a fall on a stump, which dislocated his shoulder. | April, 1782, Princeton, New Jersey. | West Chester county. | - | Enlisted Jan. 1, 1777, for the war; on the rolls in 1782.(2) |
| Peter Felter, | - | Acted as a guide to that part of the army at the storming of Stony Point; and, in the execution of that business, received a wound in one of his legs, for which he claims a gratuity, compensation having been promised him by General Wayne; especially as the other guide employed in the same service, though not wounded, received a considerable gratuity.(6) | - | - | - | - |
| Henry Carman, | Ensign, Col. S. Drake's militia. | Wounded by a ball from a pistol that went off by accident; which ball entered the left part of his neck and lodged in his shoulder, where it still remains, and has caused his left arm to perish.* | November 3, 1780, Crumpond, now Yorktown. | Yorktown, West Chester county. | Full pension, | No rolls of this regiment in this office.(2) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence incomplete; disability not proved to have been the effect of known wounds. (2) Evidence complete. (3) Evidence complete, except that the disability is proved but by one evidence. (4) Evidence incomplete. His disability is proved but by his own affidavit; the certificates, however, of Adj. Gen. Campbell and Adj. Gen. Pickering specify his disability. (5) Evidence complete, except that he has been examined but by one physician, who certifies that he is not so far disabled as to prevent him from bodily labor. (6) No evidence transmitted but Felter's own deposition.

*Against the claim of Henry Carman there have been transmitted to the War Office, by certain inhabitants of the county in which he resides, the affidavits of Col. John Hyatt, Lt. Col. Gilbert Strange, Capt. John Paulding, Ezekiel Hyatt, and Rob't Lang, setting forth that Carman received his wound in his own house, by the accidental discharge of a pistol which was laid on a shelf by one of the party with whom the said Carman had been in pursuit of a cat.

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Maryland, of invalid pension applicants examined by him.

| Name. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|--------------------------|---|--------------------------|-------------------------|---------------------------|--|
| William Ormond, - | Private, 2d Maryland, | Wounded in the right hand by a musket ball, which has deprived him of the use of three of his fingers, and in a great measure disables him from obtaining a livelihood. | Monmouth, - | Prince George's county. | - - | Enlisted for three years; discharged June 13, 1778. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) No evidence, but the affidavit of his commanding officer, proving his having been wounded in the service.

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of North Carolina, of invalid pension applicants examined by him.

| Name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--------------------------|--|--------------------------|--------------------|---------------------------|--|
| William Simpson, - | Private, 5th Virginia, - | Wounded by a musket ball, which entered the left side, near the region of the kidneys. | 1776, Saratoga, - | Rockingham county. | - - | Enlisted April 6, 1776, two years; discharged Feb. '78. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

3d Congress.]

No. 56.

[1st Session.]

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 29, 1794.

WAR DEPARTMENT, May 29, 1794.

The Secretary of War respectfully submits to the Senate and House of Representatives of the United States four additional claims for compensation as invalids, in pursuance of the act entitled "An act to regulate the claims to invalid pensions."

All which are respectfully submitted.

J. KNOX, Secretary of War.

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Pennsylvania, of invalid pension applicants examined by him.

| Applicant's name. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|-------------------------------|--|--------------------------|---------------|---------------------------|---|
| Richard Stack, | Fife-major, 7th Pennsylvania. | Received thirteen bayonet wounds at the time the American troops, under General Wayne, were surprised by the enemy at Paoli. | September, 1777, Paoli. | Philadelphia. | Half, - | Enlisted November 20, 1776, for war; wounded September, 1777. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence imperfect; the evidence of his being disabled in service, and of its continuance, not being taken before the District Judge, as is required by law, but before Justices of the Peace.

List of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Delaware, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|---|------------------------------|-------------------|---------------------------|--|
| Dan'l McDonald, | Corporal, Capt. Jaquet's company, Delaware regiment. | Wounded in his leg in the action of Germantown, which crippled him, and renders him incapable of maintaining himself, being seventy-one years of age. | October 4, 1777, Germantown. | Newcastle county. | - | Enlisted April, 1777, for the war; discharged September, 1778.(1) |
| George Fulham, | Sergeant, 7th Maryland, Capt. Anderson's company | Wounded in his leg in the action at Germantown. | October 4, 1777, Germantown. | - | - | For the war; transferred to invalids Jan. 1782.(2) |
| John Carr, - | Private, Delaware regiment. | Disabled by a stroke received across his loins by a log when in the execution of his duty; in consequence of which he became unable to support himself, and was allowed a pension, but afterwards struck off, on a supposition that his disability had ceased; this not being the case, he again claims the provision made for disabled soldiers. | - | Wilmington. | Four-fifths, | Enlisted Oct. 1777, for three years; discharged October 6, 1779. (3) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete. (2) Evidence imperfect, viz: no evidence of the continuance of his disability to the present time. (3) Evidence complete, except that he was examined but by one physician.

3d CONGRESS.]

No. 57.

[2d SESSION.

COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 24, 1794.

The SECRETARY OF WAR, to whom was referred, on the 6th day of June, 1794, the memorial of Peter Perrit, with instructions further to examine the same, and make report thereon at the next session, respectfully reports:

That, having previously made two separate reports upon the claims of the petitioner, he has again not only carefully examined the principles upon which they were made, but he has had the circumstances upon which the new petition appears to be founded, together with certain allegations brought forward by the petitioner's agent, examined by the accountant of the War Department; the result of which, with the documents thereunto belonging, and the two former reports, the subscriber humbly begs leave to submit to the House of Representatives.

H. KNOX, *Secretary of War.*WAR DEPARTMENT, *November 24, 1794.*WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *July 24, 1794.*

SIR: I have made an examination into the facts stated by James Blanchard, in behalf of Captain Peter Perrit, the result of which I beg leave to lay before you; it is as follows:

Mr. Blanchard asserts that Captain Perrit's claim for commutation is founded on the same principles which governed in the settlements and allowances made to Colonel Allen, Lieutenant Colonel Livingston, Captains Patton, Stratton, and Crawford, and others. This merits particular inquiry; the time of Colonel Allen's exchange does not appear on any return in my possession; but this circumstance is immaterial, as Congress, by their act of the 24th of September, 1778, (see paper A.) continued him in service, during their pleasure; as the colonel did not belong to any particular line or State, he retired under the act of the 31st December, 1781. Colonel Livingston was deranged under the said act, (see paper B.) Captain Patton retired under the acts of the 3d and 21st of October, 1780, as per certificate of Joseph Carleton, (see paper C.) Captain Stratton was deranged under the same acts, as appears by an extract of a letter from General Lincoln to Mr. Pierce, (see paper D.) The evidence on which was founded the claim of Captain Crawford and Lieutenant Dover is not to be found; but I am confident the late commissioner of army accounts had sufficient evidence before him of their being entitled to the commutation.

Captain Perrit was exchanged agreeably to a return of officers, prisoners, in my possession, the 26th of August, 1778. The gentlemen alluded to, who received commutation, were exchanged between the 25th of October and the 31st of December, 1780. It being subsequent to the act of the 22d of May, 1779, the similarity of the cases does not apply; for those officers who received the commutation were considered by their States, or by the Secretary of War, as retiring from service under the acts of the 3d and 21st of October, 1780, and probably by the act of Congress of the 1st of January, 1781. Those officers who were exchanged prisoners, to the 22d of May, 1779, and did not join their respective regiments, and who were not again in service, were considered under that act as supernumerary, (a few of which are mentioned in paper E,) and received the year's pay, some in specie, others in the old emissions. A number of those officers, who were exchanged between the 25th of October, 1780, and the 1st January, 1781, have only received the year's pay, (see paper F.) It is, therefore, evident that the commissioner of accounts did not conceive himself authorized to grant the commutation without the necessary certificates from the State, or Secretary of War; that those officers were deranged under the acts of 1780, as mentioned. The many applications on this head induced the commissioners to address Congress on this subject, and which produced the resolve of February 11, 1784, and June 30, 1786.

Mr. Blanchard quotes the thirteenth article of section the fourteenth of the articles of war. I am at a loss to know the purpose of bringing this forward, as I conceive that section operates against him: Congress being express in their declaration of dismissing officers.

Captain Perrit, in his memorial to Congress, of the 3d February last, asserts, that the act of Congress of the 11th of February, 1784, "entitles officers in his situation to half pay, or the commutation of half pay, for life; on which resolution all the officers who were in like circumstances with him have been settled with, excepting himself and one more, who was a lieutenant in his company, at Fort Washington, and was there captured by the enemy."

I have before observed, that those officers who were exchanged previous to the 22d of May, 1779, and did not join the army, were considered, under that act, as supernumerary. The assertion "that all officers in his situation were allowed the commutation," is not a fact; so far from it, that I do not, after a full investigation of the accounts settled by the late commissioner of army accounts, or by myself, find one instance where an officer has been allowed commutation, who was exchanged in 1778 and 1779, unless such officer was afterwards in actual service, and continued to the 1st of January, 1781.

This statement, added to your two reports to Congress, will, I conceive, fully show that Captain Perrit's claim is not founded either upon law or custom.

I have the honor to be, sir, your obedient servant,

JOSEPH HOWELL.

The SECRETARY OF WAR.

A.

SIR: WAR OFFICE, *May 23, 1785.*

General Ethan Allen comes to Philadelphia to settle his account of commutation, which he is entitled to by the enclosed resolution of Congress. As he is anxious to return immediately to the eastward, I will thank you to adjust his accounts with all possible despatch.

JOS. CARLETON.

JOSEPH HOWELL, Esq.

IN CONGRESS, *September 24, 1778.*

Resolved, That seventy-five dollars be allowed to Colonel E. Allen, from the date of his brevet, during the pleasure of Congress, or until he shall be called into actual service.

B.

This certifies that Lieutenant Colonel Henry B. Livingston was deranged by the resolve of Congress of the 31st December, 1781, as appears on record in this office.

Given at the War Office, this 17th March, 1786.

H. KNOX.

C.

WAR OFFICE, June 26, 1783.

I certify that Captain Robert Patton, late of the Pennsylvania line, retired on the 1st January, 1781, under the resolutions of Congress of the 3d and 21st October preceding; and that he was promoted to the rank of captain in said line on the 1st April, 1778.

By order:

JOS. CARLETON, *Secretary*.

D.

Extract of a letter from General Lincoln, dated

SIR:

WAR OFFICE, PRINCETON, October 11, 1783.

General Glover and Colonel Jaduthan Baldwin retired under particular acts of Congress in 1782; by those acts they were severally entitled to all the emoluments of officers retiring under the acts of Congress of the 3d and 21st October, 1780.

Captain Stratton was a prisoner of war, until November or December, in that year: on his return home, claimed his rank in the army, which, he having been a prisoner, had a right to do; and obtained a warrant for a captaincy, from the Governor of Massachusetts, and applied to me for a commission in one of the regiments; but on finding, as they had been then lately settled, that his coming into the line, though undoubtedly his right, would create some discontent, I advised him to waive his claim of entering into actual service, and to consider himself as a retiring officer. With this advice he complied.

To JOHN PIERCE Esq., *Paymaster General*.

E.

Return of officers exchanged the same time with Captain Peter Perrit, who were allowed only the year's pay, several of which received it in the old emissions, and were considered as supernumeraries, under the act of Congress of the 22d May, 1779, viz:

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, July 24, 1794.

Lieutenant William Cleveland of Connecticut line, Tyler's regiment.

Do. Nathaniel Cleaver, Massachusetts.

Do. Samuel Holmes do.

Lieutenants John Richardson, John Lawrence, Daniel Broadhead, John Morgan, John Priestly, and John Holmes, and others, Pennsylvania and other lines.

Extract from the books of this office.

JOSEPH HOWELL, *Accountant*.

F.

Return of officers exchanged between the 25th October, 1780, and the 1st January, 1781, who were allowed only the year's pay in specie certificates, viz:

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, July 24, 1794.

Lieutenant John Duguid,

Do. Jesse Cook, Jesse Grant, and others,

Extract from the books of this office.

JOSEPH HOWELL, *Accountant*.

Extract of so much of the report of the committee, to whom were referred the reports of the Secretary of War, on sixty petitions, as relates to the memorial of Peter Perrit:

"The committee have also considered the memorial of Peter Perrit, and the report of the Secretary of War thereon, and are of opinion, though persons have been allowed commutation, under similar circumstances, yet there is no just ground to set aside the report of the Secretary of War on his case."

SIR:

PHILADELPHIA, June 10, 1794.

When your report was presented in the case of Captain Perrit, he apprehended he was deficient in evidence, and prayed for a committee, which was granted.

Further evidence was produced, and the committee met and discussed the subject.

Mr. Lee produced a resolve of July, 1786, explaining the former acts of Congress, to extend commutation to three descriptions of officers, viz: those who had been hostages; those who had continued in service to the end of the war; and those who retired from service on the arrangements of the army in 1780 and 1781.

Captain Perrit alleged he was of the latter description, upon which the committee suspended their report. He has now sent unquestionable documents from Colonel Wyllis and Colonel Grosvenor, of his being of that description, and held on the permanent establishment after his exchange, until the derangement took place in 1780.

The committee last Friday met, and observed, that the evidence was sufficient; but, at my request, they brought forward a motion to submit the final settlement to the Secretary of War. It is very apparent that Captain Perrit ever considered himself entitled to commutation, and what he received from the public was in depreciated paper, of small value, and insufficient to defray his contingent expenses.

Mr. White and myself will wait on you with the papers, arranged for your consideration.

JAMES BLANCHARD.

N. B. The payments that Captain Perrit received were partial, and in cases of necessity, not having the necessary documents to prove his claim to commutation.

The Hon. HENRY KNOX, Esq.

SIR:

PHILADELPHIA, July 7, 1794.

On my letter of the 11th ultimo, you observed, that it was necessary the evidence in the case of Captain Perrit should be on oath, and the elucidations in writing.

The papers now before you is the mode of evidence that has been the invariable practice in settling all military accounts; and there being no official instructions to the contrary, I conceive you cannot be blamable in acting on this established rule.

The act of Congress, of the 22d May, 1779, whereon your former report was founded, "That all continental officers, who are, or may be exchanged, and not continued in service, be considered as supernumerary, and entitled to the pay promised by a resolve of Congress of the 24th November last," cannot, as I conceive, operate in the case of Captain Perrit, because he was actually continued in service after his exchange, in conformity to the resolve of November 24th, 1778, as appears from the assertions of Governor Trumbull, and the affidavit of three respectable freeholders, the selectmen of Milford.

The act of May 6th, 1784, could not deprive nor could not determine commutations to Captain Perrit, but gives a latitude to the Paymaster General, referring him to several acts of Congress, that were considered sufficiently explained the 11th of February previously, whereby commutation was extended to all officers in similar situations, on producing similar proof.

Captain Perrit at present considers himself injured; and if the assertions of General Parsons, Colonel Wyllis, Colonel Grosvenor, Colonel Sherman, and Captain Judd are scrupled, I am persuaded it will give offence. And as all of us have been soldiers, and acquainted with the sufferings as well as the arrangement, of the army, and you on the part of the public, and myself on the part of the applicant, are to hold the case to public view, the object of my desire is an accurate inquiry what Captain Perrit was entitled to from the several acts of Congress, and the rules and regulations of the army.

And fearing I should prove incompetent to elucidate the subject in writing, I will wait until your health is recovered, and your time and opportunity will admit of an interview, as was proposed when I had the pleasure of seeing you last.

JAMES BLANCHARD.

The Hon. HENRY KNOX, *Secretary of War.*

SIR:

PHILADELPHIA, July 23, 1794.

The constitution of the United States having invested the Chief Magistrate with the power of enforcing the laws, I make application to you, on behalf of Captain Peter Perrit, captured at Fort Washington, in November, 1776, and after his return from captivity, gave notice to the Executive of the State of Connecticut of his exchange and readiness to return to his duty, and was registered in his former rank, as an officer belonging to the Connecticut line, within the time limited, and repeatedly applied to General Parsons to join the regiment to which he belonged, agreeably to the resolve of Congress of November 24th, 1778, but from his place being filled in his absence by another, he could not be admitted, and by the arrangement of the army in 1781, he was considered as supernumerary and retiring from service, with those officers entitled to the emoluments promised by Congress by their acts of November 24th, 1778, October 3d, 1780, and January 1st, 1781.

Captain Perrit came forward last year for a settlement, but was rejected, and petitioned Congress, who referred his case to the Secretary of War.

Among other documents, he stated, that all officers of his description, and registered agreeable to the act of November 24th, 1778, was considered, from the 13th article of war, as belonging to the continental army, until cashiered by a court-martial, or dismissed by order of Congress, in the arrangement of the army in 1780 and 1781, and that all officers have been invariably settled with accordingly.

I therefore requested that the settlements made with a number of officers might be produced as a precedent, and applied to Mr. Howell for a sight of the papers and a copy, by order of the Secretary of War; but Mr. Howell pointedly refuses to give me any information, and pointedly assumes a determination against the applicant.

From Mr. Howell being either deficient in ability or strength of nerves, he resigned at an early period of the war; and having no claim to commutation is, as I apprehend, the cause of his prejudices and violence in the present case.

In all courts of justice, contending parties are admitted to a knowledge of the public records; and when they are denied, superior authority is applied to. The Secretary of War observed, that he had no control over Mr. Howell's papers; I therefore apply to you, as Chief Magistrate, and the source of Mr. Howell's appointment, and pray that I may see the settlements made with Colonel Ethan Allen; Major Francis Murray; Captains Grafrod, Stratton, and Patton; Lieutenants Dover, Robinson, and Jenny; and have a copy impartially taken, to deliver to the Secretary of War, to add to the documents now before him, to report in the case of Captain Perrit.

JAMES BLANCHARD.

P. S. I will wait on your Secretary for an answer.

GEORGE WASHINGTON, Esq., *President of the United States.*

SIR:

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, November 6, 1794.

Enclosed are copies of the accounts required by Mr. James Blanchard, which you will please to file with the papers already presented to the Secretary of War, relative to the claim of Captain Peter Perrit.

JOSEPH HOWELL.

JOHN STAGG, Jun., *Chief Clerk War Office.*

WAR OFFICE, June 26, 1783.

I certify that Captain Robert Patton, late of the Pennsylvania line, retired on the 1st day of January, 1781, under the resolutions of Congress of the 3d and 21st October preceding; and that he was promoted to the rank of captain in said line on the 1st of April, 1778.

By order:

JOS. CARLETON.

DR. *The United States of America to Captain Robert Patton.*

To five years' full pay in lieu of half-pay for life, agreeably to a resolve of Congress, 22d March, 1783, at \$40 per month, is - - - - - \$2,400

CR. *Contra.*

By an order on John Pierce, Esq., Paymaster General, for one month's pay in favor of the treasurer of the Cincinnati Society for Pennsylvania - - - - - \$40
Balance due - - - - - 2,360
\$2,400

ROBERT PATTON.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *November 6, 1794.*

I certify that the within is a true copy of the originals filed in this office.

JOSEPH HOWELL, *Accountant.*

DR. *The United States to Francis Murray, late major in the 13th regiment, Pennsylvania.*

To five years' full pay, in lieu of half-pay for life, pursuant to act of Congress of the 22d March, 1783; 60 months, at \$50 per month, is - - - - - \$3,000

FRANCIS MURRAY.

SIR: NEW YORK, *January 18, 1786.*

By a certificate of Major General St. Clair, filed in the War Office, a copy of which certificate is filed in the Pay Office, it appears that Major Francis Murray was deranged on the 1st January, 1781, and entitled to half-pay; there is due him the sum of three thousand dollars, as is expressed above.

JOSEPH HOWELL, *Assist. Com. Army Accounts.*

JOHN PIERCE, Esq., *Commissioner Army Accounts.*

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *November 6, 1794.*

I certify that the above is a true copy of the original filed in this office.

JOSEPH HOWELL, *Accountant.*

DR. *The United States, in account with Andrew Dover, late lieutenant in the 5th Pennsylvania regiment.*

| | |
|---|-------------------|
| To his pay from 1st September, 1776, to 7th October following, is 1 month and 7 days, at \$18 per month | \$21 54 |
| To his pay from 7th October, 1776, to 1st January, 1777, is 2 months and 25 days, at \$27 per month | 76 45 |
| To his nominal pay from the 1st January, 1777, to the 27th May, 1778, at \$27, and from the 27th May, 1778, to the 1st August, 1780, at \$26 $\frac{9}{10}$ per month, is \$1,126 $\frac{4}{10}$; old emissions, at 75 for one, is | 15 02 |
| To his pay from the 1st August, 1780, to the 25th October following, 2 months and 25 days, at \$26 $\frac{9}{10}$ per month | 75 50 |
| To his rations from the 16th November, 1776, (the day of his capture) to the 25th October, 1778, (the period of his exchange,) is 1,438 days, at 2 rations per day, is 2,876 rations, at $\frac{1}{10}$ each | 479 50 |
| To travelling expenses allowed from Elizabethtown to Philadelphia, 80 miles, 20 miles per day is 4 days, at \$1 $\frac{2}{10}$ per day | 4 84 |
| To five years' full pay in lieu of half-pay for life | 1,600 00 |
| | <u>\$2,272 85</u> |

CR. *Contra.*

| | |
|--|-------------------|
| By \$400, old emissions, received of Colonel Palfrey, by the hands of Major Beatty, at five for one, in specie | \$80 00 |
| By cash paid him by Mr. Skinner | 163 59 |
| By cash paid him by Elias Boudinot | 155 72 |
| By cash paid him by John Beatty | 387 00 |
| Balance due Lieutenant Andrew Dover | 1,486 54 |
| | <u>\$2,272 85</u> |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *November 6, 1794.*

I certify that the within is a true copy of the original filed in this office.

JOSEPH HOWELL, *Accountant.*

DR. *The United States, in account current with Lt. Andrew Robinson, late 11th Pennsylvania regiment.*

To commutation of five years' full pay, in lieu of half-pay for life, agreeably to an act of Congress of the 22d March, 1783, - - - - - \$1,600

Examined: JOHN PHELAN.

NEW YORK, *March 30, 1786.*

CR. *Contra.*

By certificate issued on interest from March 22, 1783, No. 93,888 - - - - - \$1,600

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *November 6, 1794.*

I certify that the within is a true copy of the original filed in this office.

JOSEPH HOWELL, *Accountant.*

The United States, in account current with Lt. Thomas Jenny, late of the old 5th Pennsylvania regiment.

Dr. To five years' full pay, in lieu of half-pay for life, allowed pursuant to a resolution of Congress of
23d March, 1783; 60 months, at \$26 $\frac{60}{90}$ per month - - - - - \$1,600

Examined and settled, May 13, 1786.

JOHN PIERCE, Esq. - - - - - C. SWAN.

Cr. *Contra.*

By certificate No. 93,986, for - - - - - \$800
By certificate No. 93,987, for - - - - - 800

Amounting to \$1,600; on interest from the 22d of March, 1783, - - - - - \$1,600

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, November 6, 1794.

I certify that the above is a true copy of the original filed in this office.

JOSEPH HOWELL, *Accountant.*

WAR DEPARTMENT, March 12, 1794.

The SECRETARY FOR THE DEPARTMENT OF WAR, to whom was referred the petition of Peter Perrit, respectfully reports:

That the petitioner, whose case was generally stated in the report hereunto annexed, again comes forward with a new petition, claiming further compensation.

It is to be understood, that the petitioner has had not only all the allowances made in pursuance of the several acts of Congress to officers of his description generally, but that his case was particularly considered and decided on by the United States in Congress assembled, on the 6th day of May, 1784, who passed a special resolve in his favor.

A decision made so solemnly would appear to be entitled to be considered as a final act, and to preclude all future constructive reasoning upon the resolves of Congress relative to the petitioner's case.

He, however, still perseveres, apparently under the expectation that, having notified the Executive of Connecticut of his readiness to enter the service after his exchange as a prisoner, in pursuance of the resolves of Congress of the 24th of November, 1778, that he was virtually continued in the service until the half-pay for life was stipulated in October, 1780; and therefore that the commutation of it ought to be paid him.

But it is conceived that the following resolve of Congress repealed the said act of the 24th of November, 1778, so far as to preclude all officers, not then arranged in any of the regiments, from any claims of half-pay for life, stipulated in October, 1780, to wit:

SATURDAY, May 22, 1779.

Resolved, That all continental officers who are, or who may be, exchanged, and not continued in service, be, after such exchange, considered as supernumerary officers, and entitled to the pay provided by a resolution of Congress of the 29th November, 1779.

And this, in fact, appears to have been the implied construction of the petitioner himself, as he did, on the 27th of March, 1784, receive the gratuity of one year's pay, granted to the officers deranged by virtue of the resolves of Congress of the 29th of November, 1779.

The subscriber, therefore, upon reviewing the case of the petitioner, conceives that he has no further well-grounded claim upon the United States, consistently with the principles which have governed in the settlement of the late army.

All which is humbly submitted to the House of Representatives.

H. KNOX, *Secretary of War.*

The report of the Secretary for the Department of War on the petition of Peter Perrit to the House of Representatives of the United States, dated February 8, 1793.

That Peter Perrit states, that, in the year 1776, he was a captain in the Connecticut line of the late army; that he was stationed at Fort Washington, where he was made a prisoner by the enemy; that, a few days before his capture, he was re-appointed a captain in one of the eight battalions raised by that State; that he was exchanged the 18th September, 1778. That, as soon as he arrived within the American lines, he gave notice to the Supreme Executive of the State of his wish to re-enter service; that he immediately repaired to the army, and gave notice to the commanding officer of the Connecticut line of his situation, and of his readiness to take his place in the line; that he remained in this situation, without accepting any civil employment or engaging in any other business, until peace took place, with a constant expectation of being called into service, but never was called upon.

The petitioner has been settled with conformably to the acts of the 24th November, 1778, the 22d May, 1779, the 26th May, 1781, and the 11th day of February, 1784. The last was a special act in his favor, and seems to comprehend all that the petitioner is entitled to upon general principles.

[NOTE.—See No. 70.]

3d CONGRESS.]

No. 53.

[2d SESSION.]

INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1794.

Mr. GREENUP, from the committee appointed to inquire if any, or what, alterations ought to be made to the act passed the 7th day of June, 1794, entitled "An act concerning invalids," made the following report:

That the before recited act restricts the Secretary of the War Department from placing any person on the pension list but those reported by him on the 25th day of April, 1794, as having complete evidence of their disabilities. That by this act, commissioned officers, who were reported on that day, might be placed on the pension list, provided they complied with the rule prescribed in the case of Captain David Cook, for the return of their commutation.

On inquiry, your committee find that the Secretary reported, the 13th day of February, 1794, in favor of William McHatton, a lieutenant, who prayed to be permitted to return his commutation and be placed on the pension list agreeably to the rate returned by the district judge; but, from the special restriction in the above-recited act, the Comptroller of the Treasury did not think himself authorized to admit his claim without the previous sanction of Congress.

Wherefore, your committee submit the following resolution:

Resolved, That the act concerning invalids ought to be amended so as to permit any commissioned officer of the late army of the United States (who may have received the commutation) to be placed on the pension list; provided such officer shall first return his commutation, or a sum equivalent thereto, and also produce to the Secretary of the War Department the evidence of his disability, as required by the act entitled "An act to regulate the claims to invalids pensions," passed the 28th of February, 1793; and provided such application be made within — months, and not after.

3d CONGRESS.]

No. 59.

[2d SESSION.]

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1794.

The SECRETARY OF WAR, in pursuance of the act entitled "An act to regulate claims to invalid pensions," respectfully reports to the Senate and House of Representatives of the United States the statements hereunto annexed of such claims as have been received by him since the twenty-ninth day of May, one thousand seven hundred and ninety-four.

At the same time he submits further evidence which has been received, in addition to evidence formerly stated as imperfect.

It is to be observed that, under the act to regulate claims to invalid pensions, it does not appear that any arrears have been allowed to invalids, excepting the commissioned officers, who had received their commutation, and who were placed on the pension list, in pursuance of the "Act concerning invalids," passed the seventh day of June, one thousand seven hundred and ninety-four.

It is also further proper to observe, that the persons stated in two separate reports as having complete evidence on the twenty-second and twenty-ninth days of May, one thousand seven hundred and ninety-four, have not yet been placed on the pension list, the same not having been authorized by law.

All which is submitted to the Senate and House of Representatives:

H. KNOX, *Secretary of War.*

DEPARTMENT OF WAR, *December 30, 1794.*

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the District of Maine, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---------------------------------|---|------------------------------|---------------|---------------------------|---|
| Daniel Brawn, | Private, Col. Edmund Phinney's. | His hearing considerably impaired, and his understanding injured, by a wound received in his head by a musket ball. | Oct. 1777, Behmus's Heights. | York, - - | Two-thirds, | Militia; no rolls in this office.(1) |
| Ebenezer Phinney, | Private, Col. Brewer's, | Wounded in his foot, by the accidental discharge of a gun, which occasioned an amputation of two of his toes. | July, 1777, near Saratoga. | Gorham, - - | One-fourth, | Enlisted Jan. 1, 1777; discharged January 1, 1780.(2) |
| John Knowles, | Private, Col. Stickney's, | Wounded by a ball shot through his body, | 1777, Bennington, - | Sterling, - - | One-third, | Militia.(3) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December 26, 1794.

JOSEPH HOWELL, Accountant.

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete, excepting that the evidence of only one freeholder is produced, instead of three, to prove the fourth requisition of the law. (2) Evidence perfect, excepting being taken before two commissioners, instead of three, as required by law. (3) Evidence complete.

A statement of the certificates transmitted to the War Office of the United States, by the attorney of the District Court for the District of New Hampshire, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|---------------------------------|--|--------------------------------|------------------|---------------------------|---|
| James Ford, | Captain, Col. Nichols's, | Wounded by two musket balls, which passed through both his thighs. | August 6, 1777, Bennington. | West Nottingham, | One-half, - | Militia; no rolls in this office.(1) |
| Jeremiah Richard, | Lieutenant, 1st New Hampshire. | Wounded by a musket ball, in his left shoulder. N. B. Likewise received a rupture in his groin, in the Indian expedition under the command of General John Sullivan, in the summer of the year 1779. | October 7, 1777, Hubbardstown. | New Ipswich, | One-half, - | Discharged July 5, 1780.(2) |
| Robert B. Wilkins, | Private, Colonel James Reed's. | Wounded by a musket ball, in the joint of his right elbow, whereby he is deprived, in a great measure, of the use of his wrist and fingers. | June 17, 1775, Bunker's Hill. | Amherst, - | Two-thirds, | Militia; received commutation as lieutenant in the line.(2) |
| Jacob Wellman, Jun. | Private, Colonel James Reed's. | Wounded by a musket ball, shot through his right leg, | June 17, 1775, Bunker's Hill. | Lyndeborough, - | One-fourth, | Militia.(2.) |
| Joshua Lovejoy, | Sergeant, Colonel James Frye's. | Wounded in his right foot and ankle, by two musket balls. | June 17, 1775, Bunker's Hill. | Hampkinton, - | One half, - | Militia.(2) |
| Joseph Greeley, | Private, Colonel James Reed's. | Wounded in his right leg by a ball, - - - | June 17, 1775, Bunker's Hill. | West Nottingham, | One-fourth, | Militia.(2) |

Remarks on the evidence transmitted by the District Attorney.

(1) Evidence complete. It appears by certificates accompanying his petition, as well as by the original return from the above State, that he received half-pay as captain for four months, to Jan. 19, 1778. (2) Evidence complete.

LIST OF CERTIFICATES FOR NEW HAMPSHIRE—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-----------------------|------------------------------------|--|--|------------------------------|---------------------------|--|
| Thomas Kimball, | Private, 1st N. Hampshire. | Wounded by a musket ball, in his right arm, in an action with some Indians. | 1779, Shomung, | Amherst, | One-fifth, | Enlisted June 3, '78, for the war; on the rolls in 1783.(1) |
| Joshua Haynes, | Private, Nixon's minute company. | Wounded in his right shoulder, by a musket ball, which has deprived him, in a considerable degree, of the use of his arm. | April, 1775, Lexington. | Washington, | One-half, | Militia; no rolls in this office.(2) |
| Archelaus Batchelder. | Sergeant-major, Colonel Nichols's. | Wounded by a musket ball, which entered his side, | August 16, 1777, Bennington. | Wilton, | One-half, | Militia.(3) |
| Jonathan Lake, | Private, 2d New Hampshire. | Wounded in his left thigh by a musket ball, | July 3, 1781, Kingsbridge. | Rindge, | One-half, | Enlisted April 10, 1778, for the war; on the rolls in 1783.(1) |
| Edward Waldo, | Lieutenant, Col. David Hobart's. | Wounded by a ball, which passed through his left wrist; whereby the bones were broken, and remain dislocated. | August 16, 1777, Bennington. | Walpole, county of Cheshire. | Two-thirds, | Militia.(1) |
| Joshua Gilman, | Private, Colonel David Hobart's. | His left arm broken by a ball; likewise wounded in his breast. | August 16, 1777, Bennington. | Alstead, | Two-thirds, | Militia.(4) |
| David Newton, | Private, Col. Jonathan Holman's. | Was overcome by the heat, in retreating to Haarlem Heights, near New York, which occasioned universal weakness in all his limbs. | September, 1776, near New York. | Chesterfield, | Full, | Militia.(5) |
| Charles Rice, | Private, Colonel John Stark's. | Wounded by a ball, passing through his right shoulder and breast, which prevents him from the free use of his right arm. | June 17, 1775, Bunker's Hill. | Surry, | One-half, | Militia.(1) |
| John Redding, | Private, Colonel Moses Nichols's. | Has large putrified ulcers on both his legs, occasioned by a cold caught in wading a river in pursuit of the enemy, while in a high state of perspiration. | August 16, 1777, Bennington. | Surry, | Two-thirds, | Militia.(5) |
| Zadock Hurd, | Private, Col. Scammel's. | Wounded by a ball passing through his left thigh, | September 19, 1777, Behmus's Heights. | Gilsum, | One-third, | Sick in Albany, Sept. 1777.(1) |
| Josiah Walton, | Private, Colonel James Reed's. | Wounded by a musket ball shot through his neck, just escaping the jugular vein; in consequence of which wound an abscess has formed in his back, which renders laborious employments very painful to him. | June 17, 1775, Bunker's Hill. | New Ipswich, | One-third, | Militia.(1) |
| Francis Whitcomb, | Private, Col. Thomas Marshall's. | Wounded in his left groin, while on a scouting party, by some Indians and Tories belonging to General Burgoyne's army. | 31st July or 1st Aug. '77, near Schuyler's river, in Saratoga. | Fitzwilliam, | One-third, | Enlisted April 1, 1777, for three years; discharged April 1, '80.(1) |
| Elijah Morse, | Private, Colonel Enoch Hale's. | Was afflicted with a nervous inflammatory disorder, which deprived him, for some time, of the use of his reason; and which has ever since totally incapacitated him for labor, in consequence of wading a river (encumbered with floating ice) in obedience to his commanding officer. | October, 1777, Battenkiln river. | New Ipswich, | Full, | Militia.(5) |
| Ebenezer Fletcher, | Fifer, 2d New Hampshire. | Wounded by a bullet, which passed through the small of his back. | July, 1777, Hubbardstown. | New Ipswich, | One-fourth, | Enlisted March 5, '77; discharged April 1, 1780.(1) |

Remarks on the evidence transmitted by the District Attorney.

(1) Evidence complete. (2) Evidence complete, excepting when he left the service. (3) Evidence complete. Has received £30, for which he is held accountable, as appears by the original return from the above State. (4) Evidence complete. Begs leave to be replaced on the pension list; he received a pension from the above State to the 31st December, 1779, when he was struck off the list by order of court. (5) Evidence complete as to the object; but not being wounded, is not comprehended by the laws.

LIST OF CERTIFICATES FOR NEW HAMPSHIRE—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|---|--|-------------|---------------------------|--|
| James Moore, | Private, New Hampshire. | Has a large incurable sore on the back part of his right leg, occasioned by a bruise or wound received in falling with a barrel of flour. | Sept. '75, at the great carrying place on Kennebeck river. | Sharon, | Full, | Militia.(1) |
| Jonas Adams, | Private, 1st New Hampshire. | Wounded by a musket ball, which passed through his left leg. | October, 1777, Behmus's Heights. | Jeffrey, | One-third, | Enlisted Feb. 1, 1777, for three years; discharged Feb. 1, 1780.(1) |
| Jotham Nute. | Sergeant, 2d N. Hampshire. | Wounded by a musket ball, in the upper part of his left thigh. | July 4, 1781, near Kingsbridge. | Dover, | One-half, | Enlisted Feb. 1, 1777, for the war; on the rolls in 1783.(1) |
| Richard Colony, | Private, 2d New Hampshire. | Wounded by a musket ball passing through his right thigh; likewise in his hip by a small ball, which has not been yet extracted. | September 19, 1777, Stillwater. | New Durham, | One-half, | Enlisted Mar. 20, '77, for three y'rs; discharged May 26, 1780.(1) |
| Peter Johnson, | Private, Colonel John Stark's. | Wounded by a musket ball, shot through his right arm, | June 17, 1775, Bunker's Hill. | Enfield, | One-fourth, | Militia.(1) |
| Thomas Pratt, | Private, Col. William Prescott's. | Received a wound in his right arm by a musket ball, which fractured the bone. | June 17, 1775, Bunker's Hill. | Hollis, | One-half, | Militia.(2) |
| Asa Putney, | Sergeant, Col. Thomas Stickney's militia. | Has lost the use of his right arm, by a musket ball shot through it. | Aug. 1777, Bennington. | Warner, | One-half, | Militia; no rolls.(1) |
| Samuel Stocker, | Private, Colonel Isaac Wyman's. | A violent strain in his back, in consequence of carrying a plank, which subjects him to constant discharge of blood when fatigued. | 1776, Mount Independence. | Hopkinton, | One-half, | Militia; enlisted April 10, 1777, for three years; discharged March 17, 1780.(1) |
| Joseph Goodridge, | Private, Col. Gerrish's, | Has lost his right eye, by the muzzle of a musket being accidentally thrust into it. N. B. It appears that Goodridge, at the time of his enlistment, was a schoolmaster; had received a good education, but by means of the loss of his eye, and the pain he suffered, was obliged to leave the business, as also that of studying physic, and go to labor. | July, 1775, near Chelsea. | Lebanon, | - | Militia.(3) |
| Samuel Morrell, | Private, Colonel Reed's, | Wounded by a musket ball, which, entering his thigh, passed through, and came out near his groin. | June 17, 1775, Bunker's Hill. | Candia, | Two-fifths, | Militia.(1) |
| Daniel Moore, | Captain, Colonel Stark's, | Has an incurable ulcer in his leg, in consequence of the smallpox contracted when in service. | 1776, Canada, | Deerfield, | Full, | Militia.(4) |
| Henry Currier, | Private, Colonel Stark's, | Lost his right eye by the smallpox while in service. | July, '76, Crown Point, | Hopkinton, | - | Militia.(5) |
| Humphrey Hunt, | Private, Col. Scammel's, | Wounded by a musket ball, shot through his left hand, | August, 1779, Newtown. | Sanbornton, | One-fourth, | Enlisted Jan. 27, 1778, for two years; discharged Jan. 27, 1780. (1) |
| Levi Chubbuck, | Fifer, Col. Prescott's, | Wounded in his left knee, by a musket ball, | Oct. 14, 1776, Frog's Point. | Bartlett, | One-fourth, | Militia.(1) |
| Andrew Aiken, | Sergeant-major, Colonel Stickney's. | Wounded by a musket ball, shot through his right breast, which deprives him, in a great degree, of the use of that arm. | Aug. 1777, Bennington. | Deering, | Three-fourths, | Militia; no rolls.(1) |
| Elijah Smart, | Private, Col. Cilley's 1st New Hampshire. | Is, in a great measure, deprived of the use of his right foot, in consequence of a fever while in service. | May, 1778, Valley Forge. | Hopkinton, | One-sixth, | Enlisted April 7, '77, for three years; discharged April 7, 1780.(4) |

Remarks on the evidence transmitted by the District Attorney.

(1) Evidence complete. (2) Evidence complete. It appears, by the original return from the above State, that he received a pension of fifteen shillings per month, from June 7, 1783, to July 31, 1786. (3) Evidence complete, excepting that the examining physicians do not state the degree of his disability. (4) Evidence complete as to the object stated; but, not being wounded, is not comprehended by the laws. (5) Evidence complete, excepting that the evidence of the examining physicians does not precisely state the degree of his disability. The claimant, not being wounded, is not comprehended by the laws.

LIST OF CERTIFICATES FOR NEW HAMPSHIRE—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled: | Remarks. |
|--------------------|--|---|---------------------------------|---------------|---------------------------|---|
| Caleb Austin, | Private, Col. Brooks's, | Wounded by a musket ball in his right ankle, | October, 1776, White Plains. | Bow, | One-third, | Militia.(1) |
| John Lincoln, | Private, Col. Bayley's, | Wounded by a musket ball, shot through his right leg, | September, 1776, Harlem Plains. | Bedford, | One-fourth, | Militia.(1) |
| Nathan Holt, | Private, Col. Stark's, | Wounded by a musket ball passing through his right thigh. | June, 1775, Bunker's Hill. | Pembroke, | One-fourth, | Militia.(1) |
| James Hutchins, | Private Col. Nixon's, | A universal debility, in consequence of a fever while in service, which terminated in an ague and sore in his leg. | Jan'y 1777, Chatham, | Sutton, | Five-sixths, | Not found on the rolls.(2) |
| Ebenezer Carleton, | Private, 1st New Hampshire; served as purveyor to Gen. Washington. | Received a fall from his horse, whilst acting as purveyor to General Washington's family; by which fall he was badly ruptured in his left groin. | June, 1782, | Alexandria, | Three-fourths, | (3) |
| Henry Danforth, | Private, Col. Reed's, | Wounded by a musket ball, which remains lodged in his left shoulder. | 1782, near Mohawk river. | Northfield, | One-half, | Enlisted February 5, 1777, for the war; on the rolls 1783.(1) |
| Joseph Patterson, | Private, Col. Baldwin's, | Wounded by a ball, which, entering behind his right ear, came out through his cheek; in consequence of which he is perfectly deaf in that ear, constantly afflicted with a pain in his head, and, whenever he takes cold, is subjected to painful sensations. | 1776, White Plains, | Henniker, | - | Militia.(4) |
| Amos Pierce, | Lieutenant, Colonel Nichols's. | Wounded by a ball in his left hand, which has, in a considerable degree, perished. N. B. Amos Pierce, soon after his return from service, was taken speechless, which has ever since, in a great measure, continued. He is about nine-tenths of his time in a state of delirium, which the physicians are doubtful whether or not proceeds from his wounds; if it does, they consider him entitled to a full pension. | August, 1777, Bennington. | Westmoreland. | One-third, | Militia.(1) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December, 26, 1794.

JOSEPH HOWELL, Accountant.

Remarks on the evidence transmitted by the District Attorney.

(1) Evidence complete. (2) Evidence complete as to the object; but, not being wounded, is not comprehended by the laws. (3) Evidence complete, excepting that the deposition of one witness, to prove his being wounded in the line of his duty, is taken before a justice of the peace. (4) Evidence complete, excepting that the examining physicians do not state the degree of his disability.

A statement of the certificates transmitted to the War Office of the United States, by the Attorney of the District Court for the District of New Hampshire, of invalid pension applicants examined by commissioners appointed by Judge Sullivan, previous to the law making it the duty of the district attorney.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|---|----------------------------------|--------------|---------------------------|--|
| Seth Wyman. | Private, Colonel James Frye's. | Wounded by a musket ball passing through his thigh, | June 17, 1775, Bunker's Hill. | Goffestown, | One-fourth, | Militia. |
| Samuel Potter, | Sergeant, Col. Cilley's; afterwards transf'd to the corps of invalids. | Wounded by a ball in his leg, | September, 1777, | Francistown, | One-half, | Enlisted November 15, 1776; joined invalids October 1, 1778. |
| John Knight, | Private, Col. Peabody's, | Has lost two fingers of his left hand, by his gun going off by accident while on guard. | 1778, Boston Neck, | Northwood, | One-half, | Militia. |
| John Varnum, | Private, Colonel James Reed's. | Wounded in one of his shoulders, | June 17, 1775, Bunker's Hill. | Raymond, | One-half, | Militia. |
| Stephen Fuller, | Private, Col. Benjamin Hawe's levies. | Lost his right thumb, | 1777, | Francistown, | One-third, | Militia. |
| Jotham Nute, | Sergeant, 2d N. Hampshire. | Wounded in his hip, by a musket ball, | July, '81, near Kings-bridge. | | | |
| John Smith, | Sergeant, 1st N. Hampshire. | Wounded in his head by a musket ball, which remains lodged there. | July, '81, near Kings-bridge. | Francistown, | One-half, | Enlisted April 5, 1777, for the war; on the rolls in 1783. |
| Jonathan Margery, | Private, 2d New Hampshire, Capt. Cloye's company. | Wounded in his thigh, while on a scouting party; ball not yet extracted. | July 29, 1777, near Fort Edward. | Hancock, | Two-thirds, | Enlisted January 10, 1777; transferred to invalids November, 1779. |
| Nathaniel Leavitt, | Corporal, Col. James Reed's. | Wounded by a ball, which entered his breast, | June 17, 1775, Bunker's Hill. | Hampton, | One-half, | Militia. |
| William Lowell, | Sergeant, Col. James Frye's. | Wounded by a musket ball, shot through his body, | June 17, 1775, Bunker's Hill. | Warner, | Three-fourths, | Militia. |
| Weymouth Wallace, | Private, Colonel Stark's, | Wounded in his right arm, | June 17, 1775, Bunker's Hill. | Epsom, | One-half, | Militia. |
| William Cogswell, | Surgeon's mate in the military hospital. | Received a fall in walking to the hospital, which has rendered him lame ever since. | 1783, New Windsor, | Atkinson. | | |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December 26, 1794.

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Massachusetts, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------------------------|--|---|--|-------------------------------|---------------------------|--|
| James Batchelder, | Pioneer, Clough's company. | Blown up into the air while employed in drilling a rock; in falling, received a violent contusion on his shoulder. | July, 1779, Fort Putnam, West Point. | Beverly, | One-fourth, | No rolls in this office.(1) |
| John Nixon, | Colonel, | Wounded by a ball in his testicles, whereby he is subjected to pain in his groin, and weakness in the lower limbs. | June 17, 1775, Bunker's Hill. | Sudbury, | One-third, | Militia.(2) |
| Joseph Cox, | Sergeant, Colonel Timothy Bigelow's. | Has lost his right leg in consequence of a wound by a musket ball. | June, 1778, Monmouth, | Cambridge, | Two-thirds, | Enlisted March 10, 1777, for three years; on the rolls in 1780.(3) |
| Levi Farnsworth, | Private, Colonel Timothy Bigelow's. | Wounded by a ball, which fractured the bone of his left arm, and is now lodged there. | September 19, 1777, Behmus's Heights. | - - - | One-half, | Enlisted April 14, 1777, for three years; joined invalids Jan. 26, 1779; discharged April 14, 1780.(3) |
| Benjamin Crocker, John Maynard, | Private, Quartermaster sergeant, Col. Jonathan Brewer's. | Wounded in his leg by a musket ball; likewise received a wound in his body by a musket ball in February, 1780, at the White Plains, when acting as lieutenant in the 3d Massachusetts regiment. | Dec. 1782, Newburg, June 17, 1775, Bunker's Hill. | Shutesbury,(4) Framingham, | One-tenth, | Militia.(1) |
| Ebenezer Learned, | Colonel, 3d Massachusetts. | Ruptured in his groin, occasioned by a fall, | 1776, Dorchester Heights. | Oxford, | One-fourth, | Brigadier general, March 24, 1778; resigned.(1) |
| Abijah Hinds, | Private, Colonel Aaron Willard's. | Has a preternatural hardness and humor in his navel, which is become ulcerous, occasioned by lifting a wagon wheel. | August, 1776, Number Four Woods. | Scituate, | Three-fourths, | Militia.(5) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence imperfect, viz: 1st. Disability from known wounds received while in the actual line of his duty, proved by only one witness, which may be from the nature of the case. 2d. The evidence of only two freeholders is produced to prove the fourth requisite of the law, which requires three. (3) Evidence complete, excepting why he did not apply prior to the 11th December, 1788. (4) No legal evidence, but that of the examining physicians, who report that no considerable or essential degree of disability is incurred in consequence of his wound. (5) Evidence imperfect, viz: no evidence to prove his disability to have been the effect of known wounds; no evidence when or how he left the service.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *December 26, 1794.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Connecticut, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------------|---|--|---|-------------|---------------------------|--|
| Lee, Lay, | Captain, 1st reg't of Connecticut State troops. | Received a wound in his head by a broadsword, which cut through his skull, whereby he is subjected to grievous nervous affections. | 1780, Greenwich, | Lyme, | One-sixth, | No rolls in this office of State troops. (1) |
| Job Bartram, | Captain, 4th Connecticut militia. | Wounded in his breast by a musket ball, which discharged itself by the right shoulder blade.* | 1779, Fairfield, | Norwalk, | One-half, | No rolls of militia in this office.(1) |
| Daniel Preston, | Private, General Israel Putnam's. | Wounded by a ball in his right shoulder, whereby he has lost the free exercise of his arm. | June, 1775, Bunker's Hill. | Lisbon, | One-third, | Militia.(1) |
| Elihu Sabin, | Private, General Israel Putnam's. | Wounded by a musket ball shot through his leg, | June, 1775, Bunker's Hill. | Pomfret, | One-half, | Militia.(1) |
| William Jones, | Marine, ship Oliver Cromwell, 20 guns. | Wounded by a grape shot entering his thigh, and discharging itself at his hip, in an engagement with the British ship Admiral Keppell. | April, 1778, at sea, about 60 leagues from the island of Antigua. | Norwich, | Three-fourths | The Oliver Cromwell was not a continental vessel, therefore know nothing of William Jones.(2) |
| Azel Woodworth | Private, | Wounded by a musket ball shot through his neck at the storming of Fort Griswold by the British. | Sept. 6, 1781, Fort Griswold, in Groton. | Groton, | Three-fourths (3) | |
| Prince Dennison, | Private, Colonel Huntington's. | Wounded in his arm by a musket ball, | Yorktown, | Stonington, | One-half, | Militia; no rolls in this office.(4) |
| Sam'l Hempstead | 1st lieutenant marines, frigate Deane, Captain Nicholson. | Wounded in the hip by a musket ball (which still remains there) while on furlough. | September, 1781, New London. | New London, | One-half, | His account was settled in the year 1787 by the late commissioner for the marine department, and a certificate issued for the balance found due to him.(5) |
| Jonathan Whaley | Private, 3d Connecticut militia. | Wounded by a musket ball shot through his thigh, | Sept. 6, 1781, New London. | Montville, | One-fourth, | Militia.(6) |
| Samuel Edgecombe, Jun. | Private, Connecticut militia. | Lost part of the forefinger of his right hand, | Sept. 6, 1781, New London. | Groton, | - | Militia.(7) |
| John Chappel, | Private, Colonel Parsons's regiment. | Wounded in his shoulder by a musket ball, | June 17, 1775, Bunker's Hill. | Montville, | One-third, | Militia.(8) |
| Obadiah Perkins, | Lieutenant, fireworker, garrison, Fort Griswold. | Wounded in his breast by a bayonet, | Sept. 6, 1781, Fort Griswold. | Groton, | - | No rolls in this office.(9) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence incomplete. The claimant has resided in Nova Scotia from the close of the war till lately. There is no evidence of his disability during this time. Not being in the service of the United States, has no claim for a pension. (3) Evidence incomplete. The report of the examining physicians does not appear to be on oath. No evidence when or how he left the service. (4) Evidence incomplete, viz: 1st, The report of the examining physicians does not appear to have been given upon oath. 2d, No evidence of three freeholders of his disability for the first two years after leaving the service. 3d, No evidence of two witnesses of the continuance of his disability. 4th, No evidence when or how he left the service. (5) Evidence incomplete, viz: 1st, No evidence of his being wounded while in the line of his duty. 2d, The report of the examining physicians is not upon oath. 3d, No evidence of three freeholders of the existence of his disability for the first two years after leaving the service. (6) Evidence incomplete, viz: 1st, The report of the examining physicians does not appear to be upon oath. 2d, No evidence when or how he left the service. (7) Evidence incomplete, viz: 1st, The report of the examining physicians does not appear to have been upon oath, and does not state the degree of his disability. 2d, No evidence when or how he left the service. (8) Evidence complete, except that the report of the examining physicians is not upon oath. (9) Evidence incomplete, viz: 1st, The evidence of his being wounded while in the actual line of his duty rather doubtful. 2d, The report of the examining physicians does not appear to have been upon oath, and does not precisely state the degree of his disability. 3d, The evidence of three freeholders adduced does not ascertain their knowledge of his mode of life, employment, &c. for the first two years immediately after leaving the service.

* Against the claim of Job Bartram, there has been transmitted to the War Office, by Thaddeus Betts and Samuel Williman, Justices of the Peace, and by four selectmen of the town of Norwalk, the affidavits of Selly Gregory, John Sanders, Timothy Fitch, and two others, setting forth that Bartram never appeared to them, nor did he ever complain of being disabled from any wound; likewise, the affidavit of Captain Jabez Gregory, who states that, in the year 1784, Job Bartram was brought into his house in great pain, having his shoulder dislocated by the over-setting of a sled.

STATEMENT OF CERTIFICATES FOR CONNECTICUT—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|--|---|-------------------------|---------------------------|--|
| Stephen Miner, | Quarter-gunner, Colonel Ledyard's corps. | Broke the wrist of his left arm by accident in exercising a field-piece. | 1779, Fort Trumbull, | New London, | One-half, - | Militia. (1) |
| Dan'l Thompson, | Private, Major General Parsons's. | Frozen feet, and likewise injured by severe travelling on the day the American army left New York. | 1776, retreating from New York. | Montville, - | One-half, - | Militia. (2) |
| Robert Jacways, | Private, 5th Connecticut, Col. Bradley's, afterwards in the corps of invalids. | Frozen and worn out in service, | - - - | Stonington, | Full, - | Enlisted Feb. 22, 1777, for the war; transferred to invalids Oct. 29, 1780. (3) |
| George Buttolph, | Private, General Parsons's. | Lost his eyesight almost entirely at the battle of Monmouth, in consequence of the heat of the day. | June, 1778, Monmouth, | Stonington, | One-third, - | Enlisted Jan. 10, 1777, for the war; transferred to invalids April 7, 1781. (4) |
| Aaron Cook, - | Private, Colonel Ebenezer Learned's regiment. | Has a large callous ulcer on the small of his left leg, occasioned by a wound received, in a dark night, while on guard, by means of some timber. | 1776, Roxbury, - | Granby, - | Three-fourths | Militia; no rolls in this office. (5) |
| William Leeds, | First lieutenant, armed brig Resistance, Captain Chew. | Wounded by a musket ball in his shoulder during an engagement with a British letter of marque; in which action the command devolved upon him, Captain Chew having been killed. | Winter, 1777, 1778, | New London, | One-half, - | Entered on board the Resistance July 5, 1777, and wounded the 4th of March, 1778, as per roll, and his letter to the Marine Committee, dated March 10, 1778. (6) |
| Jonah Cook, - | Private, Colonel Isaac Sherman's. | Wounded while in the line of his duty, by falling on a cedar stump, which produced a scrotal rupture. | August, 1781, Peekskill, State of New York. | Watertown, Connecticut. | One-half, - | Enlisted January 5, 1781; on the rolls in 1782. (7) |
| Joseph Dunbar, | Corporal, Colonel Sheldon's dragoons. | Wounded by a shot through his right leg; another through his mouth, at the battle of Germantown; wounded also at the battle of Whitemarsh, by having his sword shot out of his hand, and his thumb broken. | 1777, Germantown and Whitemarsh. | Watertown, | Three-fourths | Enlisted March 1, 1777, for the war; discharged July 1, 1780. (7) |
| Jesse Grant, - | Captain, - - - | Labors under a double inguinal rupture, occasioned by the force of a cannon ball passing near the lower part of his body, before he was made a prisoner at Fort Washington. | Fort Washington, - | Litchfield, - | One-half. (8) | |
| Elijah Hoyt, - | Private, 13th Massachusetts regiment. | Wounded by a bayonet, which entered his right side, near the lower ribs, and came out on the left side, near his back. | Monmouth, - | New Milford, | One-half, - | Enlisted March 1, 1777; discharged March 7, 1780. (9) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence incomplete, viz: 1st, Only one evidence to prove his being wounded in actual service, the law requiring two. 2d, The report of the examining physicians is not upon oath. (2) Evidence complete, as to the object stated, excepting that the report of the examining physicians does not appear to be upon oath; but not being actually wounded, is not comprehended by the laws. (3) Evidence incomplete, viz: 1st, No evidence of his disability proceeding from known wounds. 2d, The report of the examining physicians is not upon oath. 3d, There are only two freeholders that testify to his disability for the first two years immediately after leaving the service, the law requiring three. The claimant not being actually wounded, is not comprehended by the laws. (4) Evidence incomplete, viz: 1st, Only one witness to prove his disability to be the effect of injuries received in service, and in the line of his duty. 2d, The report of the examining physicians is not upon oath. 3d, There are only two freeholders that testify to his disability for the first two years after leaving the service, the law requiring three. The claimant not being actually wounded is not comprehended by the laws. (5) The evidence to substantiate his claim has been taken before two commissioners only; in other respects it is complete. (6) Evidence incomplete, viz: 1st, Only one witness to prove his being wounded in the line of his duty in actual service. This witness deposes that he does not know any person now living who was on board the brig at the time of the engagement, excepting the claimant. 2d, The report of the examining physicians is not upon oath. 3d, The evidence of three freeholders testify his disability, mode of life, &c., since the year 1791 only, he having been left at Martinique after the engagement, where he remained, in consequence of his wound, till that year. Other evidence is produced to support his claim, which is taken before Justices of the Peace, and not by the District Judge, or commissioners, as required by law. (7) Evidence complete. (8) Evidence incomplete; disability from known wounds not proven. No evidence why he did not apply before. (9) Evidence incomplete; no evidence of his place of residence for two years after leaving the service.

STATEMENT OF CERTIFICATES FOR CONNECTICUT—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|--|--------------------------|-------------|---------------------------|--|
| Robert Jerome, | Fifer, Col. Douglass's, | In the retreat from New York, he fell down and hurt one knee so much as to occasion a continued stiffness. | 1776, - - | Watertown, | One-fourth, | Militia. (1) |
| Thos. Parmelee, | Sergeant, militia, | Wounded by a musket shot in his right thigh, which has occasioned an exfoliation of the bone. | April, 1777, Ridgefield. | Washington, | One-eighth, | Militia. (1) |
| Solomon Reynolds. | Private, Connecticut line. | Wounded by a musket shot, in a skirmish with the British troops at Elizabethtown, in New Jersey, which entered near his left breast, and was taken out near his navel; it fractured his ribs, which still continue disunited, and has occasioned an exfoliation. | 1780, Elizabethtown, | Woodbury, | Two thirds, | Enlisted May 25, 1777, for the war; discharged May 19, 1780. (1) |
| Noah Upson, | Private, 2d regiment Connecticut dragoons. | While in the service of the United States, and in the line of his duty, he was taken sick, which sickness fell into one eye, and produced a cataract. | 1779, - - | Waterbury, | One-fourth, | Enlisted February 15, 1778, for three years; discharged December 31, 1780. (2) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence incomplete. Disability from known wounds not proven. The place of his residence proven by two frecholders only. Not being wounded, his case is not comprehended by the laws.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *December 26 and 30, 1794.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Vermont, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|------------------------------------|--|-------------------------------|-----------------------------|---------------------------|--------------------------------------|
| Jonathan Haynes, - | Private, Colonel Moses Robinson's. | Wounded by a musket ball, which entered and passed through his body. | August 16, 1777, Bennington. | Middletown, - | Two-thirds, | Militia; no rolls in this office.(1) |
| Elijah Bennett, - | Private, Colonel Israel Putnam's. | Wounded in his right arm by a musket ball, - | June 17, 1775, Bunker's Hill. | Orwill, county of Rutland. | One-half, - | Militia. (2) |
| John Stark, - | Captain, Col. Timothy Brownson's. | Wounded by a musket ball shot through his right thigh. | August 16, 1777, Bennington. | Pawlett, county of Rutland. | One-fourth, | Militia. (1) |
| John Wheeler, - | Private, Col. L. Butler, | Is afflicted with the palsy, occasioned by being greatly fatigued in drawing cannon in Virginia. | October, 1781, - | Tinmouth, - | Full, - | (3) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence complete. (2) Evidence complete, excepting why he did not apply prior to December 11, 1788. (3) Evidence complete as to the object stated, but not within the laws, not having been wounded.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *December 26, 1794.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of New York, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|--|---|---------------------------------|---------------------------|--|
| Duncan Campbell, - | Lieutenant, Colonel Livingston's. | Wounded in his right leg in an engagement with the British troops. | October or Nov. 1777, Behmus's Heights. | New York, - | - | Sick in Albany from July 20, 1777, to February 1, 1779.(1) |
| William Scott, - | Captain, Col. Cilley's New Hampshire. | It is stated that he has lost, in a great measure, the use of his left hand, by a wound received from a musket ball. N. B. Likewise wounded in the back by a bayonet, at or near North Castle, in the year 1778. | Septem. 9, 1777, Behmus's Heights. | Greenfield, county of Saratoga. | - | Wounded September 20, 1777; received commutation as major. (2) |
| Obadiah Brown, - | Private, Col. Notton's rangers. | Wounded in his left arm, - - - | Septem. 6, 1776, Harlem Heights. | Cambridge, - | - | Militia.(3) |
| Hanhendrick Mayer, | Lieutenant, Capt. Henry Dieffendorph's militia. | Taken sick while on guard, and continued ill for some years. | 1776, Stone Arabia, - | Connajoharrie, - | - | Militia.(4) |
| John Balsle, - | Private, Capt. Hous's militia. | Wounded in thirteen different places, - - - | May 20, 1781, Fort Hous. | Connajoharrie, - | - | Militia.(5) |

Remarks on the evidence transmitted by the Judge of the District Court.

(1) Evidence perfect, except that the degree of his disability is not precisely mentioned. (2) Evidence complete, excepting that no examination of physicians is produced to prove the degree of his disability. (3) Evidence incomplete. No report of examining physicians to prove the degree of his disability; the other evidences necessary to substantiate his claim are proved before *two* commissioners only, the law requiring three. (4) Evidence totally incomplete. The claimant not having been wounded, his case is not comprehended by the laws. (5) Evidence totally incomplete.

STATEMENT OF CERTIFICATES FOR NEW YORK—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|---|--|----------------------------------|-----------------------------|---------------------------|--|
| Evert Van Eps, | Sergeant, Capt. Fonda's militia. | Wounded in the left leg in an engagement with the British and Indians. | 1777, Oriskee, | Mohawk, | - | Militia. (1) |
| Jacob Dieffendorph, | Lieutenant, Capt. Henry Dieffendorph's. | Wounded in his left foot by the accidental discharge of a musket. | 1775, - | Connajoharrie, | - | Militia. (1) |
| Samuel Shaw, | Lieutenant, Col. Stephen J. Schuyler's militia. | Received a violent bruise in his leg while assisting his men in erecting a bridge, occasioned by the sliding of a large log. | October 9, 1776, near Fort Ann. | Stephentown, | - | Militia. (2) |
| John Vaughan, | Sergeant, Col. Brooks's, | Wounded by a ball, which passed through his body. | October, 1777, Behmus's Heights. | Hudson, county of Columbia. | - | Enlisted April 24, 1777; joined invalids December 9, 1779. (3) |
| Jared Palmer, | Sergeant, 4th Connec. & Capt. Barker's comp'y. | Wounded by a musket ball, which passed through his right breast, and the joint of his right shoulder. | October 14, 1781, Yorktown. | Pawlings, | - | Enlisted October, 1780; was on the rolls in 1783. (4) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence totally incomplete. (2) Evidence incomplete, viz: 1st, No evidence of examining physicians to prove the nature and degree of disability. 2d, No evidence why application was not made prior to December 11, 1788. (3) Evidence incomplete, viz: No evidence of examining physicians to prove the nature and degree of his disability; no evidence when or how he left the service. (4) Evidence complete, excepting that no report of examining physicians is produced to prove the nature and degree of his disability.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December 26 and 30, 1794.

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Pennsylvania, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|---|----------------------------------|-------------------------|---------------------------|---|
| Robert Conolly, | Quartermaster's sergeant, Col. McDougall's. | Has lost his eyesight by a cartridge and camp fever, | 1775, at the storming of Quebec. | - - - | Two-thirds, | No rolls in this office. (1) |
| William McHatton, | 1st Lieut., 12th Pennsylvania, Col. W. Cook's. | Wounded in his right shoulder by a musket ball and three buck shot. | 1777, Bonhamtown, - | Nelson co'ty, Kentucky. | Full, - | Joined invalids July 1, 1779; received commutation. (2) |
| John Turner, | Private, Col. Noylan's dragoons, 4th regiment. | Wounded in his arm and leg, - - - | June, 1777, near Brunswick. | Philadelphia, | One-third, - | Not found on the rolls. (3) |
| John Cardiff, | Private, Col. Hartley's 16th additional. | Has lost the use of his left arm by the bursting of a musket. | July, 1778, Philadelphia. | - - - | Full, - | In hospital, February 1779; omitted in the rolls May, 1779. (2) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence appears to be complete according to law. Two reports, however, of the Secretary of War upon this case, specially, are opposed to the claim, and are hereunto annexed. (2) Evidence complete. (3) Evidence imperfect, viz: no evidence of the existence of his disability for the first two years, immediately after leaving the service, and to the present time, and of his mode of life, &c.; no evidence why application was not made prior to December 11, 1788.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December 26, 1794.

JOSEPH HOWELL, *Accountant.*

3d CONGRESS.]

No. 60.

[2d SESSION.]

ARREARS OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 2, 1795.

Mr. TRACEY, from the Committee of Claims, to whom was referred the petition of Joab Stafford, made the following report:

That the petitioner states, he was wounded on the 16th day of August, 1777, in the battle of Bennington, and was placed on the pension list in the month of February, 1794, and that he cannot, by the existing law, receive arrears of pension; and prays for a grant of such arrears, at the rate of his allowance, which is ten dollars per month, from 16th August, 1777, to June, 1793, making in the whole of arrears the sum of nineteen hundred and eighty dollars.

The statement in the petition is found by the committee to be the truth; but as many persons are in the same situation with the petitioner, and the sum claimed by them is very considerable, the committee have taken the liberty to lay before the House an extensive view of the merits of these claims, and likewise the objection which, in their minds, operate against granting.

The pensioners claim an original promise of Government, founded on the principles of justice, that all persons who should become invalids, under certain circumstances, should receive pensions in nature of a maintenance, and that such maintenance, both from the terms and nature of the promise, should commence at the period of their becoming invalids, or when their full pay ceased. They suppose Government ought to adopt the same rule of construction when contemplating this promise as a court of justice would adopt were it in the power of the claimants to bring the question before such court; and that the laws of the United States have, by repealing the limitation acts, revived the original promise in all its extent, and that the very circumstance of their being placed on the pension list precludes the necessity of any further proof or argument that they are entitled to arrears.

It will be found, on recurring to the first engagement of Government respecting pensions to invalids, by a resolution of Congress of the 26th of August, 1776, that the object of the promise was to afford relief to such persons, who, by disabilities incurred in the service of the United States, should be unable to obtain a livelihood; several additional resolutions of Congress, under the confederation, have made the admission on the pension list more easy; and on the 11th June, 1788, a resolve was passed, limiting applications for pensions to six months from that time, and which barred all applications not made before the 11th December, 1788.

On the 23d March, 1792, Congress passed an act allowing persons who had become invalids in the late war to apply for pensions, for the space of two years from the time of passing the act, under certain restrictions; in this act express provision is made for ascertaining arrears. On the 28th February, 1793, an act passed, repealing that of March 23d, 1792, and gave two years from February 28th, 1793, for the applications of invalids, under certain restrictions; by virtue of this last-mentioned act, the petitioner, and claimants in a similar situation, have been placed on the pension list, and now claim arrears.

The committee are of opinion, that this act of the 28th February, 1793, is not a repeal of any limitation act, so as to revive any former act respecting invalid pensioners, and that all persons claiming under this law are allowed a pension from the time they prove an existing disability, but can, by the law, claim no arrears. In point of equity, if maintenance is the meaning of this pension, because the invalid is rendered incapable of labor, it is some proof that antecedent to the applications under the existing law the applicants were able to procure a maintenance, or they would have applied before, when so many opportunities offered; and although the committee who reported on the returns of invalids last session of Congress supposed, and the Legislature by accepting and passing the law they reported confirmed the supposition, that the most strict construction of that part of the law now in force which directs that a good and sufficient reason shall be given why application was not antecedently made, ought not to be given against the invalids as to future maintenance, yet it is clear a more strict construction is justifiable in reference to arrears.

The excuses for most of these persons are merely those of inconvenience on their part to have applied sooner. Certainly, if they could not have procured a maintenance they would have been excited to a more early attention; add to this, that a considerable proportion of the sum of these arrears will be given to commissioned officers. There is a manifest reason why they did not apply sooner, as they were obliged, in all instances of admission on the pension list, to return commutation if they had received it; the arrears of a full pension will now purchase the commutation to be returned, and leave a handsome sum over, which, in fact, will place the officer in a situation to receive what he has accepted as an equivalent to half-pay for life, and, in addition, a pension equal to half-pay for life; which, in effect, is placing him on full pay; whereas, no pension is to exceed half-pay. *In addition*, no proper rule can be adopted to ascertain the ratio of arrears, as the present inability, in almost all instances, must have increased with the age of the invalid, and many concurring accidents, which would render it unjust that the present monthly allowance should be the ratio of arrears; and unless a tribunal be established for that purpose no other ratio can be adopted.

The committee, therefore, submit to the consideration of the House the following resolution, viz:

Resolved, That all persons who have been or shall be placed on the pension list of the United States, by virtue of the law passed February 28th, 1793, entitled "An act to regulate the claims to invalid pensions," shall be deemed to commence the receipt of their respective monthly allowances, at the date of their completing their testimony before the commissioners who took the same; that no arrears in any case be allowed; that the payment of such monthly allowance be continued during the continuance of such disability; and that a bill be brought in accordingly.

3d CONGRESS.]

No. 61.

[2d SESSION.

CLAIMS OF NATHANIEL APPLETON, COMMISSIONER OF LOANS FOR THE STATE OF MASSACHUSETTS, FOR OFFICE RENT, FUEL, AND CANDLES, AND THE LOSS OF A HOUSE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1795.

Mr. DEXTER, from the committee to whom was referred the petition of Nathaniel Appleton, made the following report:

That it appears that the petitioner lost by fire, on the 30th of July last, as mentioned in his petition, personal property to the amount of about 1,500 dollars, some part of which was doubtless lost by his paying his first attention to the public books and papers, and by that means saving them from destruction; but what proportion of his property might have been saved, had his whole attention been given to that object, cannot be known. It also appears that one of the buildings lost by the same fire was by him erected and used solely for the safe-keeping of the public property, and for the accommodation of the business of the office; which building was appraised, on oath, at eight hundred and twenty-one dollars.

It is the opinion of the committee, that where private property has been voluntarily sacrificed by laudable and successful exertions to save the public from injury, both equity and policy dictate that the loss ought to be compensated; they therefore submit the following resolution:

Resolved, That provision ought to be made for paying out of the Treasury of the United States, to Nathaniel Appleton, ——— dollars, to compensate the loss sustained by him by his exertions in securing the public property from destruction by fire.

3d CONGRESS.]

No. 62.

[2d SESSION.

CLAIMS FOR AN INCREASE OF COMPENSATION TO THE COMMISSIONER ON LOANS FOR NEW HAMPSHIRE; FOR EXPENSES INCURRED AND ADVANCES MADE ON PUBLIC ACCOUNT, AND ADDITIONAL PAY AS AN AID-DE-CAMP; AND FOR MONEY LOST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 2, 1795.

The SECRETARY OF THE TREASURY, to whom was referred the petition of William Gardner, commissioner of loans for New Hampshire, respectfully reports thereupon as follows:

There is no branch of the public service which more than this requires such an arrangement as will secure a selection of fit characters willing to accept the office, and to continue in it. The system of the transfers of stock at fourteen different offices, and from one office to another, and of paying interest at each, is necessarily extremely complicated, requiring great accuracy and punctuality every where to prevent its running into disorder, and producing very serious hazards and inconveniences to the public and to individuals—a system which is without example, in any other country, but which local circumstances and the public engagements have rendered, and continue to render indispensable. The responsibility, importance, and delicacy of the trust which it implies, are witnessed by the simple statement of the fact. It is only to consider what is the nature of the power, as it regards the implication of the public in pecuniary responsibility, which is confided to so many individuals, to be convinced that it is essential to make effectual provision for obtaining and keeping competent and unexceptionable agents. It is a subject which even ought to excite particular solicitude in this respect.

It cannot be doubted that an essential mean to this end will be adequate compensations. It cannot be expected in a country where talents for business, united with integrity and character, are in high demand, and in which the expense of living, at the places where public business must be carried on is, and is likely to continue, high, that the Government will be so well served, without liberal compensation for the service. There is no truth more clear to the eye of reason, nor better established by experience, than that undue parsimony, in this particular, is, in time, the very worst economy. It tends to throw the business of the nation into hands unqualified or unworthy of trust, whence, of course, it will be ill done; disorders, and even frauds, will ensue; and the pecuniary loss sustained in one year, perhaps in one day, by the infidelity or inability of unfit agents, may exceed the difference of compensation which would have procured fit ones for a long series of years. True economy, as applied to a nation, does not consist in the penurious appointment of the compensations of its officers, but in the steady adherence to an enlightened and comprehensive system; which, among other effects, placing the management of its affairs in able and faithful hands, causes all its great pecuniary operations to be conducted both with skill and integrity. The experience of the United States, at various periods, sufficiently attests this fact.

These observations do not aim at countenancing prodigality, even in this branch of public expenditure; they are only designed to imply that parsimony, in this particular, is not, as it seems by some to be thought, the great hinge of national economy; that, carried too far, it turns against its own object, and produces the worst effects of prodigality. There is, no doubt, measure in this, as in every other thing; though the compensations should be adequate, they ought not to be excessive. But, in adjusting the measure, it is essential to weigh well the nature of the trust; the talents necessary for it; the uses to which they can be turned in private life for the benefit of the possessor, and the indemnification which he will consequently expect, to be induced to serve the public; the degree of character which is requisite, and the probable extent of emolument which will command the due degree of character; the expense of living where the service is to be performed.

In the case of the commissioners of loans, the extent of the occupation which they will respectively have, though a criterion of allowance is not the only one, similar qualifications are necessary with regard to all of them,

whether having more or less business to attend to. And the power of all being equal, the trust with respect to all is equally delicate.

There should be no where a man who is not an intelligent man of business, of established integrity and of respectability of character. It merits reflection, also, that it will sometimes happen that the official duties of the officer may not be sufficient to occupy him wholly, yet sufficient to interfere, and perhaps incompatible, with the effectual pursuit of other business for which he may be qualified.

In the particular case referred to him, the Secretary, combining and weighing to the best of his judgment all the considerations which belong to it, is of opinion that it is just and expedient to allow a yearly salary of one thousand dollars for compensation, and all expenses, except stationary.

Which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

The SECRETARY OF THE TREASURY, to whom was referred, by the House of Representatives, the memorial of Moses White, submits the following report thereon:

That the items constituting the account of the memorialist, which he prays may be allowed, may be classed under the following heads, viz:

| | |
|--|------------|
| 1st. Expenses incurred on sundry journeys respecting clothing; and in effecting a settlement of the depreciation accounts of Colonel Moses Hazen's regiment; and charges for securing a deserter | \$128 40 |
| 2d. Money advanced to sundry soldiers of his company in April, 1777, on account of their pay while recruiting, and on their march to join the regiment | 189 00 |
| 3d. A balance of \$8,502, in old emissions, charged August 1, 1780, on account of the nominal pay of Colonel Hazen's regiment, more than was allowed by the commissioners of the army accounts in settlement | 113 30 |
| 4th. Additional pay as aid-de-camp to Brigadier General Moses Hazen, from September 1, 1781, to November 3, 1783; 26 months and 3 days, at \$25 dollars per month | 652 45 |
| Amounting to | \$1,083 15 |

The items constituting the first class of charges have been examined by the accounting officers of the Treasury, and being found admissible, according to established principles, have been allowed and settled.

With regard to the second article of charge, it appears that though it was customary at an early period of the war for officers to advance moneys to their men, yet it was usual to place the whole of the sums due for pay in the hands of the regimental paymasters, to be by them refunded to the officers making such advances.

It has been represented that the accounts of Mr. Chinn, the late paymaster of Colonel Hazen's regiment, remain unsettled; it is not, therefore, known what sums have been reserved in his hands for advances made by the officers; and as it was proper for the memorialist to have applied to the paymaster for reimbursement, the Secretary is of opinion that this part of the claim of the memorialist should be suspended, to await such an examination and decision by the officers of the Treasury as may be proper after the accounts of the late regimental paymaster shall be rendered and adjusted.

The third article before-mentioned is for a sum of old emissions, claimed by the memorialist, to have been advanced in the year 1780, for the pay of Colonel Hazen's regiment; which sum was disallowed in a settlement made with the memorialist by the late Mr. Pierce, for want of documents to prove that the advances had been notified in season, so as to be deducted from the pay of the troops. As the objection against this part of the claim does not appear to have arisen from the want of authority in the executive officer, but from a real or supposed defect in the proof adduced to support the demand, of which circumstances the late commissioner of army accounts was the legal and competent judge. The Secretary is of opinion that the special interposition of the Legislature is not necessary or advisable.

The claim for additional pay as aid-de-camp to General Hazen appears to have been under consideration by the late commissioner Mr. Pierce, and not to have been allowed by him, for a reason, as suggested by the memorialist, that General Hazen held the rank of brigadier, by a brevet commission only, which did not draw with it additional pay, and was not supposed to authorize the appointment of an aid-de-camp, with the extra emoluments usually annexed to that office. The Secretary has not been able to discover any resolution of Congress by which this claim can be decided; but he understands that there are precedents in practice in favor of it, as applied to brigadiers by commission. If this practice were to govern, the circumstance of brevet appointment would not, in the opinion of the Secretary, constitute a ground of difference, to the prejudice of the petitioner, inasmuch as the *brevet* brigadier is understood to have had the actual command at the time of a brigade; in which case the principles of service, with regard to an aid-de-camp, would apply as fully to him as to a brigadier by commission; but the Secretary, though bound by reference to express his opinion, thinks this point a more fit one for the consideration of the Secretary of War.

With regard to the claim of indemnification for loss on a certificate alienated, it is the common case of a multitude of individuals, both in civil and military lives; nor would it consist with the principles of equity to grant a partial relief to the memorialist. The suggestion of ill health does not appear to be a sufficient ground of distinction.

All which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

The SECRETARY OF THE TREASURY respectfully makes the following report upon the petition of Thomas Coit, referred to him by the House of Representatives:

The petitioner seeks a discharge from the responsibility of a sum of \$157, which was in his hands as a collector of the revenue, and which is alleged to have been wholly lost in the destruction of a house by fire.

It is the opinion of the Secretary that the powers of the accounting officers of the Treasury, exercised on the principles of common law, are adequate to relief in every similar case in which it is proper to grant it; and, consequently, that the special interposition of the Legislature is unnecessary and inexpedient.

Which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

3d CONGRESS.]No. 63.[2d SESSION.

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1795.

DEPARTMENT OF WAR, *February 21, 1795.*

Pursuant to the act entitled "An act to regulate the claims to Invalid Pensions," the Secretary of War makes to Congress the annexed statements of such claims as have been received and examined since the thirtieth day of December last, and of the additional evidence received further to support certain claims formerly stated.

All which are respectfully submitted,

TIMOTHY PICKERING.

| Names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|--|--|---|----------------|---------------------------|--|
| Thomas Alexander, | Captain, | Dislocated his right hip by a fall, while engaged in the service of the United States.* | Jan. '77, between Peekshill & King's ferry. | Northfield.(1) | | |
| Elisha Munsell, | Private, Col. Marshall's; Capt. Smith's comp'y. | Wounded by a ball, which passed through his left wrist. | July or August, 1777, Saratoga. | Pelham, | One-half, | Enlisted Jan. 2, '77, for three years; on the rolls in 1780.(2) |
| John Bailey, | Private, Col. Porter's 3d Massachusetts. | Lost the sight of his left eye, and that of the other considerably weakened, occasioned by the smallpox while in service. | April, 1776, Quebec, | Greenwich, | One-half, | Militia.(3) |
| Amos Pearson, | Sergeant, Col. Little's 13th Massachusetts. | Wounded in his right arm by a musket ball, | June 17, 1775, Bunker's Hill. | Newbury, | One-fifth, | Militia.(2) |
| Nahum Wright, | Sergeant, Col. Brewer's, | Has an ulcerous sore in his right leg, the effects of a wound received by a ball in his thigh. | June 17, 1775, Bunker's Hill. | Medfield, | One-eighth, | Militia; appointed Nov. 6, 1776, resigned October 28, 1777.(4) |
| Gamaliel Handy, | Private, Colonel Jacob's; J. Haskins's company. | Wounded in his breast and back with a bayonet, | August, 1778, Rhode Island. | | Two-thirds, | Militia.(5) |
| William Warren, | Lieutenant, Col. Nixon's, | Wounded by the bursting of a shell, and, in consequence of the shock, is subject to ulcerations in his head, which have discharged at his ears, depriving him of the use of his eyes, and greatly debilitating his whole body, some part of every year since 1775. | June 17, 1775, Bunker's Hill. | Boston, | One-third, | Militia.(6) |
| Benjamin Farnum, | Captain, Colonel Frye's, | Wounded by a musket ball, which fractured and considerably injured his left leg; likewise wounded by a ball, which remains lodged in his right thigh; in consequence of which both legs are ulcerated. | June 17, 1775, Bunker's Hill. | Andover, | One-third, | Militia.(2) |
| Spafford Ames, | Private, Colonel Frye's; Capt. Farnum's company. | Wounded by a ball, which passed on the outside of his right thigh; two of his fingers are also injured by a ball. | June 17, 1775, Bunker's Hill. | Andover, | | Militia.(7) |
| Hugh Maxwell, | Captain, Col. Prescott's, | Wounded by a musket ball in his right shoulder, | June 17, 1775, Bunker's Hill. | Heath, | One-eighth, | Militia; received his commutation as lieutenant-colonel.(2) |
| Isaac Bellows, | Private, Colonel Nixon's 6th Massachusetts. | Sprained his hip, by slipping on some timber while fording a creek; his disability increased by the hardships he endured afterwards, in sleeping for several successive nights with damp clothes on. | Oct. 12, 1777, Schuyler's creek. | Hubbardston, | Two-thirds, | Enlisted March 21, 1777, for three years; discharged March 27, '80.(8) |

* It appears that the claimant received half-pay as captain from the State of Massachusetts, from the 1st January, 1778, to the 11th February, 1783, on which day his pension was discontinued by a resolve of the commonwealth. By a resolve of February 8, 1792, of the commonwealth of the above State, it is declared to be the opinion of that court, that Thomas Alexander ought again to be placed upon the pension list, as it appeared to them that, on principles of that equity which had been extended to invalids, he ought never to have been struck off.

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete, excepting that, in the deposition of the examining physicians, the degree of his disability is not stated. (2) Evidence complete. (3) Evidence complete, as to the object stated; but, as the disability of the claimant does not proceed from known wounds, his case is not comprehended by the laws. (4) Evidence complete. *Note.*—The physicians report, that they cannot positively ascertain whether “the diseased state of the leg is a direct and necessary consequence of the wound.” (5) Evidence incomplete, viz: 1st, No evidence of three freeholders to ascertain his mode of life, labor, means of support, &c. and of the existence of his disability for the first two years immediately after leaving the service. 2d, The evidence of witnesses produced does not clearly prove the continuance of his disability, from the expiration of the first two years after leaving the service to the time of his application. (6) Evidence complete. *Note.*—The examining physicians, in their report, say, that William Warren's complaints do not offer to examination any demonstration of their proceeding from the wound said to be received, though they would be the probable consequence of a concussion of the brain by the bursting of a shell; hence, it appears to them that every thing depends on the relation of Mr. Warren, and they fix his degree of disability accordingly. (7) Evidence complete, but the examining physicians report, that the general ability of the claimant to obtain a livelihood by labor does not appear to be essentially impaired by either or both wounds. (8) Evidence complete, as to the object stated; but, as his disability is not proved to be the effects of any known wounds, his case is not within reach of the laws.

LIST OF CERTIFICATES FOR MASSACHUSETTS—Continued.

| Names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|---|---|--|-----------------|---------------------------|---|
| Tilly Mead, | - Private, Abner Craft's company. | Wounded in his right knee, by the stroke of an axe, | 1775, Cambridge, | - Barre, | - One-fourth, | Militia.(1) |
| Amasa Scott, | - Private, Col. Holman's. | Wounded by a musket ball in his right leg, - - | October, 1776, White Plains. | Belcher's town, | One-fourth, | Militia.(1) |
| Ephraim Bailey, | - Private, Col. Nixon's, - | Wounded by a musket ball passing through his right ankle. | April 28, '77, Crump's Hill. | Brookfield, | - One-half, | - Enlisted March 10, 1777; on the rolls in 1780.(1) |
| Robert Smith, | - Private, Colonel Nicholas's. | Has an ulcerated sore on his left leg, occasioned by a wound received from a piece of timber, which he was employed in drawing for the use of the public works. | March, 1780, West Point. | Barre, | - Two-thirds, | Militia.(1) |
| Thomas Crowell, | - Private, Col. Holman's; Capt. Warner's company. | Wounded by a musket ball passing through his right foot; has ever since been deprived of his reason, which, in the opinion of the examining physicians, is the effect produced by the said wound. | Oct. 28, 1776, White Plains. | Hardwich, | - Full, | Militia.(2) |
| John Hunter, 2d, | - Private, Col. Learned's, | Has ulcerated sores on his left leg, occasioned by a fever when in service. | Sept. 1775, Roxbury, | Brookfield, | - Three-fourths, | Militia.(3) |
| James White, | - Private, Col. Putnam's; Capt. Gates's company. | Has an ulcerous sore on his right leg, the effect of the smallpox when in service. | June, 1777, | - Hardwich, | - Three-fourths, | Enlisted April 12, 1777, for three years; disch'd April 12, '80.(3) |
| Joseph Hale, | - Private, Colonel Lee's; Capt. Lyman's comp'y. | Wounded by a musket ball passing through his right arm. | Aug. 29, 1778, Newport, Rhode Island. | Hardwich, | - One-half, | Militia.(1) |
| Eliphalet Downer, | - Surgeon, Dolphin cutter, Captain Nicholson. | The strength and motions of his left arm impaired, in consequence of a wound by a grape shot. | Sept. 1777, on board the brig Lexington, in an action with the Alert cutter, in the English Channel. | Roxbury, | - One-third, | Entered on board the Dolphin in April, 1777, but the roll does not show how long he served. He is entered on the Lexington roll as a passenger only.(4) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence complete, excepting why application for a pension was not made on or before December 11, 1788. (3) Evidence complete, as to the object stated; but the case of the claimant is not comprehended by the laws, as his disability does not proceed from any known wound. (4) Evidence complete, excepting that no proof that he was wounded at all, in any other character than that of passenger. No cause is shown why application was not made prior to December 11, 1788. It appears from the deposition of Nathan Dorsey, surgeon of the continental armed brig Lexington, that E. Downer was a volunteer on board that vessel when he received his wound; hence, it would seem that, whatever pension shall be allowed him, it can apply only to the capacity in which he was then serving, and not to his profession as a surgeon.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 13, 1795.

JOSEPH HOWELL, Accountant.

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the district of Rhode Island, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|---|--------------------------------------|-----------------|---------------------------|--|
| Clark Albro, | - Private, Colonel John Wait's Kingston Reds. | His left arm weakened by a wound received from a musket ball. | August, 1778, Newport, Rhode Island. | Newport, | - One-fourth, | Militia.(1) |
| John Baggs, Jun. | - Sergeant, Col. Dyer's militia. | Wounded in his right hand by the bursting of his musket, which he was discharging for the purpose of cleaning it. | Sept. 29, 1777, Boston Neck. | Richmond, | - One-third, | Militia.(1) |
| Robert Cars, | - Private, Col. Olney's, | Wounded by a musket ball, passing through the upper jaw and coming out of his mouth, which occasions a difficulty in chewing, and a constant discharge of saliva from the outside of his cheek. | July 2, 1781, near Kingsbridge. | Providence, | - One-half, | Enlisted August 10, 1780; on the rolls in 1782.(1) |
| Edward Vose, | - Sergeant, light corps raised in R. Island. | Wounded by the stroke of an oar, from a prisoner who was attempting to make his escape. | August or Sept. 1779, near Pawtuxet. | Newport, | - One-sixth, | Militia.(1) |
| Nathan Jaquays, | - Private, Col. Olney's, | Wounded by a musket ball, which entered his breast, and came out near his left scapula. | July, '81, near Kingsbridge. | South Kingston, | One-third, | Enlisted July 5, 1780; on the rolls in 1782.(1) |
| William Lunt, | - Private, Col. Topham's, | Wounded in his head and arm, by the explosion of a gun before he had finished loading it. | May, 1779, South Kingston. | South Kingston, | One-half, | Militia.(1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 13, 1795.

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the district of Connecticut, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|--|--|--------------|---------------------------|--|
| David Barnes, | Private, Col. Livingston's. | Lost his right eye, occasioned by the bursting of a musket belonging to a soldier who stood at his right hand as he fired at the enemy. | 1777, Behmus's Heights. | Cheshire, | One-half, | Enlisted Jan. 1, 1777, for the war; on the rolls in 1781.(1) |
| Jedediah Brown, | Sergeant, 9th Connecticut militia. | Has, in a great measure, lost the use of his right hand, by the bursting of his musket. | Feb. '79, while marching to Greenwich. | Norwalk, | One-fourth, | Militia.(2) |
| Thurston Hilliard, | Private, company of artillery artificers. | Wounded, while in the entrenchments at Yorktown, by a piece of timber thrown on his breast. | Yorktown, | Weston, | One-third, | Enlisted March, '78, for the war; on the rolls in 1782.(3) |
| Josiah Merriman, | Corporal, 2d regiment light dragoons, Capt. Porter's company. | Wounded in his right leg, by the accidental discharge of his pistol in the holster. <i>Note.</i> —The claimant was likewise wounded in the month of October, 1777, at Frankfort, by a musket ball in his right arm, and his hand severely cut with a broadsword. | June, 1777, on his march to Morris-town. | Wallingford, | Two-thirds, | Enlisted Dec. 26, 1776, for the war; on the rolls in 1781(4) |
| Ebenezer Patchen, | Private, 5th Connecticut, Col. Isaac Sherman's. | Lost his left eye, and the sight of the other much impaired, by a sickness contracted in the service. | 1782, | Norwalk, | One-half, | Enlisted May, 1780; on the rolls in 1783.(5) |
| Josiah Spalding, | Lieutenant, Col. Smith's militia. | Wounded by means of a cannon ball, which, passing through a stone wall near which he was stationed, forced a stone against the calf of his leg, and much injured his knee and tendons. | Aug. 29, 1778, Rhode Island. | Ashford, | One-half, | Militia.(4) |
| Enoch Turner, Jun. | Private, Colonel Cook's Connecticut militia. | Wounded by a musket ball, which fractured the bones of his left leg. | September 19, 1777, Behmus's Heights. | New Haven, | Two-thirds, | Militia.(4) |
| Elnathan Norton, | Private, 10th Connecticut militia. | Wounded by a musket ball passing through his body, which occasionally causes a delirium. | July, 1779, New Haven. | Southington, | Three-fourths | Militia.(4) |
| Samuel Andrus, | Corporal, Gen. Woolcot's brigade of militia. | Wounded in his wrist, by the accidental discharge of the gun of his father, while on their march; in consequence of which wound he was under the necessity of having his arm amputated. | Oct. 21, 1777, State of New York. | Southington, | One-half, | Militia.(4) |
| Elisha Clark, | Artificer, Boilstone's company of artificers. | A severe cut in his foot, by an axe with which he was at work in making baggage wagons. | 1777, Springfield, | Southington, | One-fourth.(4) | |
| Enos Blacksley, | Private, 4th Connecticut, Col. Webb's. | Wounded in his back by the bayonet of a fellow soldier, who, while behind him, fell, having his bayonet fixed. | March 20, 1776, near Providence. | North Haven, | Full, | Enlisted June 5, 1777, for the war; in hospital; disch'd in 1783.(4) |
| Joseph Otis, | Private, Col. Zebulon Butler's; afterwards transferred to Colonel Webb's. | Wounded by a musket ball, which entered, and remains lodged in his thigh. | February, 1781, Mor-risiana. | Bransford, | One-half, | Enlisted Jan. 1, 1777, for the war; on the rolls in 1780.(6) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete, excepting that his disability from known wounds is not proved. (2) Evidence complete, excepting that the deposition of the examining physicians is not upon oath, and that the other evidences are taken before two commissioners, instead of three, as required by law. (3) Evidence complete, excepting that the certificate of the examining physicians is not upon oath. (4) Evidence complete. (5) Evidence complete, as to the object stated, excepting that the examining physicians do not report upon oath. *Note.*—As the disability of the claimant does not proceed from any known wound, his case is not comprehended by the laws. (6) Evidence incomplete, viz: No evidence to prove his being wounded, while in the actual line of his duty.

STATEMENT OF CERTIFICATES FOR CONNECTICUT—Continued.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|---|--|-----------------------------------|---------------|---------------------------|--|
| Samuel Whiting, - | Colonel, militia, - | Caught cold by wading a river, when heated by marching, and exhausted by fatigue; the consequence of which was an obstruction of the urinary passage, and an inflammation of his right eye, which terminated in the entire loss of it. | 1777, Norwalk, - | Stratford, - | One-sixth of full pay. | Militia.(1) |
| Thomas Hobby, - | Major, Colonel Waterbury's. | Wounded in his hip by a musket ball, - - | 1775, Lake Champlain, | Greenwich, - | - | Militia.(2) |
| David Blackman, - | Private, Jabez Fitch's company of independent volunteers. | Wounded by a lance, or spear, while attempting to board an eight gun sloop. | October, 1782, Long Island Sound. | Huntingdon, - | Two-thirds, - | No muster-rolls in the office, of this independent company.(3) |
| Isaac Richards, - | Private, 9th Connecticut militia. | Wounded by a musket ball in his left leg, whereby he is subjected to pain and cramp in that limb. | April 27, 1777, Ridgefield, | Norwalk, - | One-third, - | Militia.(4) |
| Benjamin Sturges, - | Private, Captain Woodhull's company, commissioned to command three whale boats. | Wounded by a bayonet, thrust into his left side, while attempting to grapple one of the enemy's boats in Long Island Sound. | Dec. 7, 1782, Long Island Sound. | Fairfield, - | One-sixth.(4) | |
| John Downs, - | Orderly-sergeant, Col. Samuel B. Webb's. | Spits blood frequently, and has ulcerated lungs, in consequence of a strain by drawing of cannon, and of a violent shock he sustained by falling or leaping over a redoubt. | Yorktown, - | Huntingdon, - | - | Enlisted Aug. 1780; on the rolls in 1782.(5) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete, as to the object stated, but the claimant not having been wounded, his case does not come within reach of the laws. (2) Evidence complete, excepting that the examining physicians do not precisely state the degree of his disability, only giving it as their opinion that he ought to receive half-pay at least. It appears the claimant is seventy-one years of age. (3) Evidence complete, excepting when or how he left the service. (4) Evidence complete. (5) Evidence complete, excepting that the examining physicians do not precisely state the degree of his disability.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, January 8, and February 13, 1795.

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the district of Vermont, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|------------------------------------|--|---|------------------------------------|--------------------|---------------------------|--|
| William Haselton, or Hazeltime. | Private, Col. Nichols's; Capt. Carleton's comp. | His left arm considerably shortened and weakened, occasioned by a musket ball which passed through it. Caught the smallpox, while in service, which terminated in the loss of his right eye, from not having proper medical attendance. | August 16, 1777, Bennington. | Rockingham, | One-half, | Militia.(1) |
| Ebenezer Brooks, | Private, Colonel Reed's; Capt. Hind's company. | | July, 1776, Crown Point. | County of Windham. | One-half, | Militia.(2) |
| Jonathan Houghton, | Private, Colonel Williams's. | Wounded in his right hand by a musket ball, which has deprived him of the use of two of his fingers. | August 16, 1777, Bennington. | County of Windham. | - | Militia.(3) |
| Moses Sanderson, | Private, Col. Putnam's, | Wounded in his neck by a musket ball, while standing on sentry; which wound has deprived him of the use of his left arm. | 1777, Moses's creek, | Rockingham, | Two-thirds, | Militia.(1) |
| Pliny Pomeroy, | Private, Col. Ward's; Capt. Allen's company. | Ruptured his groin, while employed in carrying provisions from Roxbury to Dorchester. | Jan'y or Feb'y, 1777, near Boston. | Westminster, | Four-fifths, | Militia.(1) |
| Ebenezer Wallace, | - | Has, in a great measure, lost his sight by the smallpox and measles, with which he was afflicted while in service. | - | Marlborough, | One-half.(4) | |
| Samuel Ball, | - | Lost his right eye by an accident, and is subject to epileptic fits, arising, as is supposed, from being overcome with heat and fatigue at the battle of Monmouth. | - | Marlborough, | Two-thirds,(4) | |
| Daniel Simonds, | Lieutenant, 5th Massachusetts. | Has a scorbutic humor in his left leg, occasioned by an accidental contusion while in service. | - | Marlborough, | One-third.(5) | |
| Amos Snow, | Private, Col. Cilley's, | Deaf, and worn out in service, | - | Claremont, | - | Enlisted December 28, 1779; discharged in 1782.(6) |
| Roger Stevens, | Private, Col. Cilley's; Capt. Fairwell's comp. | Crippled by the cramp in his feet, while in service.(7) | - | - | - | - |
| Samuel Spears, | Private, Col. Nichols's; Capt. Runnell's comp. | Is subject to fits, and his senses and memory impaired, occasioned by being wounded in his head with a musket ball. | August, 1777, Bennington. | Cavendish, | One-half, | Militia.(8) |
| Gideon Walker, | Lieutenant, | Has lost the use of his limbs, by lodging two nights on the ground, during the late war. | 1777, New Jersey, | Cavendish, | Full.(9) | |
| Ephraim Wilmarth, | Sergeant, Colonel Robinson's regiment militia. | Wounded in his left shoulder, by a musket ball, | August 16, 1777, Bennington. | Shaftesbury, | - | Militia.(10) |
| Thomas Torrence, | Private, Col. Moseley's militia. | Wounded by a musket ball near his left hip, | April 28, 1777, Fairfield. | Sandgate, | One-half, | Militia.(1) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence complete, as to the object; but, as his present disability does not proceed from any known wound, his case does not come within reach of the laws. (3) Evidence complete, except that the examining physicians do not state the degree of his disability. (4) No legal evidence is adduced to substantiate his claim, but that of the examining physicians. Note.—As the disability of the claimant does not arise from any known wound, his case is not comprehended by the laws. (5) Evidence incomplete, viz: 1st, No evidence of his disability proceeding from a known wound. 2d, No evidence of three freeholders to prove the fourth requisite of the law. (6) The claimant not having been wounded, his case is not comprehended by the laws. (7) Evidence totally incomplete; the deposition of one person only being transmitted. (8) Evidence incomplete, viz: 1st, No evidence of three freeholders to prove the fourth requisite of the law. 2d, No evidence of two credible witnesses to prove the continuance of his disability, from the first two years after leaving the service. (9) Evidence incomplete. His disability not proceeding from known wounds, his case does not come within the laws. (10) Evidence incomplete, viz: 1st, The evidence of examining physicians does not precisely ascertain the degree of disability. 2d, No cause is shown why application was not made prior to December 11, 1788. 3d, No evidence when or how he left the service.

STATEMENT OF CERTIFICATES FOR VERMONT—Continued.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|---|---------------------------------|-----------------|---------------------------|---|
| Peter Rider, | - Corporal, Col. Greaton's, | Has lost the sight of his right eye, by a wound with a musket ball. | 1776, Lake Champlain, | Hartford, - | - | Militia.(1) |
| William Hunt, | - Private or corporal, Col. Warner's; Captain Woolcot's company. | Wounded by a ball, which passed through his right thigh. | August 16, 1777, Bennington. | Middlebury, - | One-half, - | Enlisted January 16, 1777; on the rolls in 1780.(2) |
| Benjamin Marvin, | - Captain, Col. Livingston's. | Is subject to various complaints of the chronic kind, occasioned by the fatigue he endured in an action against General Burgoyne. | 1777, Behmus's Heights, | Alburgh, - | Three-fourths. | (3) |
| Zimri Hill, | - Dragoon, 5th regiment Connecticut lighthorse. | Wounded in his right hand by a broadsword, which has deprived him of the use of his two fore fingers and thumb. | August, 1779, Horse Neck. | Charlotte, - | One-half, - | Militia.(2) |
| John Wilson, | - Sergeant, Gen. Washington's life-guard. | Wounded in his right arm, by a musket ball, | - June 27, 1778, Monmouth. | Windsor county, | One-third, - | Discharged December 11, 1778.(2) |
| William Martin, | - Private, corps of rangers, Capt. Aldrick's company. | Wounded in his right arm, by a cannon ball, | - 1777, Lake George, - | Westminster, | Two-thirds, - | Militia.(4) |
| Ezra Bellows, | - Private, Col. Brewer's, | Wounded in his left hand, by the accidental discharge of his gun. | 1776, Mount Hope, - | Springfield, - | One-eighth, - | Militia.(5) |
| Benjamin Tower, | - Private, Col. Bayley's; Capt. Jacob's company. | Wounded by a ball passing through his right thigh, - | Sept. 17, 1776, Harlem Heights. | Westminster, | Two-thirds, - | Militia.(6) |
| Samuel Evers, | - Private, Col Stark's; G. Reed's company. | Wounded in his left arm, by a musket ball, - | June 17, 1775, Bunker's Hill. | Londonderry, | One-fourth, - | Militia.(7) |
| Oliver Darling, | - Private, Col. Brooks's; Capt. Reed's company. | Dislocated his right hip, by a fall, as he was carrying provision to supply the company to which he belonged. | 1780, - - | Grafton, - | Five-eighths, - | Militia.(8) |

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 13 and 21, 1795.

JOSEPH HOWELL, Accountant.

Remarks on the evidence transmitted by the District Judge.

(1) No legal evidence is produced to substantiate his claim; that which is transmitted is taken before justices of the peace, instead of the District Judge, or three commissioners, as required by law. (2) Evidence complete. (3) His disability not arising from any known wound, his case is not comprehended by the laws. (4) Evidence complete, excepting when or how he left the service. (5) Evidence incomplete, viz: 1st, No evidence of his being wounded in the actual line of his duty. 2d, No evidence when he left the service. (6) Evidence incomplete, viz. 1st, The deposition of three freeholders adduced ascertain a knowledge of the claimant from the year 1783 only. 2d, No evidence when he left the service. (7) Evidence complete, excepting when he left the service. (8) Evidence incomplete, viz: 1st, There are only two freeholders to prove the fourth requisite of the law, which requires three. 2d, No evidence when he left the service.

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the District of New York, of invalid pension applicants examined by him.

| Applicants' names. | Rank, regiment, or ship. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|--|---|--|-------------|---------------------------|--|
| Jeremiah Everett, | Mariner, frigate Confederacy. | Had his right leg fractured by the carriage wheel of a cannon. | 1779, on the river Delaware, near Chester. | Hudson, | One-half, | Served from February 22, to August 20, 1779, when he was discharged. (1) |
| Thomas Ward, | Corporal, Colonel Harrison's, 1st regiment of artillery. | Wounded in his leg, by a bayonet, | July 16, 1779, Stony Point. | Mamakating, | - | Enlisted July 6, 1777. (2) |
| Stephen Kellogg, | Private, 3d Connecticut, | Wounded in his left leg, by an accidental stroke of an axe. | 1781, near West Point, | Whitestown, | - | Enlisted April 22, 1777, for the war; discharged January 5, 1783. (3) |
| Asa Virgill, | Corporal, 4th Massachusetts. | Has frequent attacks of dizziness, and partial blindness, in consequence of a wound in his head by a musket ball. | August or Sept. 1778, Newport Island. | Hillsdale, | One-fourth, | Enlisted Feb. 1, 1777, for the war; on the rolls in 1780. (1) |
| William P. Fox, | - | Broke his left thigh, by the oversetting of a sleigh, while employed in carrying flour to Fort Schuyler. | 1777. (4) | - | - | - |
| John McKinstrey, | Captain, Colonel Patterson's. | Wounded in his left leg and thigh, by musket balls; and, after being made a prisoner by the Indians, received two other wounds in his belly and breast, by a blow with the muzzle and butt end of a musket. | —, Canada, | Livingston, | One-third, | Militia. (5) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence complete, excepting that the examining physicians do not precisely state the degree of his disability. (3) Evidence complete, excepting that the claimant has not been examined by physicians, to prove the nature and degree of his disability. (4) Evidence totally incomplete, excepting that the deposition of two witnesses is produced to prove the accident. (5) No evidence produced in support of his claim but that of the examining physicians.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 13, 1795.

JOSEPH HOWELL, Accountant.

3d CONGRESS.]No. 64.[2d SESSION.

INVALID PENSION CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1795.

DEPARTMENT OF WAR, *February 28, 1795.*

Pursuant to the act entitled "An act to regulate the claims to invalid pensions," the Secretary of War makes to Congress the annexed statements of such claims as have been received and examined since the 21st instant, and of the additional evidence received further to support certain claims formerly stated.

All which are respectfully submitted,

TIMOTHY PICKERING.

A statement of the certificates transmitted to the War Office of the United States by the Attorney of the District Court for the District of New Hampshire, of invalid pension applicants examined by him.

1795.]

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|---|--|-------------------------------|---------------|---------------------------|--|
| Caleb Aldrich, | Sergeant, Colo'l George Reid's; Captain Ellis's company. | Disabled in the joint of his left hip by a fall on board a small vessel or boat. | 1781, North river, | Westmoreland, | Full, | Enlisted March 9, '78, for the war; on the rolls in April, 1783.(1) |
| David Robbins, | Private, Col. Jas. Reid's; Captain Hinds's company. | Eruptions over his body, and great debility, occasioned by violent heat of the weather, during the battle of Bunker's Hill. | June 17, 1775, Bunker's Hill. | Westmoreland, | Full, | (2) |
| Lemuel Dean, | Private, Col. Cilley's, | Wounded in his neck by a musket ball, which occasions a loss of hearing with the right ear, a difficulty in speaking, and a great debility. | June 20, 1778, Mounmouth. | Claremont, | One-half, | Enlisted March 3, 1777, for three years; discharged March 31, 1780.(1) |
| Ebenezer Fielding, | Private, Colonel Reid's; Captain Oliver's company. | Lost the sight of his left eye, and otherwise disabled, by the smallpox, when in service. | 1776, | Claremont, | One-third, | (3) |
| Phineas Parkhurst, | Fifer, Capt. Joseph Parkhurst's company of militia. | Wounded in his right side by a musket ball, | 1780, Royalton, | Lebanon, | Full, | Militia.(1) |
| Richard Lyman, | Sergeant, Col. Prentiss's; Captain Troop's company. | Obstructions in his liver and spleen, and a general debility, in consequence of wading a river. | 1777, Schuylkill, | Lebanon, | Full, | (4) |
| Moses Sweat George, | Private, Colonel Hale's; Captain Cloyce's company. | Wounded by a musket ball in his right elbow; the bones fractured, and the limb rendered crooked and stiff. | July 7, 1777, Hubbards-town. | Lyman, | One-half, | Enlisted April 10, 1777, for three years; discharged April 10, 1780.(1) |
| Giles Kelsey, | Private, Col. Warner's, | Has lost one eye, and his constitution impaired, in consequence of having the smallpox, when in service. | Canada, | Newport, | One-half, | (5) |
| Phineas Wilcox, | Private, Col. Warner's, | Is in a weak, debilitated condition, in consequence of the smallpox, which he had when in service. | Quebec, | Newport, | One-third, | (5) |
| Job Britton, | Private, Colonel Reid's, | Wounded in his right shoulder by a musket ball, | June 17, 1775, Bunker's Hill. | Westmoreland, | One-third, | Militia.(1) |
| Morrel Coburn, | Private, Colonel John Starks's; Capt. Woodbury's company. | Wounded in his left hand by a musket ball, | June, 1775, Boston Harbor. | Cornish, | One-fourth, | Militia.(1) |
| Jonas Parks, | Private, Colonel Bond's; Captain Smith's company. | Has lost the sight of one eye, and that of the other impaired, in consequence of the hardships he underwent, while under inoculation for the smallpox. | Canada, | Charleston, | One-half, | (6) |
| Benjamin Knight, | Sergeant, Colonel Scammel's; Benj. Stone's company. | Lost one finger of his right hand, and one of his thighs considerably weakened, by wounds. | July, 1777, Hubbards-town. | Landaff, | One-third, | Enlisted February 27, 1777, for three years; discharged February, 1780.(1) |

INVALID PENSION CLAIMS.

Remarks on the evidence transmitted by the District Attorney.

- (1) Evidence complete. (2) The claimant not being wounded, his case does not come within the reach of the law. (3) The claimant's disability not being the effect of known wounds, his case is not comprehended by the law. (4) The claimant's disability not being the effect of known wounds, he is not entitled to a pension. (5) The disability of the claimant does not proceed from known wounds, consequently he is not entitled to a pension. (6) His disability not proceeding from known wounds, his case is not comprehended by the law.

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STATEMENT OF CERTIFICATES FOR NEW HAMPSHIRE—Continued.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|---|---|--|--------------|---------------------------|---|
| James Dean, | Private, Col. Nichols's; Captain Stone's company. | Wounded by a musket ball, which passed through his thigh. | 1777, Bennington, | Marlborough, | One-fourth, | Militia.(1) |
| Joel Porter, | Private, Col. Prescott's; Captain Lawrence's company. | Wounded in his ankle by a musket ball, | June 17, 1775, Bunker's Hill. | Marlborough, | One-fourth, | Militia.(1) |
| Ebenezer Jennings, | Sergeant, Colo'l Reid's; Captain Potter's company. | Wounded in his left leg by a musket ball, in the Indian expedition under General Sullivan. | 1779, Newtown, | Marlborough, | One-fourth, | Enlisted June 20, 1778, for two years; discharged April 1, 1780. (1) |
| William Curtis, | Private, Col. Whiting's, | Wounded by a musket ball in the fleshy part of his left thigh. | April, 1777, Ridgefield, State of Connecticut. | Stratford, | One-half, | Militia.(1) |
| William Smart, | Private, Colonel Stark's, | Totally blind with one eye, and can but just discern the light with the other, occasioned by the small-pox, which he had in service. | 1776, Canada, | Rumney, | Full, | Militia.(2) |
| John Colburn, | Serjeant, Col. Cilley's; Capt. House's comp'y. | Caught a violent cold in fording a river, having little clothing to cover himself. | Mohawk, | Hanover, | One-third, | (2) |
| Rufus Kempton, | Private, Col. Nichols's; Stevens's company. | A weakness in his right shoulder, occasioned by a cold caught when on guard. | West Point, | Croydon, | - | (2) |
| Edward Clark, | Sergeant, Col. Hazen's; Capt. Prye's company. | Wounded in his leg by a shell, | Oct. 1781, Yorktown, | Haverhill, | One-fourth, | On the rolls in '80, and continued thereon to January, 1782.(1) |
| Caleb Hunt, | Private, Colonel Hale's; Capt. Blodgett's company. | Wounded in both thighs by musket balls, | July, 1777, Hubbards-town. | Marlow, | One-half, | Enlisted March 18, 1777, for three years; wounded in July, 1777. (1) |
| Eliphalet Taylor, | Private, Col. Jackson's; Captain Keith's company. | Has a large rupture in the scrotum, occasioned by rolling a large log, in obedience to the command of his lieutenant. | July, 1778, | Langdon, | One-third, | (1) |
| Ebenezer Tinkham, | Private, Warren frigate, | Wounded by a musket ball, which entered his right shoulder, went through a joint of the neck, and came out by the collar bone. | July, 1779, Penobscot, | Lyme, | One-third, | (1) |
| Whitman Jacobs, | Private, Col. Hutchinson's; Capt. Richardson's company. | A great debility and contraction of his limbs, occasioned by a disorder called the ground itch. | September, 1776, | Croydon, | Full, | (3) |
| John Lapish, | Private, Colonel Cilley's; Capt. Wait's company. | Wounded in his right arm, by a musket ball, | October 7, 1777, | Lyman, | One-fourth, | Enlisted November 17, 1776; on the rolls in 1780.(1) |
| Jonathan Willard, | Ensign, Colonel Cilley's; Capt. Farwell's company. | Wounded in his right shoulder, by a musket ball, | October 7, 1777, Behmus's Heights. | Langdon, | One-fourth, | Commissioned November 8, 1776; wounded in October, 1777; on the rolls in 1780.(1) |
| Charles Tilden, | Private, Col. Warner's; Capt. Vail's company. | A considerable debility of both arms, occasioned by being pinioned to a bed with cords tied round his arms, while in a state of insanity. | 1775, Montreal, | Lebanon, | One-fourth. | (4) |

Remarks on the evidence transmitted by the District Attorney.

(1) Evidence complete. (2) His disability does not proceed from any known wound, therefore not entitled to a pension.

(3) His case is not within reach of the laws, as his disability does not proceed from known wounds.

(4) As his disability does not proceed from any known wound, his case is not comprehended by the laws.

STATEMENT OF CERTIFICATES FOR NEW HAMPSHIRE—Continued.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|----------------------|--|--|-----------------------------------|---------------|---------------------------|--|
| Charles Huntoon, Jr. | Private, Col. Doolittle's; Captain Stearn's company. | Had his right knee fractured, by a cannon ball from the British entrenchments, while at work in the line of his duty. | Septem. 1775, Plough Hill. | Grantham, | One-third, | Militia.(1) |
| Joseph Green, | Private, Col. Webb's; Captain Wallbridge's company. | Wounded in his left shoulder, by a musket ball, | Dec. 7, 1777, White Marsh. | Hanover, | One-half, | (1) |
| Windsor Gleason, | Private, Colonel Cilley's; Capt. Farwell's company. | Wounded in his right leg, in the Indian expedition, under General Sullivan. | Newtown, | Langdon, | One-fourth, | Enlisted February 1, 1779; discharged February, 1780. (1) |
| Jonathan Holten, | Lieutenant, Col. Stark's; Capt. Carleton's company. | Wounded by a musket ball through his upper jaw-bone, under his nose, and by a small shot in his cheek. It appears by the original return from New Hampshire, that he received a pension from that State from September 24, 1777, to January 24, 1780, and that he was struck off the list on the 20th March, 1780, per vote of court. | Aug. 1777, Bennington. | Charleston, | One-half, | Militia.(1) |
| William Taggart, | Ensign, 2d New Hampshire; Colonel Hale's. | Wounded by a musket ball, through the muscles of the upper part of his right arm, and his eyesight greatly impaired, occasioned by the small-pox, when in service. | July 7, 1777, Hubbards-town. | Hillsborough, | One-half, | Commissioned November 8, 1776; resigned February 6, 1780.(2) |
| James Crombie, | Lieutenant, Col. Hale's, | Ruptured in his groin, by a fall from his horse, while riding to purchase supplies for the army. <i>Note.</i> —By the original return of pensioners in the State of New Hampshire, it appears that James Crombie received half-pay as lieutenant from September 1, 1778, to March 20, 1782, when he was struck off the list per vote of court. | July, 1777, | Rindge, | Full, | Commissioned November 8, 1776; on the rolls in 1778.(1) |
| Thomas Eastman, | Private, Colonel Cilley's; Capt. Hutchins's company. | Is subject to fits, and a constant dizziness of the head, in consequence of a wound in his head, by a musket ball. | Sept. 19, 1777, Behmus's Heights. | Hopkinton, | Three-fourths, | Enlisted July 3, 1777; discharged July 16, 1780.(1) |
| Abraham Kimball, | Private, Col. Stickney's; Captain Bailey's company. | Wounded by a ball, entering above his right knee, and passing into the leg. | Aug. 1777, Bennington. | Hopkinton, | One-half, | Militia.(1) |
| Joseph Morse, | Private, Colo'l Eraine's; Capt. Frearwill's company. | Wounded in his body, | Sept'r 1777, Brandywine. | Fitzwilliam, | Two-thirds, | Enlisted April 10, 1777; prisoner July 1, 1778; discharged April, 1780.(1) |

Remarks on the evidence transmitted by the District Attorney.

(1) Evidence complete.

(2) Evidence complete; but it is to be observed, that his disability is increased, in a great degree, in consequence of the small-pox.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Massachusetts, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------------|--|---|----------------------------------|-------------|---------------------------|---|
| Joseph Frost, | Private, Col. Williams's militia. | Wounded in his left arm by a musket ball, | August 16, 1777, Bennington. | Tewkesbury, | One-eighth, | Militia.(1) |
| Jesse Holt, | Corporal, Col. Bridge's, | Wounded in his left shoulder, | June 17, 1775, Bunker's Hill. | Tewkesbury, | One-eighth, | Militia.(1) |
| Uriah Goodwin, | Private, 15th Massachusetts, Col. Bigelow's; Capt. Houdin's comp'y | Wounded by a musket ball, which entered his left breast, and came out near the spine. | January, 1780, White Plains. | Bedford, | One-fourth, | Enlisted July 19, 1779; discharged April, 1780.(1) |
| Job Lane, | Private, Col. Green's militia. | Wounded by a musket ball, which entered his body on the right side below the short ribs, and which he declares remains lodged in his hip. | April 19, 1775, near Concord. | Bedford, | One-half, | Militia.(1) |
| Joseph Peabody, | Private, 5th Massachusetts, Col. Putnam's. | Wounded in the right side by a musket ball, | July 28, 1777, near Fort Edward. | Haverhill, | One-third, | Enlisted April 15, 1777, for three years; discharged April 14, 1780.(1) |
| Moses Fitch, | Private, Col. Brooks's militia. | Wounded in his shoulder by a cannon shot, | 1776, White Plains, | Bedford, | One-fifth, | Militia.(1) |
| Peter Hemenway, | Private, Col. Proctor's, | His left hand amputated a little above the wrist, in consequence of a wound he received by the bursting of his musket. | 1777, Boston, | Boston, | One-half.(1) | |
| William Proctor, | Serg't-major, 2d Rhode Island. | Ruptured in his belly, occasioned by a stick thrown at him by one Kelly, because he refused to play at cudgels with him. | April, 1779, Warren, | - | One-half.(2) | |
| Thomas Marshall Baker. | - | Wounded by a musket ball in the upper part of the right arm.(3) | - | - | - | |
| John Taylor, | Sergeant, Colonel Bigelow's. | Has a rupture produced by some timber falling upon him, | May, 1780, West Point | Boxley, | One-third.(1) | |
| John Smith, Josiah Ward, | Lieut., Col. Porter's, | A rupture in his left side, in the scrotum, Wounded in his left leg by a musket ball.(5) | March, 1781, | Hadley, | One-third.(4) | |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence incomplete, viz: the wound does not appear to have been received while in the actual line of duty, and in the service of the United States. (3) The physicians report that he is not essentially prevented from obtaining a livelihood by labor. (4) Evidence incomplete, viz: no evidence of his disability proceeding from a known wound received in the actual line of his duty in the service of the United States. (5) No evidence produced but the deposition of the examining physicians, who give it as their opinion that the claimant's wound does not disqualify him from obtaining a livelihood by labor.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *February 27, 1795.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Delaware, of invalid pension applicants examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|---------------------------------|---|----------------------------|-----------------|---|---|
| Nelce Jones, | Corporal, 2d Maryland regiment. | Wounded in the front of his ankle, through the bone, by which he is disabled and disqualified from procuring a livelihood by labor. | Sept. 1781, Eutaw Springs. | County of Kent, | Precise degree of disability not ascertained. | On the rolls in 1783; enlisted February, 1778, for the war. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *December 26, 1794.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Maryland, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------|--------------------|---|---|-------------------------|---------------------------|---|
| William Brinsfield, | - - - | Ulcers in his left shoulder, occasioned by a wound received while on a scouting party. | October, 1777, near Crooked Billet, Pennsylvania. | Talbot county, | Full, | Not found on the rolls.(1) |
| James Sewell, | Private, - - | Wounded by a musket ball passing through both his thighs, - | Sept. 1781, Eutaw Springs. | - - | One-half, - | On the rolls to the end of the war.(2) |
| William Ormond, | - - - | Has lost the use of his right arm and three fingers by contraction of the sinews, occasioned from being wounded by a musket ball. | June, 1778, Monmouth. | Prince George's county. | Three-fourths, | Enlisted October, 1777, for three years; discharged June 13, 1778.(3) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence incomplete, viz: 1st, The evidence produced from three freeholders does not testify to the mode of life, employment, labor, or means of support of the claimant. 2d, No evidence why application was not made prior to the 11th December, 1788. 3d, No evidence when or how he left the service. (2) Evidence incomplete: 1st, The evidence produced of his commanding officer, is taken before two commissioners only, and does not sufficiently prove that he was wounded in the line of his duty in actual service. 2d, The evidence of three freeholders proves his disability to the present time, but does not ascertain his mode of life, employment, and means of support. 3d, No evidence why he did not apply prior to the 11th December, 1788. (3) Evidence incomplete: 1st, The report of the examining physicians is not upon oath. 2d, The other evidence produced is taken before two commissioners only, the law requiring three. This claim is questionable. The wound is said to have been received at the battle of Monmouth, which was on the 28th June, and it appears by the musters that he was discharged on the 13th of that month.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *December 26, 1794.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Virginia, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | Monthly allowance. | Arrearages. | Remarks. |
|-----------------------|---|--|-----------------------------|-------------------------|--------------------|-------------|---|
| John Bell, - | Lieutenant, 6th Virginia, | Wounded in his left knee; his leg ulcerous and contracted. | Brandywine, - | - - | \$8 83 | \$200 00 | Deranged September 30, 1778.(1) |
| John Burton, - | Sergeant, 5th Virginia, | Wounded by a ball which fractured his skull; likewise wounded in his left hip. | October 4, 1777, Germanton. | County of Henrico. | 5 00 | 200 00 | Prisoner 4th Oct. 1777; exchanged 28th, and discharged 30th April, 1778.(2) |
| Robert Coldwell, | Private, Col. Campbell, | Wounded in his right wrist, and likewise in his groin. | 1781, siege of Ninety-six. | - - | 3 33½ | 100 00 | No rolls in the office for the year 1781.(3) |
| Joshua Davidson, | Dragoon, Col. Lee's legion. | Wounded in his right arm, the shoulder still remaining dislocated. | March 15, 1781, Guilford. | Prince Edward county. | 4 66½ | 150 00 | Enlisted January 8, 1779, for three years.(4) |
| Jonathan Dyer, | Private, 1st Maryland regiment, Captain Paroll's company. | Lost his leg at the battle of Eutaw, - | September 9, 1781, Eutaw. | County of Pittsylvania. | 4 16½ | 200 00 | Enlisted March 22, for the war; wounded September 9, 1781, and sent to the hospital.(4) |
| David Welch, - | Private or sergeant, 1st regiment artillery. | Wounded in his left foot by a cannon ball, | June 28, 1778, Monmouth. | County of Henrico. | 5 00 | 200 00 | Enlisted June, 1777; on the rolls in 1780.(5) |
| Wm. McIntosh, | Private, Campbell's, - | Wounded by a ball in his left leg, - | Guilford, - | - - | 3 33½ | 150 00 | } (6) |
| Christopher McKannon. | Sergeant-major, Virginia line. | Wounded in his left arm, - | - - | - - | 4 00 * | 150 00 | |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence complete, excepting that the examining physicians do not state precisely the degree of his disability, and that no cause is shown why he did not apply prior to the 11th Dec. 1788. (3) Evidence incomplete. No evidence of freeholders and credible witnesses to prove the fourth and fifth requisites of the law. NOTE.—The District Judge certifies that the foregoing evidence had been obtained, but unfortunately lost. The examining physicians do not precisely state the degree of his disability. (4) Evidence complete, excepting that the examining physicians do not precisely state the degree of his disability. (5) Evidence incomplete: 1st, The deposition of freeholders prove his disability for the last nine or ten years only. 2d, No evidence why application was not made prior to the 11th December, 1788. (6) These people are both dead; the object of the application appears to be, that their families might receive their arrears of pension, as their claims were admitted by the circuit court, and have not been confirmed by the supreme court.

* The rates of pensions and arrearages above specified are stated by the District Judge, who, it is presumed, is not authorized in so doing by the act entitled "An act to regulate the claims to invalid pensions."

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December 30, 1794.

JOSEPH HOWELL, Accountant.

A statement of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of North Carolina, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|-------------------------------------|--|-------------------------------------|------------------------|---------------------------|--|
| George Bledsoe, - | Sergeant, Georgia dragoons. | Wounded in his left leg by a musket ball, which disables him from making a livelihood by labor. | March 19, 1779, - | Franklin county. | Full, - | No rolls in this office.(1) |
| James Smith, - | Sergeant, Col. Bredford's regiment. | Wounded by a musket ball shot through his right thigh, which disables him from getting a livelihood by labor. | March 15, 1781, battle of Guilford. | Richmond county, N. C. | Full, - | Militia.(1) |
| John Knowles, - | Private, North Carolina militia. | Wounded by the British horse, at Rockfish Bridge, in his right and left shoulders; his left arm and left shoulder almost cut off, which disables him from making a livelihood by labor. | 1781, Rockfish Bridge, | Duplin county, | Full, | Militia.(1) |
| James Christian, - | Private, 2d North Carolina. | Wounded by a musket ball, which broke the bone of his right arm, and occasioned two of his fingers to be contracted into the palm of his hand, whereby he is prevented from holding any kind of an instrument or tool. | May, 1780, siege of Charleston. | Hertford county. | One-half, - | Enlisted 19th May, 1777, for three years.(1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, December 26, 1794.

JOSEPH HOWELL, Accountant.

Supplementary affidavits on the application of the following persons (who have been heretofore reported to the House) have been received, but the evidences are still insufficient to complete the requisite testimony.

| Applicants' names. | Rank. | State from whence the evidence is transmitted. | Remarks. |
|---------------------|-----------|--|--|
| John Creamer, | Private, | New York, | Evidence incomplete, viz: 1st, The deposition of three freeholders does not ascertain his mode of life, employment, labor, or means of support, for the two years immediately after leaving the service, as required by law. 2d, The physicians in their report do not precisely state the degree of disability. |
| John G. Helmer, | Private, | New York, | The examining physicians in their report certify there is no evident disability; consequently, not entitled to a pension. |
| Findley Stewart, | Private, | New York, | Evidence complete, excepting that what is now transmitted is taken before two commissioners, instead of three, as required by law; and that the examining physicians in their report do not precisely state the degree of his disability. |
| George Fulham, | Sergeant, | Delaware, | Evidence complete, excepting that the deposition of three freeholders to prove his disability is taken before a Justice of the Peace, which is not conformable to law. |
| John Wright, | Sergeant, | Pennsylvania, | Evidence complete—see him entered below. |
| Richard Richardson, | Sergeant, | South Carolina, | The certificate produced to complete his evidence, signed by Governor Moultrie, is not given upon oath; therefore not conformable to law. |
| William Sawyers, | Private, | South Carolina, | The evidence produced is not given upon oath, as required by law. |
| Thaddeus Williams, | Private, | Pennsylvania, | Evidence complete, excepting that what is now transmitted is taken before two commissioners, instead of three, as required by law. |

Vouchers have been received which complete the evidences of the following persons who were reported to Congress last session as imperfect:

| Names. | Rank. | State. |
|------------------|-----------|----------------|
| John Cooper, | Private, | New Jersey. |
| Laurence Hipple, | Private, | Pennsylvania. |
| Jacob Fox, | Private, | Pennsylvania. |
| Isaac Davis, | Sergeant, | New York. |
| Robert Bancroft, | Private, | Massachusetts. |
| Abner Bradley, | Sergeant, | Connecticut. |
| Samuel Sawyer, | Private, | Connecticut. |
| Chandler Pardee, | Private, | Connecticut. |
| John Hosford, | Private, | Connecticut. |
| Henry Cone, | Private, | Connecticut. |
| John Wright, | Sergeant, | Pennsylvania. |

John Bean, a pension applicant of the State of Maryland, who was reported on the 25th April, 1794, as having deserted on the 13th January, 1782, has produced his original discharge, dated November 22, 1781, signed by *Henry Clagett, captain in the Maryland line; which discharge is considered as sufficient to clear him of the aspersion of desertion, and to entitle him to a pension.

* Horatio.

3d CONGRESS.]

No. 65.

[2d SESSION.

INVALID PENSION CLAIMS.

COMMUNICATED TO THE SENATE, ON THE 2D MARCH, 1795.

DEPARTMENT OF WAR, March 2, 1795.

Pursuant to the act entitled "An act to regulate the claims to invalid pensions," the Secretary of War makes to Congress the annexed statements of such claims as were received and examined on the 28th of February last. All which are respectfully submitted.

TIMOTHY PICKERING, *Secretary of War.*

A statement of certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Vermont, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---|---|--|---|--------------------------------------|--|---|
| Asa Gould, - Elijah Barnes, - Amasa Grover, | Private, 6th Massachusetts. Private, 9th Massachusetts, and 3d do. Private, Col. Grosvenor. | Wounded in his head by a musket ball, and in several parts of his body with a bayonet. Lost the tops of three fingers of his left hand, occasioned by a cut with an axe. Wounded in his neck by a musket ball, - - - | May, 1777, Green Farm 1780, New Windsor, Mar. 3, 1782, Morrisiana | Bethel, - Bernard, - Bethel, - | One-half, - One-fourth, One-third, - | Enlisted March 1, 1777; discharged March 1, 1780. (1) Enlisted February, 1779; on the rolls in 1781. (1) Militia. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 2, 1795.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the District of New Jersey, of an invalid pension applicant examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|----------------------------|---|--------------------------|----------------------|---------------------------|-----------------------|
| Minne L. Voorhies. | Private, Colonel Forman's. | Wounded in his right knee by a musket ball, - - | 1777, Long Island, - | County of Middlesex. | - - | Not on the rolls. (1) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence incomplete, viz: 1st, Only one evidence to prove his being wounded in the line of his duty in the service of the United States. 2d, The examining physicians do not state the degree of disability. Re-examined by physicians who return in ratio (one-half) the evidence proving his wound. Was lieutenant commanding the company at the time.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 2, 1795.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Pennsylvania, of an invalid pension applicant examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|----------------------------|--|--------------------------|----------------|---------------------------|--------------|
| Josiah Conkling, | Private, Somerset militia, | Wounded in his left thigh and hip by two musket balls, - | June, 1780, Springfield, | Somerset co'ty | One-half, - | Militia. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *March 2, 1795.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Connecticut, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---|---|---|---------------------------------|--------------------|---------------------------|--|
| Nathaniel Scribner. | Captain, Col. Liddington's militia. | Wounded by a musket ball in his left arm, - - | June, 1778, - | Duchess county. | One-fourth, | Militia.(1) |
| Samuel Bennett, | Private, Col. P. Bradley's, Captain Abel's company. | His disability occasioned by sickness and hardships which he endured on board a British prison-ship. | - - - | Weston.(2) | | |
| Heber Smith, - | Sergeant and private, Col. Sherman and Col. Webb's. | Wounded by a musket ball in his thigh, and is subject to fits, occasioned by being bled in the artery of his temple for the headache. | Oct. 28, 1776, White Plains. | Huntington, | One-half, - | Militia.(1) |
| Nathan Hawley, | Corporal and private, Col. Webb's. | Wounded by a musket ball in his thigh, - - - | 1777, White Marsh, | Stratford, - | One-third, - | Enlisted March 28, 1777, for the war; on the rolls in 1781.(1) |
| David Hubbell, | Private, Colonel Sherman's, Captain Sil's company. | Strained himself by lifting a log, while employed in building a hut. | Highlands, - | Huntington, | One-half, - | Enlistment unknown; discharged December 9, 1782.(1) |
| Burr Gilbert, - | Corporal, Colonel Butler's, Captain Eel's company. | Wounded in his legs, arms, and hands, occasioned by a cannon ball being fired into a pile of bricks, several of which were forced against him. | Fort Mifflin, - | Weston, - | Two thirds, | Enlisted April 12, 1777; on the rolls in 1781.(1) |
| James Wayland, | Private, Col. Sam'l Webb's, Capt. Walker's company. | Deafness in his right ear, occasioned by the explosion of cannon; bruised his body by a fall, while employed in carrying mortar; and, being on duty on a wet night, caught cold, which brought on a diabetes. | - - - | Stratford, - | One-half.(2) | |
| Isaac Higgins, - | Private or fifer, Col. Butler's or Col. Webb's, 3d Connecticut. | A rupture occasioned by falling with a log of wood on his shoulder, while employed in carrying it to the barracks. | West Point, - | Weston, - | One-half, - | Enlisted July 5, 1779, for the war; on the rolls in 1782.(1) |
| Samuel Bennett, N.B. This is the same as above. | Fifer, - - - | His disability arises from the cold and other hardships he endured when a prisoner at New York. | - - - | - - - | One-half.(3) | |
| Nathaniel Beach, | Private, Col. Sam'l Webb's, Capt. Barber's company. | Lost the great toe of his right foot by a cut with an axe, - | 1778, Fredericksburg, | Weston, - | One-fourth, | Enlisted April 25, 1777; on the rolls in 1780.(4) |
| William Burritt, | Private, Col. Waterbury's, Captain Read's company. | Wounded by a musket ball entering his left arm, and passing under the shoulder-blade; also by two buck shot lodged in the back part of his neck. | Septem'r, 1775, Lake Champlain. | Washington county. | One-fourth, | Militia.(1) |
| Oliver Burnham, | Sergeant, Colonel Beebee's, Capt. Chapman's company. | Dislocated his ankle while in pursuit of the enemy, - | 1780, - - - | Cornwall, - | One-fourth, | Militia.(1) |
| Israel Dibble, - | Private, Colonel Whitney's, Capt. Griswold's company. | Received seven wounds by a bayonet in different parts of his body. | 1777, West Chester, | Cornwall, - | One-third, - | Militia.(1) |
| Henry Filmore, Jun. | Private, Colonel Whitney's, Capt. Griswold's company. | Wounded in his thigh by a bayonet, in his leg by a buck shot, and in his left arm and left hip by musket balls. | 1777, West Chester, | Cornwall, - | One-half, - | Militia.(1) |

Remarks on the evidence transmitted by the District Judge.

- (1) Evidence complete. (2) Evidence incomplete. His disability not proceeding from known wounds, his case does not come within reach of the laws. (3) As his disability is not the effect of known wounds, he is not entitled to a pension. (4) Evidence incomplete, as it does not appear that the wound was received in the actual line of his duty.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of New York, of an invalid pension applicant examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|---------------------------|--|--------------------------|----------------|---------------------------|---|
| Russel Chapell, - | Private, 1st Connecticut. | Broke the bone of his left thigh, by getting a cannon carriage into a boat, in order to cross the North river. | 1782, King's Ferry, | Schenectady, - | One-half, - | Enlisted February 10, 1781; on the rolls January, 1783. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 27, 1795.

JOSEPH HOWELL, Accountant.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of New Jersey, of an invalid pension applicant examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|--------------------------|--|--------------------------|----------------|---------------------------|----------|
| John Obart, - | Private, 1st New Jersey, | Loss of his under lip, and otherwise disabled, by a cold caught after inoculation for the small-pox. | 1776, - - | Middlesex. (1) | | |

Remarks on the evidence transmitted by the District Judge.—(1) As the disability of the claimant does not proceed from known wounds, his case is not comprehended by the laws.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of North Carolina, of an invalid pension applicant examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--------------------|-----------------------------------|---|-------------------------------------|-------------------|---------------------------|--------------|
| Daniel McKisick, - | Captain, troop of horse, militia. | Wounded by a musket ball in his left arm, - | June 20, 1780, near Ramsour's Mill. | Lincoln county, - | - - | Militia. (1) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence incomplete: 1st, No evidence when he left the service. 2d, The examining physicians do not state the degree in which he is disabled from obtaining a livelihood by labor.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 27, 1795.

JOSEPH HOWELL, Accountant.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the district of Georgia, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|--|--|---|-------------------------------------|------------------|---------------------------|--|
| Hugh Lawson, - Daniel Danielly.(2) Henry Karr, - | Captain, Col. Twigg's militia. | Wounded in the right shoulder by a musket ball, - | 1780, Augusta, - | - | - | Militia.(1) |
| Daniel Butler, - John Lindsay, - | Captain, Col. Clarke's militia. | The motion of his left shoulder considerably impaired, and that of his whole arm much weakened, in consequence of a wound by a musket ball. | October, 1780, South Carolina. | Greene county, | - | Militia.(3) |
| John Ramsay, - | Private, Col. Clarke's militia. | Wounded in his right hip, right arm, and in his testicles, by musket balls. | 1780, South Carolina, | - | - | Militia.(4) |
| | Aid-de-camp and major, Col. Few's militia, or Col. Clarke's. | Has lost his right hand, the bones of his right leg shattered, and the leg shortened, and otherwise much disabled, by wounds received at the battle of Long Cane. | December, 1780, Long Cane. | Wilkes county, | - | Militia.(3) |
| | Private, Colonel James Jackson's Georgia light dragoons. | Wounded in his left thigh, and left arm, by a broadsword. | July 6, 1781, near Long Cane mills. | Columbia county. | - | No muster-rolls in the office of the Georgia line, for the year 1781.(3) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence incomplete, viz: 1st, No evidence to prove his being wounded in the actual line of his duty, in the service of the United States. 2d, The examining physicians do not state the degree of his disability. (2) No evidence is produced, excepting a certificate of George Matthews, Governor of Georgia, stating that the claimant was wounded and disabled in the service of the United States, and that he was on the pension list of Georgia on the 12th day of July, 1782. (3) Evidence complete, excepting that the examining physicians do not state the degree of his disability. (4) Evidence incomplete, viz: 1st, The examining physicians, in their report, do not precisely state the degree of his disability. 2d, No evidence of three freeholders, and two credible witnesses, to prove the fourth and fifth requisites of the law. 3d, No cause is shown why application was not made prior to December 11, 1788.

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, February 25, 1795.

JOSEPH HOWELL, Accountant.

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the district of New Jersey, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|---------------------------------------|--|--|-----------------------------------|------------------|---------------------------|-------------|
| William Oliver, - Samuel Taylor, - | Lieutenant, 1st Essex county militia. | Wounded by a musket ball, in the elbow of his right arm. | June 26, 1781, Rahway meadow. | Elizabethtown, - | Two-thirds, - | Militia.(1) |
| | Corporal, Col. Allison's militia levies. | Has an ulcerous leg, in consequence of a wound by a cannon ball. | October 6, 1777, Fort Montgomery. | Elizabethtown, - | Two-thirds, - | Militia.(2) |

Remarks on the evidence transmitted by the District Judge.—(1) Evidence complete.

(2) Evidence complete, excepting why application for a pension was not made prior to December 11, 1788.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 17, 1795.

JOSEPH HOWELL, Accountant.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the district of Pennsylvania, of invalid pension applicants examined by him.

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| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-----------------------------|---|---|---------------------------------------|------------------------|---------------------------|--|
| John Haley, | Corporal, 3d Maryland, Capt. Smith's company. | Wounded by musket balls, in his right arm and left thigh, | July, 1779, Stony Point. | Philadelphia, | Three-fourths, | Enlisted Oct. 1777, for three years; on the rolls in 1780.(1) |
| Robert Wilson, | Ensign, James Potter's; Capt. Long's company. | Wounded by a ball, which passed through his foot, | Feb'y 23, 1777, Ash Swamp, N. Jersey. | Northumberland county. | - | Militia.(2) |
| Alexander Garrett, | Private, Colonel Johnston's 4th Pennsylvania. | Wounded by a musket ball in his left leg, | Sept. 1777, Brandywine. | Lancaster county, | Three-fourths, | Enlisted April 22, 1777, for the war; on the rolls in 1780.(1) |
| Samuel Gilmore, or Gillman. | Private, 7th Pennsylvania. | Wounded in his left hand, | Sept. 1777, near the Paoli. | Washington county. | One-half, | Omitted on the rolls, May, 1778.(3) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete. (2) Evidence incomplete, viz: 1st, No cause is shown why application was not made prior to December 11, 1788. 2d, The examining physicians do not state the degree of disability. (3) Evidence complete, excepting that the deposition of three freeholders, to prove the fourth requisite of the law, is not taken before three commissioners.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 13, 1795.

JOSEPH HOWELL, Accountant.

A statement of the certificates transmitted to the War Office of the United States by the Judge of the District Court for the District of Maryland, of an invalid pension applicant examined by him.

CLAIMS.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|-----------------------------|--------------------------------------|--------------------------|----------------|---------------------------|---|
| John Coats, | Captain, 11th Pennsylvania. | Wounded by a ball in his right hand, | 1777, Piscataway, | Talbot county, | - | Omitted on the muster-rolls, October, 1777; supposed to have resigned.(1) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence incomplete, viz: 1st, No cause is shown why application was not made prior to December 11, 1788. 2d, The examining physicians do not state the degree of disability.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, February 21, 1795.

JOSEPH HOWELL, Accountant.

[No. 65.

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the district of North Carolina, of invalid pension applicants examined by him.

| Applicants' names. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-----------------------|--------------------------|---|--------------------------|----------------|---------------------------|-------------|
| Jos. Singletary, Jun. | Private, Bladen militia, | Wounded by a broadsword in several places in his left arm, and disabled in one of his legs, in consequence of being trod upon by a horse. | June 6, 1781, Rockfish. | Bladen county, | - | Militia.(1) |
| Ithamar Singletary, 1 | Private, Bladen militia, | Wounded in several places in his back, by a small-sword, as he was retreating from the enemy. | June 6, 1781, Rockfish. | Bladen county, | - | Militia.(1) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete, excepting that the examining physicians do not state the degree in which the claimant is prevented from obtaining a livelihood by labor.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *February 13, 1795.*

JOSEPH HOWELL, *Accountant.*

A statement of the certificates transmitted to the War Office of the United States, by the Judge of the District Court for the district of Kentucky, of an invalid pension applicant examined by him.

| Applicant's name. | Rank and regiment. | Disability. | When and where disabled. | Residence. | To what pension entitled. | Remarks. |
|-------------------|---|---|---------------------------|--------------------------|---------------------------|-------------|
| James Speed, | Lieutenant, Col.Cocke's Virginia militia. | Wounded in his left side by a ball, which destroyed two or three of his small ribs. | March 15, 1781, Guilford. | Mercer county, Kentucky. | - | Militia.(1) |

Remarks on the evidence transmitted by the District Judge.

(1) Evidence complete, excepting that the examining physicians, in their report, do not state the degree of his disability.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *January 14, 1795.*

JOSEPH HOWELL, *Accountant.*

Supplementary evidences have been received which complete the requisite testimony of the law in the cases of the following invalid pension applicants who were heretofore reported to the House.

| Names. | Rank. | State from whence returned. |
|-------------------------------|-------------------------|-----------------------------|
| Gersham Dorman, - - - - - | Private, - - - | Connecticut. |
| Thomas Shepherd, - - - - - | Private, - - - | Connecticut. |
| Edmund Smith, - - - - - | Private, - - - | Connecticut. |
| Jonathan Davenport, - - - - - | Private, - - - | Rhode Island. |
| George Popple, - - - - - | Sergeant, - - - | Rhode Island. |
| Job Snell, - - - - - | Private, - - - | Rhode Island. |
| Gideon Brownson, - - - - - | Major, - - - | Vermont. |
| Benjamin Gould, - - - - - | Private, - - - | Vermont. |
| John Vaughan, - - - - - | Sergeant, - - - | New York. |
| Duncan Campbell, - - - - - | Lieutenant, - - - | New York. |
| Joel Phelps, - - - - - | Private, - - - | New Jersey. |
| William Crane, - - - - - | Lieutenant, - - - | New Jersey. |
| Thomas Rickart, - - - - - | Lieutenant, - - - | Pennsylvania. |
| Griffith Rees, - - - - - | Lieutenant, - - - | Pennsylvania. |
| William Love, - - - - - | Quartermaster-sergeant, | Pennsylvania. |

On further examination of William Love's papers, it appears that he was erroneously returned last session as not having complete evidence. (N. B. A rupture.)

Additional documents in support of the claims of the following persons have been transmitted to the War Office, but the evidence is still insufficient:

| Names. | Rank. | Evidence wanting to complete the requisite testimony. |
|---------------|-------------|---|
| Samuel Shaw, | Lieutenant, | No deposition of examining physicians has been produced to prove the nature and degree of his disability. |
| Jared Palmer, | Sergeant, | The examining physicians, in their report, do not state the degree in which he is prevented from obtaining a livelihood by labor. |

A letter from Thaddeus Burr respecting the claim of Joel Bartram.

NOTES.

Against the claim of Jesse Grant, captain, an invalid pension applicant of the State of Connecticut, who was reported on the 30th December, 1794, there has since been transmitted the deposition of four witnesses, which proves that Grant, when a child, had a rupture in his abdomen.

The evidence of two examining physicians has been received, ascertaining the ratio of disability of Jared Palmer, an invalid pension applicant of the State of New York. Also,

The deposition of Israel Potter, in the case of Thomas Shepherd, whose papers were considered as complete, (of Connecticut.)

4th CONGRESS.]

No. 66.

[1st SESSION.

PROCEEDINGS OF THE ACCOUNTING OFFICERS OF THE TREASURY ON CERTAIN CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 24, 1795.

SIR: TREASURY DEPARTMENT, *December 23, 1795.*

I have the honor to transmit, herewith, copies of the proceedings of the accounting officers of the Treasury upon certain claims which have not been admitted to be valid, but which were presented pursuant to the act entitled "An act relative to claims against the United States not barred by any act of limitation, and which have not been already adjusted."

I have the honor to be, with perfect respect, sir, your most obedient servant,

OLIVER WOLCOTT, JUN. *Secretary of the Treasury.*

The Hon. the SPEAKER of the *House of Representatives.*

No. 6,365.

TREASURY DEPARTMENT, AUDITOR'S OFFICE, *January 19, 1795.*

I certify that, pursuant to an act of Congress, passed on the 12th day of February, 1793, entitled "An act relative to claims against the United States not barred by any act of limitation, and which have not been already adjusted," there have been received and registered at this office *one hundred and twenty-four* claims, presented by the persons named in the accompanying abstract; which claims, being distributed into fourteen classes, I have examined, and am of opinion that the same are inadmissible at the Treasury, for the reasons hereafter assigned in treating of each particular class.

CLASS 1.—The claims composing this class are founded on sundry certificates signed "Timothy Pickering," and which appear to have been severally issued by John Tyson, E. W. Keirs, and Christopher Yeates; also on one other signed John Gibson. Tyson, Keirs, and Yeates, were assistants to Hugh Hughes, deputy quartermaster general for the State of New York, to whom it is suggested their accounts were rendered, and, while in his possession, destroyed by fire. However this may be, no returns of the certificates issued by them have been made, as required by an act of Congress of the 23d August, 1780; nor is the Treasury possessed of any other documents whereby to ascertain whether they were *properly* issued or not. It is to be observed that those countersigned by John Tyson are all, except one, dated in the years 1781 and 1782, although it appears he was not furnished with

the blanks till some time in the year 1783. Keirs is said to have died while in service, and it is supposed that the certificates bearing his signature were filled up and put into circulation by some person who got possession of them after his decease. John Gibson was an assistant to John Mitchell, deputy quartermaster general for the city of Philadelphia; a return of some certificates issued by him is in the office, but the one under consideration does not appear in it.

CLASS 2.—The five first-mentioned claims of this class are founded on certificates signed also "Timothy Pickering," and countersigned by Benjamin Day, Daniel Tucker, Christopher Yeates, and William Keese. Benjamin Day was an assistant to Richard Claiborne, deputy quartermaster general for the State of Virginia, from whom it appears he received a number of blank certificates, but has rendered no account of their application. The certificate, No. 3,733, for which payment is now sought, is dated February 22, 1790, many years after he was out of office. Tucker, Yeates, and Keese were assistants to Hugh Hughes; no account of the transactions of either of them is in the Treasury. It is said their papers were burnt with those of their principal.

The sixth is founded on a manuscript certificate, signed "Thomas H. Drew," who was an assistant to Richard Claiborne, deputy quartermaster general for the State of Virginia; no document is in the Treasury by which it can be checked. Besides, by the regulations of the 23d August, 1780, certificates of this description were not to be considered as binding on the public.

The last claim of this class stands in the name of James Price; part of it is founded on a certificate signed "Timothy Pickering," and which appears to have been issued by Thomas Hamilton, an assistant to Richard Claiborne; but no return has been made of it. The remainder is for the balance of an account current, certified by William G. Mumford, the 5th day of June, 1785, in which the said Price makes a charge of pay as assistant commissary of issues at the post of Richmond, from the 1st of April, 1779, to the 30th November, 1780, and of sundry disbursements unsupported by vouchers. No documents are in the Treasury by which this account can be checked. It appears, moreover, liable to other objections; among which it is found that he has had a settlement for pay as a *forage master* from the 1st May to the 31st December, 1780, a period which embraces a great portion of the time he states to have been a commissary.

CLASS 3.—The claims of this class are founded on certificates signed "Timothy Pickering," and countersigned Hugh Hughes, dated in January and May, 1781. In the returns made of certificates issued by Hugh Hughes, although they commence in October, 1780, and are continued down to 1782, none of these appear; they are all filled up with the name of Ephraim Grant, and supposed to be in his own handwriting. Three of them are for his pay as an assistant deputy quartermaster, in the year 1778, at a higher rate than he was at that period entitled to by law; besides which it is to be remarked that Mr. Pickering did not enter on the duties of quartermaster general until the month of August, 1780, and of course was not answerable for any transactions which took place in the department previous to that time. The other is for a month's pay as paymaster and storekeeper to a deputy quartermaster in the year 1781.

CLASS 4.—The claims of this class are founded on certificates which appear to have been severally issued by Robert Hervey, E. W. Keirs, Robert Hunter, John Harrison, Gressett Davis, Peter Kinnan, Andrew Bostwick, James Coakley, Isaac Carty, Francis Wade, George Melvin, James Clarke, Cornelius Cox, and Thomas Ramsey.

Robert Henry, E. W. Keirs, Robert Hunter, and John Harrison, were assistants to Udney Hay, deputy quartermaster general for the State of New York. It is said their accounts and papers were destroyed by fire, with those of their principal.

Gressett Davis was an assistant to William Finnie, deputy quartermaster general for the State of Virginia. His certificate bears date the 20th March, 1780, and states that the claimant, John Porter, had acted six months as a wagon-master without having received any part of his pay. It appears, however, that on the 28th of the same month, Mr. Davis made him a payment of eighty dollars for *one month's wages*; but whether this was *in full* of all then due, or on account only, is not expressed in the receipt. The date of the certificate seems to have been altered.

Peter Kinnan was an assistant to Moore Furman, deputy quartermaster general for the State of New Jersey.

Andrew Bostwick was deputy commissary general of forage for the State of New York. His accounts are supposed to be extensive, and have been frequently called for, but a small part of them only have been rendered. A suit is now pending to oblige him to account.

James Coakley was an assistant to Francis Wade. The certificates bearing his signature are dated in the year 1784, long after he was out of office, and relate to transactions in the year 1779. Certificates of this kind were not allowed to issue by the regulations of the 23d August, 1780.

Isaac Carty was an assistant commissary of purchases in the State of Delaware.

Francis Wade was a deputy quartermaster general for the State of Delaware. His accounts have been rendered in part only, and those in a very confused state. The return of certificates issued by him appears also very imperfect.

George Melvin, it appears, was an assistant deputy quartermaster general for the southern department. Nothing is known of his transactions at the Treasury. The certificate bearing his name was issued contrary to the regulations of August 23, 1780.

James Clark was an assistant to Hugh Hughes.

Cornelius Cox was a deputy quartermaster general for the State of Pennsylvania.

Thomas Ramsey was a deputy commissary. The certificate bearing his name is, in fact, nothing more than a simple receipt, dated July 21, 1777, for a quantity of flour, to which no value is affixed. It appears to have been presented to different officers for settlement, but objected to by all. Claims of this description can, in few instances, be checked, and are considered as precluded from allowance by the act of Congress of March 5, 1779.

It is to be observed that the greater part of the certificates brought into this class were payable in *old emissions*, and remain unliquidated. To the particular remarks which have occurred on *some* of them, it is to be added, the general objection to *all*, that the Treasury is possessed of no returns, or other documents, showing them to have been issued for valuable considerations.

CLASS 5—Consists of two claims founded on certificates signed Richard Claiborne, deputy quartermaster general for the State of Virginia, and countersigned James Hendricks. These certificates are all dated in 1781; at which period none except those signed by the chief of the department were allowed to issue. From the circumstance of their bearing an interest of five per cent. per annum, it has been conjectured that they were issued for State purposes. Mr. Claiborne, however, informs that he acted only for the United States, and supposes that he must have been at the time unprovided with certificates from the quartermaster general. No return on account has been rendered of these certificates.

CLASS 6.—The claims of this class are founded on certificates, commonly called *Loan Office Certificates*, signed "Samuel Hillegas," and countersigned, "by order of I. A. Treutlen, Esq. Governor of Georgia, E. Davies."

These certificates form part of a sum of \$200,000 which was sent from the Treasury, on the 24th of September, 1777, to Georgia, under the care of a Captain Cosmo Medici, and intended for the loan officers there; who were, at that time, and long after, William O'Bryen and Nehemiah Wade.

E. Davies was never recognised or known as an officer of the United States; on the contrary, it appears, from such information as could be collected, that he was only a temporary agent for the State, employed to purchase a quantity of *Indian goods*; and that, to enable him to effect this object, a sum was placed in his hands, in *certificates*, which, by an *order of council*, he was authorized to *issue*. These probably were the certificates now under consideration; and it is therefore presumable that the State of Georgia has had the benefit of them.

For remarks, more in detail on the subject of these certificates, reference is prayed to a report of the Secretary of the Treasury, dated the 28th of March, 1792, on the petition of William Smith; a copy of said report being filed with said claims.

CLASS 7.—This class is composed of three claims, presented by John Nicholson, all of which are founded on bills of credit issued by authority of the late Government, commonly called bills of the *old emissions*. For these Mr. Nicholson claims payment *at par*; that is, one specie dollar for every dollar in paper. The only provision hitherto made for this species of paper is by the act of Congress of the 4th of August, 1790, entitled "An act making provision for the debt of the United States." How far it may comport with justice to make provision on *different* principles for the particular cases now under consideration, is a question proper for the decision of Congress. The money has not yet been examined or counted.

CLASS 8.—The claims of this class are founded on bills of credit, commonly called bills of the *new emissions*, issued on the funds of individual States, pursuant to an act of Congress of the 18th March, 1780. The following clause of the said act shows in what event the United States were to become answerable for the payment of these bills: "That the said new bills issue on the funds of individual States, for that purpose established, and be signed by persons appointed by them; and that the faith of the United States be also pledged for the payment of the said bills, in case any State on whose funds they shall be emitted, should, by the events of war, be rendered incapable of redeeming them."

The interest accruing on them was to have been paid by the United States, annually, *if called for*, in bills of exchange on Europe, and the amount charged to the States, respectively. It does not appear, however, that any such payments were made.

It is understood that the several States concerned have passed laws providing for the redemption of their respective portions of this money; and it is presumable that the far greater part thereof has been redeemed accordingly. The bills for which payment is now claimed are *chiefly* of those issued by the States of New Hampshire, Massachusetts, and Rhode Island.

This species of paper has never been considered as forming any part of the debt of the United States.

CLASS 9.—All the claimants of this class seek compensation for property stated to have been used, or injured, on their respective farms, by the army of the United States, in the course of the late war with Great Britain. The evidence on which their claims rest are estimates or appraisements made from *seven to ten years after* the property is said to have been so used or injured.

On these claims, the following remarks occur:

1st. During the war there were with the army officers, who, if not at all times provided with the means of payment, were fully competent to the adjustment of such claims; and who, being on the spot, were indeed the most proper persons to ascertain and certify their amount.

To these the claimants might and ought to have applied for settlement.

2d. A further remedy was, however, provided by the appointment of *State* commissioners, under the act of Congress of the 20th of February, 1782. It being intended that these commissioners should visit different districts in each State, they were invested with discretionary powers to settle and allow such claims as should, from information and testimony obtained immediately in the scenes, appear to them reasonable and just. Many of those now under consideration appear, indeed, to have been exhibited accordingly; but, from the circumstance of their remaining unliquidated, a presumption arises that they were viewed as ill founded, or not supported by satisfactory proof.

3d. From the evidence adduced, it does not appear whether the property was taken by the order of *proper officers*, or *wantonly* and *unauthorized* by the troops. If the *latter* was the case, it seems to have been the sense of Congress, by their resolution of the 3d of June, 1784, that compensation, if allowed at all, could be made alone, with propriety, by the individual States.

From the foregoing considerations; from the length of time these claims were suffered to lie dormant; from the exaggeration and abuse of which they are, in their nature, susceptible; and from the difficulty, or rather impossibility, of making the investigation contemplated by the act of February 20, 1782, they, and all others similarly circumstanced, have been hitherto judged inadmissible at the Treasury.

CLASS 10.—Consists of a claim by Jacob Hollingsworth, for the value of a quartermaster's certificate, stated to have been *lost* by him; no provision has been made by law for the payment of *lost*, or even destroyed certificates of this description.

CLASS 11.—Consists of a claim presented by John M. Taylor, founded on a warrant, bearing date the 19th of November, 1787, drawn by the late Board of Treasury, to the order of Michael Hillegas, Esq., then treasurer, on Nathaniel Appleton, Esq., receiver of continental taxes in Massachusetts, for \$3,500. This warrant appears to have been presented at different times, and by different persons, at the Treasury; but payment there has been uniformly refused, from an opinion that it had, with others of the same complexion, been already discharged out of funds belonging to the public. The grounds of this opinion are stated in a letter from the Comptroller to the Secretary of the Treasury, dated August 7, 1793; a copy of which is filed with said claim.

CLASS 12.—Consists of a claim of John T. Gilman for endorsing bills of the *new emissions*, issued by the State of New Hampshire, in pursuance of an act of Congress of the 18th of March, 1780.

No compensation has been fixed by Congress for performing this service, nor can I discover that any similar claim has ever been adjusted or presented at the Treasury. From these circumstances, and from the course and nature of the business, it is presumable that all expenses attending it should have been defrayed by the State.

CLASS 13.—Consists of a claim presented by Theodore Bailey, Esq. for Thomas Smith. This claim is founded on simple notes or acknowledgments, signed either by Jacob Cuyler, deputy commissary general of purchases, or Andrew Bostwick, deputy commissary general of forage, and known by the name of *tax notes*, from the circumstance of their having been made receivable in the payment of taxes in New York, by a law of that State.

The particular purposes for which notes of this description were issued do not appear on the face of them, nor has any return or account of their number or amount ever been rendered to the Treasury. It is known that a considerable portion of them have been taken in and brought forward by the State of New York, as a charge against the United States. But whether those now under consideration are genuine, or, being genuine, were issued for public or for private uses, cannot be ascertained.

CLASS 14.—This class, being the last, is composed of miscellaneous claims, which have been presented in behalf of the following claimants, viz:

Daniel Tucker, for balance of pay, as an assistant deputy quartermaster in the State of New York, from 10th of April, 1780, to 25th of March, 1782. The accounts and papers relating to his transactions during this period are said to have been burnt, with those of his principal Hugh Hughes; nothing has been allowed on account of his present claim; because, from the loss of papers just mentioned, it is impossible to ascertain what moneys, or other public property, may have passed into his hands, or how far the same were accounted for. In addition to this, no proof is exhibited of the time he was in service.

Bennet Henderson, for pay as an assistant commissary of issues, at Albemarle barracks, in the State of Virginia, from the 8th of March, 1779, to the 1st of November, 1780. This claim is founded on a certificate of John Allen, dated September 8th, 1785; who, being but an assistant himself at said barracks, had no right to make such appointment. In the list of officers appointed by William G. Mumford, who was the chief of the department, his name does not appear. It may be further observed, that John Allen, in an account settled with the late commissioner, has charged for the pay of sundry persons employed by him, without taking any notice of Mr. Henderson. If, therefore, Mr. Henderson was employed at all, he probably acted as a temporary or occasional agent in forwarding provisions on their passage from Richmond to the barracks; but however the case may have been, the Treasury is possessed of no documents to justify the admission of his claim.

Paul & Livezey, for the value of two horses, said to have been impressed from them, for public service, in the years 1777 and 1778, and appraised in May, 1786. This claim, to omit other objections, is precluded by the act of Congress of the 5th of March, 1779.

James Sharp, deceased, for the value of two horses, said to have died in public service, some time in the year 1776, and for which payment is claimed, on documents dated in 1786 and 1787. This claim stands on rather worse ground than the preceding, and is precluded by the same act of Congress.

John Mowatt, Jun., for a draught of five dollars on the receivers of continental taxes, signed by John Pierce, late paymaster general. This is one of the draughts or notes known by the name of *Pierce's six months notes*. With what view, or for what particular purpose these notes were issued, I cannot undertake to say. They appear, however, to have been authorized by the late Board of Treasury, and to have been regularly paid by the receivers of taxes, when in cash. They were probably issued, in the first instance, in payment of warrants on the Treasurer; which warrants, so satisfied, became debits against the United States. But by whatever means they got into circulation, it is presumed that the commissioners of the board were individually answerable for their final redemption; and in proof that they considered themselves as thus answerable, it is understood that some of these notes having been formerly presented at the Treasury, they were, on being referred to Mr. Duer, Secretary to said board, taken up and paid by him.

Miranda Steger. First, for the services of her late husband, William Steger, from the 1st of April to the 31st of July, 1779, in packing bacon; founded on an account certified by Gressett Davis, assistant deputy quartermaster, dated the last-mentioned day. Secondly, for the pay of the same as an assistant commissary of hides, at Petersburg, from the 1st of November, 1780, to the 8th of July, 1782, founded on a certificate dated the last-mentioned day, signed John Robertson, but no sum specified; and lastly, for a balance of pay stated to be due to three artificers, founded on certificates signed in behalf of George Elliot, assistant deputy quartermaster, bearing date 30th of October, 1780, and which it is alleged were assigned to Steger Watlington.

On these claims it is to be observed, that the certificates, on which they are severally founded, were irregularly issued; that is, contrary to the rules and restrictions established by the act of Congress of the 23d of August, 1780, and that the officers whose signatures they bear have besides (in the accounts rendered of their transactions) made no return of any such certificates or balances being due. It is further to be noted, that the claimant, in a settlement at the Treasury, has been allowed the sum of six hundred and thirty dollars for the pay of her said husband and John Watlington, as joint commissioners of issues at Petersburg, from the 15th May, 1781, to the 31st March, 1782; a period which includes a greater part of the time he is stated to have been employed in the hide department. He could not have acted, with propriety, in two capacities at the same time; or, if he did, was entitled to pay only in one.

William Hays, deceased, for balance due on a quantity of iron, for public use, furnished by himself and Mark Bird, in company, in the years 1778 and 1779, founded on a certificate of George Ross, deputy quartermaster general, dated 29th of January, 1788. The accounts of Mr. Ross have been settled, and in the return made by him of debts remaining due from his department, this balance is omitted; nor do these accounts, on examination, afford any satisfactory evidence that the iron was ever received or accounted for by the said Ross. Besides, at the time the iron is said to have been so furnished, Mark Bird, one of the partners, was himself a quartermaster; and his accounts being yet unsettled, it is conceived that if any thing is really due on the present claim, it would go most properly to his credit, especially as he stands charged on the books of the quartermaster's department with the moneys credited by Hays, and is apparently a debtor to the public.

It will be perceived, that the objections which have been stated in the foregoing pages are, for the most part, of a general nature, but such as in themselves have been deemed of sufficient force to justify the non-admission of the claims to which they respectively apply. There are, however, many particular cases, which would admit of observations more in detail; but these being less essential, have been omitted for the sake of brevity.

An abstract, containing a description of each particular claim, together with the documents on which the same is founded, are herewith transmitted, for the consideration of the Comptroller of the Treasury.

R. HARRISON, Auditor.

To OLIVER WOLCOTT, Esq., Comptroller of the Treasury.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, January 20, 1795.

The foregoing report of the Auditor of the Treasury, having been examined and considered, is hereby admitted.

OLIVER WOLCOTT, JUN., Comptroller.

To the REGISTER OF THE TREASURY.

TREASURY DEPARTMENT, REGISTER'S OFFICE, January 22, 1795.

I do hereby certify that the foregoing report is a true copy of the original record, on file in this office.

JOSEPH NOURSE, Register.

Abstract of claims filed on the register of accounts and claims against the United States, presented in the office of the Auditor of the Treasury, pursuant to an act of Congress of February 12, 1793.

| No. of each claim. | When presented. | By whom presented. | For whom presented. | Nature or title of the account or claim. | Apparent in old emissions. | Amount in specie. |
|--------------------|--------------------|--------------------|---------------------|---|----------------------------|-------------------|
| FIRST CLASS. | | | | | | |
| 3 | February 26, 1793, | C. C. Schoonmaker, | William Bell, | Certificate, No. 13,424, signed by Timothy Pickering, quartermaster-general, and countersigned by John Tyson, dated June 1, 1781, | - | \$90 00 |
| 8 | March 2, " | Jonathan Sturgis, | Thaddeus Burr, | Certificate, No. 12,754, signed Timothy Pickering, quartermaster-general, and countersigned John Tyson, dated January 1, 1781, | - | 50 00 |
| 12 | March 13, " | Thomas Franklin, | Thomas Franklin, | Certificate, No. 13,445, signed Timothy Pickering, quartermaster-general, and countersigned John Tyson, dated June 1, 1781, | - | 90 00 |
| 15 | April 1, " | Ebenezer Hazard, | Timothy Williams, | Certificate, No. 12,823, signed Timothy Pickering, and countersigned by John Tyson, dated February 1, 1782, for | \$15 12-96 | |
| | | | | Certificate, No. 13,087, of like issue, dated January 1, 1782, | 156 00 | |
| | | | | Certificate, No. 13,085, of like issue, dated January 1, 1782, | 67 06 | |
| | | | | Certificate, No. 13,043, of like issue, dated January 1, 1782, | 80 00 | |
| | | | | Certificate, No. 1,380, of like issue, dated July 1, 1781, | 19 48 | |
| | | | | Certificate, No. 12,984, of like issue, dated July 1, 1781, | 136 48 | |
| | | | | Certificate, No. 13,075, of like issue, dated July 1, 1781, | 78 00 | |
| | | | | Certificate, No. 13,074, of like issue, dated July 1, 1781, | 78 00 | |
| | | | | Certificate, No. 12,974, of like issue, dated April 1, 1781, | 135 00 | |
| | | | | Certificate, No. 13,064, of like issue, dated April 1, 1781, | 77 00 | |
| 17 | April 4, " | Thomas McEwen, | Thomas McEwen, | Certificate, No. 13,458, signed Timothy Pickering, quartermaster-general, and countersigned John Tyson, dated June 1, 1781, for | 90 00 | 842 18 |
| | | | | Certificate, No. 13,498, of like issue, dated November 1, 1783, | 315 00 | |
| 38 | January 6, 1794, | John Templeman, | John Templeman, | Certificate, No. 7,896, signed Timothy Pickering, quartermaster-general, and countersigned Edward William Kiers, dated December 27, 1782, for | 89 00 | 405 00 |
| | | | | Certificate, No. 12,983, signed Timothy Pickering, and countersigned John Tyson, dated April 1, 1781, | 14 72 | |
| 41 | January 27, " | Uriah Tracy, | Nathaniel Stevens, | Certificate, No. 13,437, signed Timothy Pickering, quartermaster-general, and countersigned John Tyson, dated June 1, 1781, for | 90 00 | 103 72 |
| | | | | Certificate, No. 13,438, of like issue, | 90 00 | |
| | | | | Certificate, No. 13,439, of like issue, | 90 00 | |
| | | | | Certificate, No. 13,449, of like issue, | 90 00 | |
| | | | | Certificate, No. 13,450, of like issue, | 90 00 | |
| 52 | March 13, " | William Hall, | William Hall, | Certificate, No. 12,990, signed Timothy Pickering, quartermaster-general, and countersigned John Tyson, dated July 1, 1781, | - | 450 00 |
| 54 | March 18, " | George Thatcher, | John Hobby, | Certificate, No. 13,010, signed Timothy Pickering, quartermaster-general, and countersigned by John Tyson, dated January 1, 1782, | - | 63 00 |
| 88 | April 28, " | Joseph Perkins, | Clarke and Conner, | Certificate, No. 12,773, signed Timothy Pickering, quartermaster-general, and countersigned John Tyson, dated January 1, 1781, | 46 90 | 163 12 |
| | | | | Certificate, No. 12,762, of like issue, | 48 42 | |
| 89 | April 29, " | Caleb Strong, | Samuel Philips, | Certificate, No. 12,953, of like issue, dated March 1, 1782, | - | 95 32 |
| | | | | | | 54 72 |

| | | | | | | | | | | | |
|---------------|--------------|-------|----------------------|---|----------------------------|---|--|---|----------|----------|--------|
| 92 | April 29, | " | Nathan McVicar, | - | John McVicar, | - | Certificate, No. 13,018, of like issue, dated January 1, 1782, | - | 17 43 | | |
| | | | | | | | Certificate, No. 13,021, of like issue, dated January 1, 1782, | - | 24 08 | | |
| 64 | April 23, | " | Andrew Summers, Jun. | - | Andrew Summers, Jun. | - | Certificate, No. 5,127, signed Timothy Pickering, quartermaster-general, and countersigned by Christopher Yates, dated May 22, 1782, | - | 93 75 | | 41 51 |
| | | | | | | | Certificate, No. 13,395, countersigned John Tyson, dated Jan. 1, 1781, | - | 10 76 | | |
| | | | | | | | Certificate, No. 13,475, countersigned John Tyson, dated Sept. 1, 1781, | - | 60 00 | | |
| 98 | April 30, | " | Sampson Crosby, | - | Frederick Guion, | - | Certificate, No. 46, signed John Gibson, for John Mitchell, quartermaster-general, dated March 23, 1780, | - | | 172 75 | |
| | | | | | | | Certificate, No. 7,913, signed Timothy Pickering, quartermaster-general, and countersigned Edward W. Kiers, dated December 27, 1782, | - | | | 164 51 |
| | | | | | | | | | | | 180 00 |
| SECOND CLASS. | | | | | | | | | | | |
| 4 | February 27, | 1793, | Abraham B. Venable, | - | John B. Scott, | - | Certificate, No. 3,733, signed by Timothy Pickering, and countersigned by Richard Claiborne and Benjamin Day, dated February 22, 1790, | - | | | 6 49 |
| 5 | February 27, | " | Timothy Pickering, | - | Peter Anspach, | - | Certificate, No. 5,234, signed Timothy Pickering, and countersigned Daniel Tucker, A. D. Q. M., dated March 1, 1782, | - | | | 6 88 |
| 6 | February 27, | " | Timothy Pickering, | - | Peter Anspach, | - | Certificate, No. 5,142, signed Timothy Pickering, quartermaster-general, and countersigned Christopher Yates, dated May 22, 1782, | - | | | 7 22 |
| 19 | April 6, | " | John C. Shaw, | - | John C. Shaw, | - | Certificate, No. 3,708, signed Timothy Pickering, quartermaster-general, and countersigned William Keese, D. C. F., dated November 19, 1781, | - | | | 105 37 |
| 22 | April 17, | " | Thomas P. Anthony, | - | Arnold Wells, | - | Certificate, No. 5,184, signed Timothy Pickering, quartermaster-general, and countersigned Christopher Yates, dated May 20, 1782, | - | | | 118 45 |
| 47 | March 1, | 1794, | Abraham B. Venable, | - | Estate of William C. Hill, | - | Certificate, signed Thomas H. Drew, A. D. Q. M., in Virginia, dated April 6, 1782, | - | | | 240 00 |
| 100 | April 29, | " | Thomas Carnish, | - | James Price, | - | Certificate, No. 3,742, signed Timothy Pickering, and countersigned Thomas Hamilton, late A. D. Q. M., dated January 10, 1792, | - | \$270 00 | | |
| | | | | | | | And a claim for balance due him as assistant commissary of issues, under W. G. Mumford, dep. commissary-general of issues, southern depart. | - | 561 66 | | 831 66 |
| THIRD CLASS. | | | | | | | | | | | |
| 27 | May 30, | 1793, | Bartholomew Fisher, | - | Charles P. Rogers, | - | Certificate, No. 3,506, issued by Timothy Pickering, and countersigned Hugh Hughes, deputy quartermaster, dated January 1, 1781, | - | 75 00 | | |
| | | | | | | | Certificate, No. 3,507, of like issue, | - | 75 00 | | |
| 31 | July 2, | " | Prosper Wetmore, | - | Norman Butler, | - | Certificate, No. 3,504, of like issue, dated May 1, 1781, | - | | | 50 00 |
| 58 | April 4, | 1794, | Andrew Caldwell, | - | Andrew Caldwell, | - | Certificate, No. 3,505, of like issue, dated January 1, | - | | | 75 00 |
| FOURTH CLASS. | | | | | | | | | | | |
| 10 | March 4, | 1793, | Robert Underwood, | - | Robert Underwood, | - | Certificate, No. 24, signed R. Henry, A. D. Q. M., dated March 1, 1780, | - | 132 00 | | |
| | | | | | | | Certificate, No. 49, of like issue, | - | 92 00 | | |
| | | | | | | | Certificate, No. 9, signed E. W. Kiers, A. D. Q. M., | - | 95 00 | | |
| | | | | | | | Certificate, No. 36, of like issue, | - | 63 00 | | |
| | | | | | | | Certificate, No. 392, signed Peter Kinnan, quartermaster, Aug. 26, 1781, | - | 36 00 | | |
| 14 | March 26, | " | John Vaughan, | - | Peter Lyons, Jun. | - | Certificate, No. 7, issued by Robert Hunter, in behalf of Udney Hay, deputy quartermaster-general, dated May 4, 1780, | - | | 418 00 | |
| | | | | | | | | | | 5,535 00 | |

ABSTRACT OF CLAIMS—Continued.

| No. of each claim. | When presented. | By whom presented. | For whom presented. | Nature or title of the account or claim. | Apparent in old emissions. | Amount in specie. |
|-------------------------|--------------------|-----------------------|-----------------------|---|----------------------------|-------------------|
| FOURTH CLASS—Continued. | | | | | | |
| 48 | March 1, 1794, | Robert Underwood, | Robert Underwood, | Certificate, No. 130, signed E. W. Kiers, A. D. Q. M., dated March 1, 1780, - - - - - 519 50 Certificate, No. 131, of like issue, - - - - - 211 66 Certificate, No. 136, of like issue, - - - - - 275 50 Certificate, No. 38, signed R. Henry, A. D. Q. M., - - - - - 23 00 Certificate, No. 121, of like issue, - - - - - 45 00 Certificate, No. —, dated May 31, 1780, - - - - - 240 00 | \$1,314 66 | |
| 56 | March 24, " | Samuel Emery, | Samuel Emery, | Certificate, No. 20, signed E. W. Kiers, A. D. Q. M., March 1, 1780, 156 50 Certificate, No. 60, of like issue, - - - - - 18 00 Certificate, No. 103, of like issue, - - - - - 271 00 Certificate, No. 122, of like issue, - - - - - 4 50 Certificate, No. 37, signed R. Henry, A. D. Q. M., - - - - - 257 00 Certificate, No. 41, of like issue, - - - - - 115 50 Certificate, No. 63, of like issue, - - - - - 165 00 Certificate, No. 133, of like issue, - - - - - 40 00 | 1,027 50 | |
| 25 | April 23, 1793, | William Davis, | John Porter, Jun. | Certificate, signed by Gressett Davis, A. D. Q. M. G., for six months pay of said Porter, as a wagon conductor, dated March 20, 1780, no sum being specified. | | |
| 7 | February 27, " | William Simmons, | Peter A. Schenk, | Certificate, signed William Thompson, for Andrew Bostwick, D. C. G. F., dated January 20, 1780, - - - - - | 1,623 50 | |
| 11 | March 6, " | Isaac Wykoff, | Isaac Wykoff, | Certificate, No. 56, signed James Coakley, quartermaster, under Francis Wade, dated October 2, 1784, - - - - - | | \$373 66 |
| 26 | May 8, " | Stephen Sears, | Stephen Sears, | Certificate, signed Andrew Bostwick, D. C. G. F., dated March 17, 1786, - - - - - | 1,739 56 | |
| 59 | April 11, " | Griffith Coomb, | Griffith Coomb, | Certificate, No. 54, signed James Coakley, quartermaster, under F. Wade, dated May 18, 1784, - - - - - | | 138 66 |
| 28 | May 30, " | Cornelius Comegys, | Cornelius Comegys, | Certificate, signed Isaac Carty, A. C. P., dated January 20, 1780; balance, - - - - - Certificate, No. 79, signed F. Wade, deputy quartermaster-general, dated October 12, 1780, - - - - - | 7,048 00 5,152 00 | |
| 18 | April 5, " | Jonas Stansbury, | Jonas Stansbury, | Certificate, No. 1, signed George Melvin, A. D. Q. M., dated May 21, 1781, - - - - - Certificate, No. 1,816, signed Timothy Pickering, countersigned James Clark, A. D. Q. M. G., dated July 20, 1781, - - - - - | 3,000 00 | |
| 9 | March 2, " | Andrew Narny, | Andrew Narny, | Certificate, No. 49, signed Cornelius Cox, deputy quartermaster-general, dated August 30, 1780, - - - - - | | 50 00 |
| 32 | July 20, " | John William Godfrey, | John William Godfrey, | Certificate, No. 29, of like issue, dated June 29, - - - - - | 760 00 | |
| 57 | March 31, 1794, | Caleb Reynolds, | Henry Reynolds, | Certificate, signed Thomas Ramsey, D. C., for 1,132 lbs. of flour, dated July 21, '77. | 6,970 00 | |
| 134 | April 30, " | Samuel Brooks, | Barent I. Staats, | A note of hand, given by John Harrison, in behalf of Udney Hay, dated January 3, 1780; balance, - - - - - | | 3,570 00 |
| FIFTH CLASS. | | | | | | |
| 35 | December 27, 1793, | John M. Taylor, | John M. Taylor, | Certificate, No. 13, signed Richard Claiborne, deputy quartermaster, Virginia, countersigned James Hendricks, dated July 15, 1781, - - - - - | | 556 08 |

| | | | | | | | | | | |
|----------------|--------------------|-------------------|---|----------------------------|---|---|---|---|---|------------|
| 44 | February 20, 1794, | John Speyer, | - | John Speyer, | - | Certificate, No. 18, of same issue, dated July 10, 1781, | - | - | - | 211 66 |
| | | | | | | Certificate, No. 14, of same issue, | - | - | - | 400 00 |
| | | | | | | Certificate, No. 53, of same issue, dated August 20, 1781, | - | - | - | 939 12 |
| | | | | | | Certificate, No. 59, of same issue, dated October 7, | - | - | - | 817 21 |
| SIXTH CLASS. | | | | | | | | | | |
| 45 | February 22, " | Henry Kuhl, | - | Rev. Nathan Strong, | - | Three Loan Office certificates, signed Samuel Hillegas, and countersigned E. Davis, by order of A. Treutlen, Esq. Governor of the State of Georgia, dated December 27, 1777, for four hundred dollars each, | - | - | - | 1,200 00 |
| 46 | February 28, " | Eli Williams, | - | William Smith, | - | Eight certificates, of like issue, dated December 23, 1777, | - | - | - | 3,200 00 |
| 55 | March 24, " | Samuel Emery, | - | Moses Gill, | - | Twenty-one certificates, of like issue, | - | - | - | 8,400 00 |
| 63 | April 18, " | Uriah Tracey, | - | Benjamin Talmadge, | - | Forty-three certificates, of like issue, | - | - | - | 17,200 00 |
| 53 | March 18, " | Samuel W. Fisher, | - | James C. and S. W. Fisher, | - | One certificate, of like issue, | - | - | - | 400 00 |
| SEVENTH CLASS. | | | | | | | | | | |
| 130 | March 30, " | John Nicholson, | - | John Nicholson, | - | Continental bills, of old emission, | - | - | - | 273,801 50 |
| 131 | March 30,* " | Anna Gibson, | - | Anna Gibson, | - | Continental bills, of old emission, | - | - | - | 27,235 00 |
| 132 | March 30,* " | John Clarke, | - | John Clarke, | - | Continental bills, of old emission, | - | - | - | 11,539 00 |
| EIGHTH CLASS. | | | | | | | | | | |
| 40 | January 20, " | Thomas McEwen, | - | William Henderson, | - | Bills of credit of the new emissions, of the States of New Hampshire, Massachusetts, Rhode Island, and New Jersey, issued pursuant to an act of Congress, of March 18, 1780, | - | - | - | 10,114 00 |
| 43 | February 10, " | Garret Cottinger, | - | William & James Constable, | - | Bills of like emission, | - | - | - | 8,991 00 |
| 49 | March 12, " | Joseph Anthony, | - | Samuel Ward, & Brothers, | - | Bills of like emission, | - | - | - | 15,854 00 |
| 50 | March 13, " | James Dunham, | - | Estate of Azariah Dunham, | - | Bills of like emission, of New Jersey, | - | - | - | 843 00 |
| 61 | April 15, " | John M. Taylor, | - | John M. Taylor, | - | Bills of like emission, of New Hampshire, | - | - | - | 4 00 |
| 65 | April 24, " | Stephen Miller, | - | Joseph Ward, | - | Bills of like emission, of Massachusetts, | - | - | - | 20,334 00 |
| 66 | April 24, " | John M. Taylor, | - | Charles G. Pelaskie, | - | Bills of like emission, of Virginia, | - | - | - | 58 00 |
| 67 | April 28, " | Daniel Austin, | - | Eleazer Johnson, | - | Bills of like emission, of Massachusetts, | - | - | - | 1,056 00 |
| 68 | April 28, " | Daniel Austin, | - | Mrs. Brown, | - | Bills of like emission, | - | - | - | 960 00 |
| 69 | April 28, " | Daniel Austin, | - | David Spear, | - | Bills of like emission, | - | - | - | 1,801 00 |
| 70 | April 28, " | Daniel Austin, | - | John J. Waldo & Co. | - | Bills of like emission, | - | - | - | 1,816 00 |
| 71 | April 28, " | Daniel Austin, | - | Herman Brimmer, | - | Bills of like emission, | - | - | - | 256 00 |
| 72 | April 28, " | Daniel Austin, | - | John Gardner, | - | Bills of like emission, | - | - | - | 236 00 |
| 73 | April 28, " | Daniel Austin, | - | Abigail Berry, | - | Bills of like emission, | - | - | - | 79 00 |
| 74 | April 28, " | Daniel Austin, | - | Richard Devens, | - | Bills of like emission, | - | - | - | 606 00 |
| 75 | April 28, " | Daniel Austin, | - | Jonathan Harris, | - | Bills of like emission, | - | - | - | 617 00 |
| 76 | April 28, " | Daniel Austin, | - | Thomas Perkins, | - | Bills of like emission, | - | - | - | 843 00 |
| 77 | April 28, " | Daniel Austin, | - | Thomas Russel, | - | Bills of like emission, | - | - | - | 2,000 00 |
| 78 | April 28, " | Daniel Austin, | - | John Fisher, | - | Bills of like emission, | - | - | - | 208 00 |
| 79 | April 28, " | Daniel Austin, | - | Arnold Wells, | - | Bills of like emission, | - | - | - | 1,544 00 |
| 80 | April 28, " | Daniel Austin, | - | Joseph Russel, Jun. | - | Bills of like emission, | - | - | - | 1,422 00 |
| 81 | April 28, " | Daniel Austin, | - | Henry Newman, | - | Bills of like emission, | - | - | - | 310 00 |
| 82 | April 28, " | Daniel Austin, | - | Daniel Waldo & Co. | - | Bills of like emission, | - | - | - | 1,378 00 |
| 83 | April 28, " | Daniel Austin, | - | Oliver Wandall, | - | Bills of like emission, | - | - | - | 167 00 |
| 84 | April 28, " | Daniel Austin, | - | John Philips, | - | Bills of like emission, | - | - | - | 190 00 |
| 85 | April 28, " | Daniel Austin, | - | Daniel Austin, | - | Bills of like emission, | - | - | - | 10,927 00 |

* These two claims presented by John Nicholson.

ABSTRACT OF CLAIMS—Continued.

| No. of each claim. | When presented. | By whom presented. | For whom presented. | Nature or title of the account or claim. | Apparent in old emissions. | Amount in specie. |
|-------------------------|-----------------|--------------------|------------------------|---|----------------------------|-------------------|
| EIGHTH CLASS—Continued. | | | | | | |
| 90 | April 29, 1794, | Samuel Dexter, | Andrew Brimmer, | Bills of credit of the new emissions, of the State of Massachusetts, | - | \$51 00 |
| 91 | April 30, | John M. Taylor, | Joseph Ball, | Bills of like emission, | - | 1,757 00 |
| 94 | April 30, | John Meyer, | John Meyer, | Bills of like emission, | - | 17 00 |
| 93 | April 30, | Thomas McEwen, | Nathaniel Prime, | Bills of like emission, of New Hampshire and Massachusetts, | - | 957 00 |
| 96 | April 30, | Thomas McEwen, | George Eddy, | Bills of like emission, of Rhode Island, Massachusetts, and New Jersey, | - | 1,339 00 |
| 97 | April 30, | Robert Morris, | Thomas Russell, | Bills of like emission, of Massachusetts, | - | 3,839 00 |
| NINTH CLASS. | | | | | | |
| 33 | August 26, | Abraham Nanna, | Abraham Nanna, | A claim for damage done his farm in 1777, on an appraisement made in the year 1787, | \$2,607 33 | |
| 34 | August 26, | John Ingles, | John Ingles, | A claim for damage done his farm in 1777, on an appraisement made in the year 1787, | 769 67 | |
| 86 | April 28, | William Thorne, | Benjamin Pringle, | A claim for damage done his farm in 1778 and 1779, appraisement whereof was made in 1786, | 350 00 | |
| 87 | April 28, | William Thorne, | William Thorne, | A claim for damage done his farm in 1778 and 1779, appraisement whereof was made in 1786, | 168 75 | |
| 102 | April 29, | Ebenezer Hazard, | Ezekiel Conklin, | A claim for damage done his farm in 1779 and 1780; appraised in 1786, | 181 25 | |
| 103 | April 29, | Ebenezer Hazard, | Nathan Odell, | A claim for cordwood and rails; appraised in 1786. | | |
| 104 | April 29, | Ebenezer Hazard, | Widow Manly Frederick, | A claim for cordwood and rails, in 1776 and 1777, appraised in 1786. | | |
| 105 | April 29, | Ebenezer Hazard, | Isaac Conklin, | A claim for damage, in 1779 and 1780; appraised in 1786, | 168 75 | |
| 106 | April 29, | Ebenezer Hazard, | John Johnson, | A claim for 600 cords of wood; appraised in 1786. | | |
| 107 | April 29, | Ebenezer Hazard, | Benjamin Furman, | A claim for 600 cords of wood; appraised in 1786, | 76 50 | |
| 108 | April 29, | Ebenezer Hazard, | Samuel S. Cox, | A claim for 600 cords of wood; appraised in 1786, | 85 37 | |
| 109 | April 29, | Ebenezer Hazard, | Isaac Cox, | A claim for 600 cords of wood; appraised in 1786, | 70 00 | |
| 110 | April 29, | Ebenezer Hazard, | Martha Hay, | A claim for 600 cords of wood; appraised in 1786, | 403 50 | |
| 111 | April 29, | Ebenezer Hazard, | Jacobus Van Buskirk, | A claim for 250 cords of wood; appraised in 1786. | | |
| 112 | April 29, | Ebenezer Hazard, | John Walderam, | A claim for 2,000 cords of wood, and 2,000 rails; appraised in 1786. | | |
| 113 | April 29, | Ebenezer Hazard, | Jacob Polhemus, | A claim for 800 cords of wood, and 4,000 rails; appraised in 1786. | | |
| 114 | April 29, | Ebenezer Hazard, | Gysbert Hogenkamp, | A claim for 400 cords of wood, and 3,600 rails; appraised in 1786, | 265 00 | |
| 115 | April 29, | Ebenezer Hazard, | Rindert Quackenbush, | A claim for 150 cords of wood; appraised in 1786. | | |
| 116 | April 29, | Ebenezer Hazard, | William Conklin, | A claim for cordwood; appraised in 1786, | 315 00 | |
| 117 | April 29, | Ebenezer Hazard, | Alexander Bulsan, | A claim for 400 cords of wood, and 1,000 rails; appraised in 1786. | | |
| 118 | April 29, | Ebenezer Hazard, | Robert Henry, | A claim for cordwood; appraised in 1786, | 1,400 00 | |
| 119 | April 29, | Ebenezer Hazard, | Abraham Storms, | A claim for cordwood; appraised in 1786, | 72 50 | |
| 120 | April 29, | Ebenezer Hazard, | Samuel Cahoon, | A claim for 120 cords of wood; appraised in 1786. | | |
| 121 | April 29, | Ebenezer Hazard, | Johannes Fishere, | A claim for cordwood; appraised in 1786, | 143 75 | |
| 122 | April 29, | Ebenezer Hazard, | David Ackerman, | A claim for cordwood; appraised in 1786, | 685 00 | |
| 123 | April 29, | Ebenezer Hazard, | John Demarest, | A claim for 50 cords of wood; appraised in 1786. | | |
| 124 | April 29, | Ebenezer Hazard, | Gilbert Hunt, | A claim for 100 cords of wood; appraised in 1786. | | |
| 125 | April 29, | Ebenezer Hazard, | Amey Allison, | A claim for damage done his farm in 1779 and 1780, and for 200 cords of wood, and 5,000 rails; appraised in 1786. | | |
| 126 | April 29, | Ebenezer Hazard, | Joseph Allison, | A claim for cordwood; appraised in 1786, | 925 00 | |
| 127 | April 29, | Ebenezer Hazard, | Thomas Howard, | A claim for 350 cords of wood, and 3,000 rails; appraised in 1786. | | |
| 128 | April 29, | Ebenezer Hazard, | John Jones, | A claim for cordwood; appraised in 1786, | 375 00 | |
| 129 | April 29, | Ebenezer Hazard, | Daniel Vansickle, | A claim for 150 cords of wood, and 1,500 rails; appraised in 1786. | | |

| | | | | TENTH CLASS. | | | |
|----|--------------|-------|-------------------------|-------------------|------------------------------------|---|----------|
| 16 | April 2, | 1793, | Stephen Hollingsworth, | - | Jacob Hollingsworth, | Claim for a quartermaster's certificate, said to be lost, - - - - - | 137 63 |
| | | | | ELEVENTH CLASS. | | | |
| 60 | April 14, | 1794, | John M. Taylor, | - | John M. Taylor, | Claim for a warrant, No. 236, drawn by the Board of Treasury under the late Government, on Nath. Appleton, Esq. receiver of taxes for the State of Massachusetts, favoring Michael Hillegas, Treasurer of the United States, dated Nov. 19, 1787, - | 3,500 00 |
| | | | | TWELFTH CLASS. | | | |
| 13 | March 14, | 1793, | Nicholas Gilman, | - | John Taylor Gilman, | Claim for endorsing bills of the new emission of the State of New Hampshire, emitted pursuant to an act of Congress, of March 18, 1780, - - - - - | 124 72 |
| | | | | THIRTEENTH CLASS. | | | |
| 51 | March 13, | 1794, | Theodore Bailey, | - | Thomas Smith, | Claim for twenty-seven notes given by Jacob Cuyler, deputy commissary-general of purchases, commonly called tax notes, the same having been made receivable in taxes by a law of the State of New York, - - - \$5,800 00 Claim for three others, given by A. Bostwick, D. C. G. F., - - - 110 00 | 5,910 00 |
| | | | | FOURTEENTH CLASS. | | | |
| 60 | April 20, | 1793, | John Blake, | - | Estate of Daniel Tucker, deceased, | Claim for pay of D. Tucker, as A. D. Q. M., under Hugh Hughes, deputy quartermaster for the State of New York, - - - - - | 1,554 55 |
| 51 | December 30, | " | Francis Walker, | - | Bennet Henderson, | Claim for services as commissary of issues at Albemarle barracks, under the appointment of John Allen, A. C. I., at said place, - - - - - | 345 95 |
| 37 | December 30, | " | Thomas Livezay, | - | Paul and Livezay, | Claim for two horses impressed from them on 2d October, 1777, and 19th May, 1788, valued May 14, 1786, - - - - - | 133 33 |
| 39 | January 10, | 1794, | Thomas Campbell, | - | Estate of James Sharp, | Claim for two wagon horses that died in public service in the year 1776; evidence of the claim dated March, 1786, - - - - - | 72 00 |
| 99 | April 29, | " | John Sitgreaves, | - | John Mowatt, Jun. | Claim for a six months' note, signed J. Pierce, P. M. G., July 18, 1795, - - - - - | 5 00 |
| 29 | July 12, | 1793, | Richard Folwell, | - | Miranda Steger, | Claim for the attendance of William Steger, in the packing of pork, from April 1, 1779, to July 31 following, certified by Gressett Davis, A. D. Q. M. G. Claim as an assistant commissary of hides, at Petersburg, from November 1, 1780, to July 8, 1782; certified by John Robertson and Jonathan Park. Claim for wages due William Scott, as an artificer, and assigned by him to Steger and Watlington; certified by Joseph Harding, for George Elliott, A. D. Q. M., October 30, 1780, being for nine months' wages. Claim for balance of nine months' service of Henry Anson, artificer, and assistant to Steger and Watlington; certified as the last, October 30, 1780. Claim of a balance of nine months' and a half pay for Casper Hover, a wagon driver, assigned, certified, and dated as above. | |
| 42 | January 20, | 1794, | J. Hays & James Boylan, | - | Estate of William Hays, | Claim for a balance of iron purchased for the use of the Quartermaster General's Department, by Mark Bird and William Hays, in the years 1778 and 1779, founded on a certificate of George Ross, late deputy quartermaster-general, at Lancaster, dated January 29, 1788, - - - - - | 987 59 |

TREASURY DEPARTMENT, REGISTER'S OFFICE, *January 23, 1795.*
 I do hereby certify, that the foregoing abstract is a true copy of the original on file in this office.
 JOSEPH NOURSE, *Register.*
 [NOTE.—See No 74.]

4th CONGRESS.]

No. 67.

[1st SESSION.]

CLAIM FOR PENSION FOR WOUND RECEIVED IN THE PRIVATEER SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 20, 1796.

Mr. TRACEY, from the committee to whom was referred the petition of Ebenezer Stetson, made the following report:

That Ebenezer Stetson says he was wounded on board the privateer Viper, during the late war, and prays for a pension. The whole system of governmental provision for invalid pensions has rejected mariners, unless wounded when in actual service of the United States, and with a further proviso, that, in case they have taken any prize or prizes, the whole of the respective shares of such is to be deducted. The petitioner was never included in a description of persons entitled to a pension; and, although he may need relief, it is the opinion of the committee that the United States cannot with propriety extend their list of pensioners so far as to include him; and that leave be given him to withdraw.

4th CONGRESS.]

No. 68.

[1st SESSION.]

CLAIMANTS FOR ARREARS OF PAY OR OTHER EMOLUMENTS IN THE ARMY AND NAVY OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 26, 1796.

Mr. TRACEY, from the Committee of Claims, to whom was referred the following resolution, viz: "*Resolved*, That the proper officer be directed to lay before this House a list of all the officers and soldiers of the late army and navy of the United States who appear entitled to arrearages of pay or other emoluments, for their services during the late war, upon the books of the United States, together with a statement of the sums or emoluments which appear to be due to them respectively," made the following report:

That there are two *classes* or *descriptions* of *arrears* of *pay* and *emoluments*, which seem to be embraced by this resolution, viz:

1st. *Balances* entered in the books of the Register of the Treasury.

2d. *Balances* which may be found by searching the books and documents contained in the War Office, Auditor's office, &c.

The first class contains continental or paper bills, final settlements, certificates, &c. returned into the Treasury by paymasters and agents, and which had been delivered to them to pay over to the claimants, respectively, without such payment having been effected.

It is not an easy task to ascertain the sums and names of those to whom due, and is of no importance if done, as the claims of this description are not considered barred by any statute of limitations passed before February 12, 1793, and in *that* are specifically excepted.

The second class consists of two general divisions: first, army accounts; and second, those of the navy; and these each into two subdivisions, viz: *depreciation*, and *pay, rations, clothing, bounties, and commutation of half-pay*. The books, papers, and documents, which contain the proper information for the discovery of *names* and *balances* are very numerous; and such a list cannot be made with tolerable accuracy without looking over the whole number of names to whom any sum has ever been due.

The books containing this information, together with the other necessary documents, can chiefly be found in the War Office and Auditor's office; but no single view of these claims can be had, and the debt and credit is no where so situated, and balance struck in any one book, that, upon taking the name of a claimant, it can be ascertained whether or not he is a creditor; but a great variety of books and vouchers must necessarily be resorted to.

It is impossible to form an accurate idea of the length of time and quantum of labor necessary to effect such statements as are required by this resolution, without expending more time in the inquiry than the committee suppose this House would expect or justify. A statement made by the Accountant in the War Office, and herewith laid before the House, (marked No. 1.) will furnish some idea of the difficulties attending such an attempt.

If the several statutes of limitation should not be suspended on obtaining the *list* contemplated by the resolution, the committee can discover no evil consequences resulting from an adoption of it, excepting the great expense of time necessarily consumed in forming such list; but, in this view of the subject, they can discern no benefits accruing from an adoption of it.

If a suspension of limitation is contemplated, the committee can discern no beneficial consequences resulting from an adoption of this resolution; but, on the contrary, many and very extensive evils, which must be obvious to every member of this House.

Contemplating this subject in every point of view the committee are capable of, they are of opinion that it would be improper for the House to adopt this resolution—

1st. Because it would require much expense of time and labor to comply with it; and

2d. No benefits, but extensive evils, would result from the existence of such a list as the resolution describes.

All which is respectfully submitted to the House.

No. 1.

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, *January 20, 1796.*

In the year 1783 the army of the United States was disbanded, at which time the officers of the different regiments appointed agents to attend on the commissioner of army accounts, to make a final settlement of the arrearages of pay due the officers, non-commissioned officers, and privates of the several regiments whose times of service had then expired, which was done, and the balance due each individual (excepting those who were by some reason or other left off of the muster-rolls, or returned dead or deserted,) was settled by John Pierce, and final settlement certificates issued to the said agents, several of whom have settled their accounts, and returned the certificates, unissued, to the Executive of the State to whom they respectively belong; others have not made any settlement, nor accounted for the certificates placed in their hands. On a claim being made for arrearages of pay or depreciation claimed by an officer or soldier, the following process must be pursued before it can be ascertained whether any thing is due, viz:

1st. An investigation of the State settlements must take place, to ascertain if the State has not settled with the claimant, and charged the United States with the depreciation of his pay.

2d. The regimental settlements must also be examined, to find if the claimants have not been settled with, and the certificates placed in the hands of the agent.

3d. If he did not belong to the quota of any particular State, individual settlements might have been made with him in the commissioners' office for settling the accounts of the army, or at the Treasury of the United States; if no settlement has taken place, either by the State or United States, as above, it then will be necessary to examine the documents produced in support of the claim, with the muster and pay-rolls, to ascertain when his services commenced, and how long he continued in service, in order to find the balance due. In my opinion, it would be impossible to know who the claimants are, and what balances might be due to them, until they render their claims, and the examination made as above; which in every case, from the variety of documents to be examined, it would not take less than three days to each claim, and then the United States subject to great imposition by double payments, being very difficult to prove, in all cases, the settlements already made; and instances have already come to my knowledge, where persons, for the same service, have been paid more than once by the United States.

WILLIAM SIMMONS, *Accountant.*

4th CONGRESS.]

No. 69.

[1st SESSION.

CLAIM OF THE SECRETARY AND AID OF MAJOR GENERAL LAFAYETTE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 5, 1796.

WAR DEPARTMENT, *April 5, 1796.*

The SECRETARY OF WAR, to whom was referred the petition of Monsieur Poirey, formerly secretary and aid-de-camp to the Marquis de Lafayette, reports:

That it appears that the petitioner, Mr. Poirey, served as secretary to Major General Lafayette, in the army of the United States, and that he may have occasionally performed the duties of aid-de-camp to that officer; but whether as supernumerary aid only, cannot be rendered certain, without access could be had to the general orders issued by the commander-in-chief and Major General Lafayette.

It appears also that Major General Lafayette was charged, from time to time, with very important separate commands, and that Mr. Poirey has neither received pay from the United States as secretary nor as aid-de-camp.

As secretary, his title to compensation may be referred to two resolutions of Congress, dated June 17, 1777. The one stipulates "that the pay of a secretary to a brigadier general in a separate command be fifty dollars a month, during such command." The other, "that the pay of the secretary of the commander-in-chief in the northern department be sixty dollars per month."

Supposing the intention of these resolutions to embrace major generals in a separate command, the obstacles to Mr. Poirey's claim arise from the act of limitation, and a tacit waiver of it as stated in his petition.

In strictness of construction both exclude the petitioner from compensation for his services; but it is for the House to determine how far any of the circumstances that may have influence to the law for settling the pay of Major General Lafayette apply to the case of his secretary.

The secretary's case, it is true, is not so striking as that alluded to; it is nevertheless interesting from several considerations. In imitation of his general, and from a movement of disinterestedness, he waived his demand for pay, when it might have been obtained, and only recurred to it when misfortune and distress seem to have rendered the application a duty.

It is therefore submitted, whether the informality of the petitioner's waiver, and his being beyond sea when the act of limitation passed, which might have kept it from his knowledge; or, if known to him, the probability there is that the situation in which he found himself at the time was unfavorable to his using it, does not, when taken together, and independent of other considerations, open the way for a decision grounded upon the original justness of his claim.

All which is respectfully submitted to the House of Representatives.

JAMES McHENRY, *Secretary of War.*

4th CONGRESS.]

No. 70.

[1st SESSION.]

COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 7, 1796.

MARCH 31, 1796.

The ATTORNEY GENERAL of the United States, to whom was referred the memorial of Peter Perrit, late a captain in the Connecticut line of the continental army, most respectfully to the House of Representatives reports:

That the memorialist was a meritorious and unfortunate officer in the army of the United States, and was taken prisoner at Fort Washington, in November, 1776, from which time he remained in captivity till the 26th day of August, or 18th day of September, in the year 1778, when he was exchanged, holding the rank of captain in the Connecticut line upon continental establishment, to which he had been duly appointed in October, 1776; that, in the year 1777, while he was a prisoner, he was reappointed a captain in the Connecticut line; and that, on the 9th day of December, in the year 1778, he applied for his place in the army, which was then occupied by another, and, therefore, could not be filled by himself; and that soon thereafter he signified to the Governor of the said State his release, and desired to enter again into military service; but that he was not reappointed, at any time after his exchange, to any military office on continental establishment; and that he never thereafter actually performed duty in the army of the United States.

That, on the 21st day of June, in the year 1779, the memorialist was appointed, under the authority of the State of Connecticut, a captain of a company in a regiment raised for the particular use of the State, in its controversy about boundary with the State of New York, for the space of one year, which commission he accepted; and that he actually performed the duties and received the compensation of that office, but did not receive any civil office of profit during the late war.

That the memorialist did, on the 27th March, 1784, receive the bounty of one year's pay, granted to the officers deranged, by virtue of the resolve of Congress of the 22d May, 1779, which resolve is in these words: "*Resolved*, That continental officers who are or may be exchanged, and not continued in the service, be, after such exchange, considered as supernumerary officers, and entitled to the pay provided by a resolution of Congress, of the 24th of November last."

That, on the 6th of May, 1784, upon his memorial, a resolve was passed, whereby, in addition to the pay to which he should be entitled under the resolves of the 24th November, 1778, the 22d May, 1779, and 26th May, 1781, an allowance was made for so much as was equal to the difference between the pay in sea service and in land service, for the space of four months; and whereby, also, the depreciation of pay from the 16th November, 1776, to the time of his return from captivity, was to be made up to him. At this time nothing is *expressed*, either by Congress or the memorialist, on his claim to half-pay for life.

That, on the 8th day of February, 1793, the Secretary at War, to whom a petition of the memorialist, stating his claim upon the United States, had been referred, made a report, "that the petitioner had been settled with, conformably to the acts of the 24th November, 1778, the 22d of May, 1779, the 26th of May, 1781, and the 11th of February, 1784."

That, in February, 1794, a memorial of the memorialist, stating the same claim as is now under consideration, was referred by the House of Representatives to the Secretary of War, who made his report against it, on the 17th March following, which was referred to a committee of the House, who reported thereon on the 21st April following; and afterwards it was again, on the 6th June, in the same year, referred to the Secretary of War, who again, viz: on the 24th November, 1794, made his report thereon against the claim, which was approved by the Committee of Claims.

The Attorney General has considered all those proceedings, with every paper and document accompanying the memorial to him referred, and the several resolves of Congress to which any reference is made in support of the claim, or which appear to be connected with it, namely, of the 16th September, 1776, 24th November, 1778, 22d May, 1779, 3d and 21st October, 1780, 26th May, 1781, 22d March, 1783, 26th January, 1784, 11th February, 1784, 6th May, 1784, and 2d November, 1785, and the 13th article of the 14th section of the rules of war; and it is his opinion that the memorialist was not taken into service after his exchange, and that the right of entering into service, if any he had, under the resolve of the 24th November, 1778, was revoked or determined by the resolve of 22d May, 1779, when he became a supernumerary officer, and after which time he continued out of service; and, therefore, that he is not by law entitled to the benefits of the acts of 3d and 21st October, 1780, and 22d March, 1783, and that he has received all the money and emoluments from the United States which by law could be demanded.

All which is humbly submitted.

CHARLES LEE,
Attorney General U. S.

[NOTE.—See No. 57.]

4th CONGRESS.]

No. 71.

[1st SESSION.

CLAIMS OF GEORGIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 12, 1796.

Mr. TRACEY, from the Committee of Claims, to whom was referred the petition of John Gibbons, Treasurer of the State of Georgia, made the following report:

That the petitioner, in his official capacity, prays that final settlement certificates may be issued in favor of the said State for the sum of \$123,283 $\frac{7}{10}$, contained in a certificate, dated the 18th May, 1785, and signed by John Pierce, commissioner, which is not considered, by the officers of Government, as a final settlement certificate, and payment of interest thereon is refused; or that some other relief may be granted.

On the investigation of this claim, the committee find the following facts, viz:

The State of Georgia paid the officers of their line up to the close of the war, and the five years' pay, commonly called commutation.

On the 1st day of June, 1784, Congress passed a resolution, which provides "that the several States shall be credited, in their accounts with the United States, for the specie value of all sums by them paid to their officers and soldiers in the continental army, due from the United States; provided such payments shall have been notified to the Paymaster General, and by him charged to such officers and soldiers, in settling their accounts with the United States; and interest shall be allowed the said States from the time of payment so made."

On the 7th of May, 1787, Congress ordained that a board of three commissioners should be appointed, whose duty it should be to receive from the Comptroller of the Treasury and from the commissioner of army accounts, all the accounts and claims of the several States, &c., that a final adjustment of such claims, on uniform and equitable principles might be had.

On the 5th day of August, 1790, a law was passed by Congress similar to the ordinance above mentioned, authorizing and directing the said three commissioners to receive and examine all claims of the individual States against the United States, which should be exhibited to them before the 1st day of July, 1791; the powers of which commissioners were, on the 23d day of January, 1792, extended to the 1st day of July, 1793; since which they have settled the said claims, and their settlement has received the approbation and sanction of Congress; in which the State of Georgia is found to be a creditor State to the amount of _____ dollars.

On the 18th day of May, 1785, John Pierce, commissioner of army accounts, gave a certificate that, in the final settlement made by him of the accounts of pay and commutation of the officers of the Georgia line, he found the State had paid their officers for sums due prior to August 1, 1780, and from that time up to and including the year 1783, and including commutation, the sum of \$123,283 $\frac{7}{10}$; for which payments the said State was to have credit in the account with the United States, agreeably to the resolution of Congress of June 1, 1784.

The State of Georgia have attempted to obtain interest on this certificate, both before and since the act passed the 4th of August, 1790, and have been refused.

On the 9th day of April, 1791, an explicit refusal, in writing, was given by the then Secretary of the Treasury, alleging that the sum of this certificate was already passed to the credit of the State of Georgia in the books of the Pay Office, and that it would be included in the statement of the general board of commissioners, and could not be funded by the aforesaid act of the 4th of August, 1790.

This decision was not satisfactory to the State of Georgia, and on the 12th day of April, 1792, they presented a memorial to the House of Representatives, praying that separate final settlement certificates might issue for the certificate mentioned above; which was referred to the Secretary of War, but no report was ever made upon it; and the memorial is said to have been lost or mislaid.

On the 9th of April, 1794, the memorial now under consideration was presented, and referred to the Secretary of the Treasury; and on the 5th of January, 1795, returned without any report; and on the 10th of December, 1795, referred to the Committee of Claims.

The committee are of opinion that this certificate of \$123,283 $\frac{7}{10}$ was not presented to the commissioners who settled the accounts of the individual States with the United States, nor by them allowed. This opinion they derive from the circumstance of the original certificate being now in the hands of the agent for the State, which, if allowed, must have been reserved by the commissioners; and by a certificate of Patrick Ferrall, who was principal clerk to the said board of commissioners.

It seems by this last certificate that Mr. John Wereat, agent for the State of Georgia, had in his possession the certificate of Mr. Pierce aforesaid, but claimed that it was a final settlement with the United States, and just claim against them by the State of Georgia as assignee to the officers; and would not lay it before the commissioners.

The committee are clearly of opinion that this certificate ought not to be considered as a final settlement certificate for the purposes of being funded on the act of August 4, 1790, but that the claim was regularly to have been laid before the aforesaid board of commissioners, and a good claim against the United States in the general settlement. Had Mr. Pierce not interfered in this business, and had he not given a certificate, the claim would have indisputably come under the resolution of Congress of June 1, 1784; and his interference does not alter the nature of the claim, as he expressly grounds it on the same resolution; which circumstance must remove all doubt on the subject.

The Secretary of the Treasury decided upon the request for interest, or to loan this certificate seasonably for the exhibition of the claim to the board of commissioners; but the State of Georgia suffered the limitation to bar them, and did not even petition Congress until long after they were barred.

A strict adherence to the limitation in this case appears to the committee of the utmost importance, as the allowance of this claim would now, in effect, destroy the equality and defeat the propriety of the settlement made by the said board of commissioners; they are, therefore, of opinion that the prayer of the petition ought not to be granted.

To the honorable the Congress of the United States: The petition of John Gibbons, Treasurer of the State of Georgia, humbly sheweth:

That he has presented to the loan officer of the State of Georgia sundry final settlement certificates, issued by John Pierce, late commissioner of army accounts, and which are the property of the State, to be funded agreeably to the laws of the United States.

One of them was of a peculiar description, including the accounts of several officers who preferred receiving their pay of the State, which Mr. Pierce liquidated and included in one general certificate; the loan officer refused to fund this, until the officers of the Treasury of the United States had been consulted. He has since declared that he is forbidden to receive it under the act for funding the public debt. This has occasioned some disturbance to the arrangements which had been made for several years by the laws of this State. The interest on the whole of the final settlement certificates in the State Treasury was yearly appropriated by law to particular purposes, and had become the property of individuals.

Though the form of this certificate was different from others, yet it was in substance the same. It was founded on actual liquidation of the accounts of each individual, and was the same to the United States as if a separate certificate had issued to each individual, and ought to be equally entitled to the same provision for the payment of interest.

Your petitioner assures himself that a supposed irregularity in a public officer will not be suffered to work an injury to those who had no control over him, and he is confident that the State will be admitted to that just provision which they would have obtained had the commissioners of army accounts issued these balances in separate certificates; that such certificates may now be issued in lieu of said general certificate, or some other relief be granted.

And, as in duty bound, he will ever pray.

JOHN GIBBONS.

AUGUSTA, *January 30, 1793.*

SIR:

TREASURY DEPARTMENT, *February 4, 1796.*

I have received your letter transmitting the memorial of John Gibbons, Treasurer of the State of Georgia, and have now the honor to transmit the result of my inquiries.

The object of the memorial is to obtain provision for a certificate issued by John Pierce, Esquire, late commissioner of army accounts, in favor of the State of Georgia, for the sum of \$123,283 $\frac{9}{10}$; of which certificate, a copy marked A is hereto annexed.

The certificate was issued for the amount of sundry payments by the State, on account of the pay, and commutation of half-pay, to the officers of the Georgia line; which payments were deducted by the commissioner from the balances due to said officers.

The sum expressed in the certificate was regularly passed to the credit of the State of Georgia, in the books of the commissioner of army accounts, as appears from a certificate of the Accountant of the Department of War, marked B, and hereto annexed.

The certificate on which the claim is founded is, moreover, predicated in a resolution of Congress, passed on the 1st day of June, 1784, which provides "that the several States shall be credited in their accounts with the United States, for the specie value of all sums by them paid to their officers and soldiers in the continental army, due from the United States; *provided* such payments shall have been notified to the paymaster general, and by him charged to such officers and soldiers, in settling their accounts with the United States, and said States shall be allowed interest on the sums so paid, from the time of payment."

It appears to have been the sense of the State of Georgia, that as the sums paid to the army availed to the benefit of the United States, and prevented the issue of final settlement certificates, the State ought to be considered as the assignee of the army, and entitled to the benefit of any provision which had been or might be made for the public creditors. That this opinion was constant and uniform, appears from three letters from the commissioner of loans in Georgia, to the Treasury, dated May 9, 1787, April 17, 1788, and March 1, 1791, of which extracts marked C, D, and E, are annexed.

The letters dated May 9, 1787, and April 17, 1788, were addressed to the late commissioners of the Board of Treasury, but no instructions appear to have been given thereon. To the letter dated March 1, 1791, the late Secretary of the Treasury replied on the 9th April, 1791; the paper marked F is a copy of the decision which he communicated.

It appears that the opinion of the Secretary of the Treasury was not satisfactory to the State of Georgia; and, accordingly, a memorial, praying that separate certificates might be issued in lieu of the general certificate now claimed, was presented to the House of Representatives on the 12th day of April, 1792; which memorial was, on the same day, referred to the Secretary of War.

It does not appear that the Secretary of War ever reported his opinion to the House of Representatives; the memorial which was referred to him is said to have been lost or mislaid, and, in consequence thereof, a second memorial was presented on the 9th day of April, 1794, being that now under consideration.

It is ascertained by the certificate of Patrick Ferrall, late principal clerk to the board of commissioners for adjusting the accounts of the several States, which is hereto annexed, (marked G,) that the sum in question was not allowed to the credit of the State of Georgia by the said board of commissioners; and this fact is further confirmed by the constant claim which has been maintained by the State.

The foregoing narrative contains all the facts that are material to a decision upon the claim of the State of Georgia, which I have been able to discover.

I have the honor to be, sir, your most obedient servant,

OLIVER WOLCOTT, JUN.

The Honorable URIAH TRACEY, Esq.

A.

SAVANNAH, *May 18, 1785.*

This may certify that in the final settlement made by me of the accounts of pay and commutation of the officers of the Georgia line, I have found that the State have paid the officers entered in the above account the sums opposite to their respective names, and for the periods mentioned in the same, viz:

| | | | |
|--|---|---|-------------------------|
| For the sums due the officers prior to the 1st of August, 1780, | - | - | \$44,849 68 |
| For the sums due the officers from 1st August, 1780, to 1st January, 1781, | - | - | 8,029 84 |
| For the sums due the officers for the year 1781, | - | - | 12,512 12 |
| For the sums due the officers for the year 1782, | - | - | 10,244 66 $\frac{1}{2}$ |
| For the sums due the officers for the year 1783, | - | - | 4,189 07 |
| For the sums due the officers for five years full pay, in lieu of half-pay for life, | - | - | 43,458 12 $\frac{1}{2}$ |
| Amounting, in the whole, to \$123,283 $\frac{9}{10}$, for which payments the said State is to have credit in the account with the United States, agreeably to the resolution of Congress of June 1st, 1784. | | | |

JOHN PIERCE, *Commissioner.*

PAY OFFICE, *March 29, 1791.*

Copy of the original certificate on file in this office.

JOSEPH HOWELL, *Acting P. M. G.*

B.

DR.

The Georgia line in account current with the United States.

CR.

| | | | |
|---|---------------------|--|---------------------|
| To \$81,084 67, old money, acknowledged by the officers to have been received on account, reduced by scale, - - - - - No. 1 | \$16,964 09 | By amount of the pay and rations of the line, to August 1, 1780, - - - - - | \$112,674 07 |
| To \$28,314 75, old money, charged by John Pierce, - - - - - " 2 | 736 45 | By amount of the pay and rations of the line, from August 1, 1780, to January 1, 1781, - - - - - | 13,688 60 |
| To \$36,831 02, old money, charged by Joseph Clay, - - - - - " 3 | 1,049 30 | By amount of the pay and rations of the line for 1781, - - - - - | 29,101 77 |
| To \$888,958 30, old money, charged by Benjamin Harrison, - - - - - " 4 | 1,777 83 | By amount of the pay and rations of the line for 1782, - - - - - | 22,323 54 |
| To \$5,452 60, old money, charged by John L. Gervais, - - - - - " 5 | 304 53 | By amount of the pay and rations of the line for 1783, - - - - - | 6,906 18 |
| To amount of rations charged the officers, as received in kind, - - - - - " 6 | 13,496 50 | By amount of five years' full pay in lieu of half-pay for life, - - - - - | 89,200 00 |
| To amount of specie charges against the line by John Pierce, - - - - - " 7* | 14,710 18 | | |
| To amount of goods delivered the officers by Major Habersham, - - - - - " 8 | 1,685 06 | | |
| To cash paid the officers by James Fisher, deputy commissary of prisoners, - - - - - " 9 | 156 06 | | |
| To amount of clothing delivered the officers by Colonel Long, deputy quartermaster general, - - - - - " 10 | 46 53 | | |
| To amount of sundry orders, accepted, to be paid for the Cincinnati Society, and issued in certificates, - - - - - " 11* | 1,210 00 | | |
| To amount of sundry charges and payments made by the State of Georgia, as per account, - - - - - " 12 | 123,283 70 | | |
| To a further sum of \$36,115 62, old money, charged the officers, - - - - - | 4,359 67 | | |
| To amount of certificates, - - - - - | 94,113 86 | | |
| | <u>\$273,894 36</u> | | <u>\$273,894 36</u> |

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, January 26, 1796.

I certify that the above is a copy of a statement now on file in this office, (endorsed No. 1429, account current, Georgia line, entered May, 1786.)

WILLIAM SIMMONS, *Accountant*.

* Two of the items in the above account, Nos. 7 and 11, are credited to the State of Georgia, in the books of this office, ledger D, folio 1751, amounting to the sum of one hundred and twenty-four thousand nine hundred and forty-eight dollars and seventy-six ninetieths.

WILLIAM SIMMONS, *Accountant*.

JANUARY 26, 1796.

C.

Extract of a letter from Richard Wylly, Loan Officer.

GENTLEMEN:

LOAN OFFICE, SAVANNAH, GEORGIA, *May 9, 1787.*

The agent of this State presented me a copy of a certificate from Mr. Pierce to the State, certified by the Auditor, for a number of sums due at different periods; but as it was only a copy, and no notice taken of it in the register, I would not settle the interest due on it, until I could receive your instructions.

D.

Extract of a letter from Richard Wylly, Loan Officer.

GENTLEMEN:

LOAN OFFICE, SAVANNAH, GEORGIA, *April 17, 1788.*

In a letter I had the honor of writing you the 9th of May, 1787, I acquainted you that a copy of a certificate from Mr. Pierce to this State had been presented me; which copy, and an account of the interest, I now enclose you. The original certificate has been presented me also within these few days; but as I find no notice taken of it in Mr. Pierce's register, and if there was, as I have not quite \$7,000 in interest indents remaining on hand, I could not pay the interest on it; I must therefore request your orders respecting it, and to be informed at what time the interest is to commence on the sum of \$4,189 $\frac{7}{10}$ for the year 1783, and for the commutation.

E.

Extract of a letter from Richard Wylly, Commissioner of Loans for the State of Georgia.

SIR:

UNITED STATES' LOAN OFFICE, GEORGIA, *March 1, 1791.*

I was applied to, some years since, for interest on a certificate of Mr. Pierce's to this State, for \$123,283 $\frac{7}{10}$, but as it was not noticed in his register, nor like his other certificates, I would not pay it. I wrote to the Commissioners of the Treasury the 9th May, 1787, and the 17th April, 1788, and enclosed them a copy of the certificate, requesting their instructions, but never received any answer to either of my letters. This certificate was dated the 18th of May, 1785, and given to the State for pay and commutation to the officers whom they had paid with their own certificates. I received, some days since, a letter from the State Treasurer, desiring to know if I had received any instructions respecting it; I shall therefore be obliged to you to instruct me what I am to do with it, and at what time the interest is to commence, as that did not appear plain to me when I saw it.

F.

SIR:

TREASURY DEPARTMENT, *April 9, 1791.*

The acting Paymaster General of the Treasury has reported to me the circumstances under which the certificate of the late Paymaster General, for \$123,283 $\frac{7}{10}$, mentioned in your letter of the 1st ultimo, was issued. I find that it is already passed to the credit of the State of Georgia, in the books of the Pay Office, and that it will be included in the statement of the general board of commissioners for settling the accounts of the several States with the United States. You cannot, therefore, receive that certificate in payment of subscription to the loan proposed by the act of Congress of the 4th of August, 1790.

I am, sir, &c.

A. HAMILTON, *Secretary of the Treasury.*

RICHARD WYLLY, Esq.

G.

FEBRUARY 3, 1796.

I, Patrick Ferrall, late chief clerk to the board of commissioners for settling the accounts between the United States and the individual States, do certify, that Mr. John Wereat, late agent for the State of Georgia, in exhibiting the claim of that State against the United States, did not, at any time during the continuance of the said board, exhibit a charge for a certificate issued to the State by John Pierce, late commissioner of army accounts, amounting to one hundred and twenty-three thousand two hundred and eighty-three dollars and seventy-seven cents, dated the 18th of May, 1785, although he frequently mentioned his having such a certificate; but that he deemed the settlement final, and a just claim against the Union.

I also certify, that I waited on Mr. John Kean, one of the late commissioners of said board, in the month of _____, 1795, and informed him of the claim of the State for loaning the amount of this certificate, and requested he would inform me if the board, in apportioning the gross amount admitted to the credit of the State, took into view the amount of this certificate? His answer was to the following effect: That the claim was not considered by the board as forming any part of the gross amount admitted to the credit of the State, and that I must be well acquainted that a charge of that nature would not be admitted by them, without the document on which it was founded was, in the first instance, delivered up.

P. FERRALL.

4th CONGRESS.]

No. 72.

[1st SESSION.]

FORGED FINAL SETTLEMENT CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 7, 1796.

Mr. TRACEY, from the Committee of Claims, to whom was referred the memorial of Samuel G. Fowler and Christopher Fowler, made the following report:

That Samuel G. Fowler and Christopher Fowler, administrators on the estate of Samuel Fowler, deceased, state that the said Samuel, in his lifetime, received of a broker a final settlement certificate of \$1,475, and delivered the broker small certificates in exchange, solely for the accommodation of the said broker. The said Samuel did not take it until he found it had the real signature of Mr. Pierce, and Mr. Ellery, Loan Officer, had examined it by his checks, and pronounced it genuine; that he received another of a stranger, similar in point of sum, date, &c. On this last certificate interest had been paid at the Loan Office in Massachusetts, and endorsed thereon; this the said Samuel considered as proof of its genuineness. He held these certificates, and received two payments of interest on them at the Loan Office in Rhode Island; and, in 1790, sold them; soon after which they were discovered to be counterfeits, returned to him, and he obliged to refund the purchase money and give damages.

The petitioners now pray that the United States will give them relief, for the following reasons, viz:

They say that a clerk of the late John Pierce, Esq., who signed the final settlement certificates, had, at a certain time, a number of blank certificates in his hands, signed by Mr. Pierce, for the purpose of being filled up when necessity required; which clerk fraudulently made duplicates of them, and put them in circulation; and they suggest that these two were of this description. The broker, of whom one certificate was received, is dead, and his estate insolvent; and the stranger never has by them been heard of; since the delivery of the other certificates, Mr. Pierce is dead, and his clerk beyond the reach of law.

They say the fraud, if any, is not apparent upon the face of the certificates; and urge the real signature of Mr. Pierce, and payment of interest by public officers, and examination of Mr. Ellery, of one, before the said Samuel took it.

All these circumstances, they suppose, placed the said Samuel in a situation to claim, with justice, some relief, and place their claim on a different footing from the ordinary losses occasioned by the receipt and loss of counterfeited money. They state further, that the fraud originated in the negligence of the public agent, Mr. Pierce, in suffering his clerks to have blanks which he could wrongfully fill up and issue; and that the public (meaning the United States) are bound, by the acts or negligence of their agent, to third persons.

The committee find all the facts stated in this petition to be true, excepting those relating to Mr. Pierce and his clerk; and as this case is of a new impression, they have been thus particular in the statement. The committee find, on inquiry, that Mr. P. suspected a clerk of his to have committed a fraud, by issuing certificates unjustly; but how far this was proved they cannot ascertain, although they are fully convinced that Mr. Pierce was guilty of neither fraud nor negligence. There were many small certificates altered to a larger sum about the time the said Samuel received these two, and probably these were of that description.

The committee are of opinion the petitioners are to be considered among the unfortunate who have received a counterfeited currency, but that the United States cannot be equitably liable to refund their loss. Government is under an obligation to enact laws for the punishment of theft, forgery, and other crimes, but has never been considered as liable to a claim of indemnity from a citizen suffering from forgery. They are of opinion this petition ought not to be granted.

4th CONGRESS.]

No. 73.

[1st SESSION.]

INDEMNITY TO THE ESTATE OF MAJOR GENERAL GREENE AGAINST RESPONSIBILITIES INCURRED BY HIM ON PUBLIC ACCOUNT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 13, 1796.

Mr. TRACEY, from the Committee of Claims, to whom was referred the petition of Catharine Greene, widow of the late General Greene, made the following report:

That this petitioner prays for indemnity against the demands of Messrs. Harris and Blachford, merchants, who have obtained a judgment against the estate of the late General Greene, for a large sum, in consequence of his being security to the said Harris and Blachford for the debt of John Banks and Co., which debt, she states, was incurred for and in behalf of the United States; and that General Greene gave security for no other purpose than to forward the interests of the public.

On a strict investigation of this claim, the committee find that, in the fall of 1782, General Greene was authorized by the Department of War to obtain supplies of clothing for the southern army, then under his command; and, not long after, he contracted with John Banks, a partner in the house of Hunter, Banks, and Co., for such supplies.

In February, 1783, General Greene, under authority of the Superintendent of Finance, contracted with the same John Banks to furnish such provisions as the same army were in want of; both of which contracts met the approbation of his employers.

Both these contracts required greater funds than the contractors could command; and the last, which was to supply rations for the army, was near being defeated, because the creditors for supplies on the former contract were about to deprive the contractors of their means to fulfil the last. In this situation, General Greene had before him

the alternative of turning the army loose upon the inhabitants, to plunder for their necessary food, or support, by his own credit, that of the contractors. He preferred the latter, and gave, in addition to the security of John Banks and Co., his own bond to Harris and Blachford, to secure an eventual payment for articles which had gone to the use of the United States, in clothing the army.

John Banks received of the United States the whole sum of the contract, but diverted the money from its proper channel, and left General Greene liable to pay the sum secured by the bond mentioned above, and another to Messrs. Newcomen and Collett. Banks and Co. became bankrupts; and, soon after, Banks died.

The committee find that General Greene, as soon as he was apprized of any possible danger which might accrue to him, took measures to procure some security; but his attempts were ineffectual, as to a complete indemnity. It appears he effected some payments, and obtained partial indemnity, but was left finally exposed to a large claim of Messrs. Newcomen and Collett, and this bond about which the present petition is conversant.

Against the claim of Newcomen and Collett Congress have indemnified the estate of General Greene, by an act passed April 27, 1792.

This act has served as a precedent to the committee, in deciding on the present petition, as there are the same reasons existing for the interference of Government now, as then, to which may now be added the weight of precedent.

For further particulars as to the merits of the claim, the committee ask leave to refer the House to a report of the Secretary of the Treasury, made to Congress on this subject the 26th December, 1791, [See No. 23,] and which is herewith laid before them. The bond given by General Greene to Harris and Blachford, for J. Banks and Co., is dated 8th April, 1783, for the sum of £18,473 13s. 7d., South Carolina currency. This sum, by a variety of negotiations and payments, has been considerably reduced; the committee have not been able to ascertain with precision the sum now due, but suppose it to be between eleven and twelve thousand pounds.

The committee are of opinion that General Greene gave this bond with the sole and honorable motive of serving, to his utmost ability, the then pressing interest of the United States; and that the salvation of the southern army, and the success of our arms in that part of the Union, in a great measure depended upon this timely interference of his private credit.

They think the honor and justice of Government is pledged to indemnify the estate of General Greene, and, by paying the sum due to Harris and Blachford, save a deserving family from indigence and ruin; they therefore report, for the consideration of the House, the following resolution, viz:

Resolved, That the United States ought to indemnify the estate of the late General Greene for the sum due on a bond given by the said General Greene to Harris and Blachford, bearing date April 8, 1783, for the sum of £18,473 13s. 7d., South Carolina currency, as surety for John Banks and Co.; provided it shall appear, upon due investigation by the officers of the Treasury, that the said General Greene, in his lifetime, or his executors, since his decease, have not already been indemnified for the contents of the said bond; and provided the said executors shall make over to the Comptroller of the Treasury and his successors, for the United States, all mortgages, bonds, covenants, or other counter securities whatsoever, if any such there are, which were obtained by General Greene, in his lifetime, from the said Banks and Co., or either of them, on account of his being surety for them as aforesaid, to be sued for, in the name of the said executors, for the use of the United States.

And the officers of the Treasury are hereby authorized to liquidate and settle the sum due to the estate of the said General Greene, to indemnify the same as aforesaid, according to the true intent and meaning of this resolution; and to pay such sum as may be found due on the said bond, out of the Treasury of the United States, to the said executors, to be accounted for by them, as part of the said estate.

[NOTE.—See Nos. 23, 75, and 97.]

4th CONGRESS.]

No. 74.

[1st SESSION.]

PROCEEDINGS OF THE ACCOUNTING OFFICERS ON CERTAIN CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 31, 1796.

Mr. TRACEY, from the Committee of Claims, to whom were referred the proceedings of the accounting officers of the Treasury, upon certain claims not admitted to be valid, made the following report:

That on investigation of this subject, they find the report of the accounting officers to contain a just and accurate statement of facts; and, as the conclusions are general, they recommend to the House to agree to the same, with the exception of the 12th class, which contains the claim of John T. Gillman; to this, they recommend a disagreement; and the committee are further of opinion, that although it will be just for the House to agree, generally, to these proceedings of the accounting officers of the Treasury, yet a right to individuals to petition on the special circumstances of their respective cases should be reserved to them.

[NOTE.—See No. 66.]

INDEMNITY TO THE ESTATE OF MAJOR GENERAL GREENE AGAINST RESPONSIBILITIES INCURRED BY HIM ON PUBLIC ACCOUNT.

COMMUNICATED TO THE SENATE, MAY 31, 1796.

Mr. TAZEWELL made the following report:

The committee to whom the bill "to indemnify the estate of the late Major General Greene for a certain bond entered into by him during the late war" was committed, submit the following report to the Senate:

It appears to the committee, that, some time in the fall of the year 1782, the Department of War authorized General Greene to contract for the clothing of the army then under his command. That, some time in November, or December, of the same year, he did contract with John Banks, a member of the house of Hunter, Banks, & Co., who acted for that house, to furnish the necessary supplies of clothing for the army; that John Banks, after entering into the contract, procured upon credit, of certain British merchants then in Charleston, the necessary articles of clothing; that General Greene, at the time he made this contract, paid down to the said Banks the sum of eleven hundred guineas, and drew bills in his favor on the Superintendent of Finance for the residue of the money necessary to complete the contract; that about the same time General Greene received authority to contract for the necessary supplies of provision for the army, which he found a considerable difficulty in accomplishing; that after exhausting the time which admitted of delay in making this latter contract, he entered into an agreement with the same John Banks, as a member of the house of Hunter, Banks, & Co., for the provision supplies of the army, some time in the month of February, 1783; that, about this time, the creditors of Banks, as he had disappointed and deceived them in his promised payments, became pressing in their demands, and threatened, upon his refusal either to pay them, or to secure their debts, the use of means that might have disabled him from fulfilling his provision contract.

That General Greene, in order to prevent the inconvenience which the loss of the provision contract would occasion to the army, and to leave Banks at liberty to pursue it by satisfying his creditors, on the 8th of April, 1783, agreed to become his security, and accordingly executed bonds with the said Banks to his creditors for the amount of their debts; one of which bonds is the debt that gives rise to the present bill. That in order to indemnify himself, he compelled Banks, at the same time, to give orders on Charles Petit, his (Banks's) agent in Philadelphia, for the full amount of the debts for which he had become bound, to be paid out of the public money that would become due to Banks in virtue of his contracts; that those orders would have been productive enough to satisfy all the debts, if Banks had not contrived to divert the funds to other purposes; that, after the death of General Greene and of Banks, Harris & Blachford instituted a suit against the executors of General Greene, and have obtained a judgment for the sum stated in the bill. No satisfactory evidence has been offered to the committee to prove that Hunter, Banks, & Co. are insolvent; but on the other hand, there is reason to believe that some at least of that company are fully able to pay the amount of the debt due to Harris & Blachford, from the public notification of one of the company in the newspapers of Virginia, requiring the creditors of Hunter, Banks, & Co. to come and settle their claims, and receive payment. Nor does it appear that the executors of General Greene have ever attempted at law to recover the debt in question of Hunter, Banks, & Co. Some of the papers submitted to the committee intimate that General Greene was a member of the house of Hunter, Banks, & Co. in this transaction; and it appears that General Greene gave no notice of his suretyship to the Government until several years after, nor until he was called on to pay the bond; but the committee have not discovered any satisfactory evidence that General Greene was a partner with Hunter, Banks, & Co. If Hunter, Banks, & Co. were actually insolvent, and if General Greene was not a partner in the house of Hunter, Banks, & Co. in this transaction, the committee would not hesitate in believing that the United States ought to indemnify General Greene's estate against the effects of this securityship; since they do not discover any other motive which could have governed him in becoming security for Banks, but that of essentially promoting the public service. The committee further observe, that they have not had time fully to investigate all the facts in this case; and, being desirous that justice should be finally done, they submit to the Senate the propriety of deferring the consideration of this subject to the second Monday of the next session of Congress.

To the honorable the President, and the honorable the members of the Senate of the United States: The memorial of Catharine Greene, widow of Major General Greene, respectfully sheweth:

That in the month of March, 1795, Messrs. Harris & Blachford, merchants of Great Britain, obtained a final decree of the court of equity in Charleston, against the heirs of General Greene, for a sum amounting to more than seven thousand pounds sterling, as surety for the house of Hunter, Banks, & Co.; the same being a part, and the residue of demands, the nature of which has been submitted to the consideration of your honorable House, in a former session, at which time the suit with Messrs. Harris & Blachford was pending.

With sensible pain your memorialist feels herself compelled to call once more on the Legislature of the United States. The duty she owes to her children, and to the memory of General Greene, will, with enlightened men, plead her apology.

The distresses of the southern army, particularly for the last two years of the war, are so well known to many of the members of both Houses as scarcely to need detailing. General Greene, awake to the interests of the States, and to the sufferings of brave men who were fighting under his command, felt himself reduced to the painful situation of either disbanding the army, with the command of which he was intrusted, or risking his private fortune to prevent the only man who would undertake to furnish the army with rations from sinking. Relying on the justice of his country, he hesitated not in the choice of difficulties. He made himself responsible for large sums, in order to secure the necessary supplies for the army. Scarce had he rested from the toils of war, and returned to the enjoyment of domestic life, when he was called on (as will appear by the documents accompanying this memorial) for the payment of considerable sums of money, for which he made himself responsible from no motive but public good. Encountering these painful demands and suits but a short time, he was called hence; having, by his zeal for the interests of his country, involved his widow and children in a series of difficulties and distress, against which they are no longer able to bear up. The decision of the court of equity in Charleston subjects the little property kept together by rigid economy and private friendships, to be torn from the children of a man who can be charged

with no imprudence but an excessive ardor in promoting the interests of his country. Incompetent to the fulfilment of the decree of the court, unable to contend with the difficulties it involves the family of General Greene in, where can, where ought they to look for support but to that country for whose service these difficulties were incurred?

Ample testimonies can be adduced to satisfy your honorable House that the debt which General Greene made himself responsible for was not for private purposes, but for public good. Under this firm persuasion, the widow and children repose themselves on the justice of Congress to exempt them from the demand of Messrs. Harris & Blachford, by making provision for payment of the same.

And they will, as in duty bound, ever pray.

CATHARINE GREENE.

[NOTE.—See Nos. 23, 73, and 97.]

4th CONGRESS.]

No. 76.

[2d SESSION.

CLAIM FOR MILITIA SERVICES AGAINST THE SOUTHWESTERN INDIANS IN 1793.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 26, 1796.

WAR OFFICE, *December 24, 1796.*

The SECRETARY OF WAR, to whom was referred a petition of Hugh Lawson White, respectfully reports:

That the claim set forth in the said petition is intended to establish a principle that will apply to the whole of the militia which were called out under Brigadier General Sevier, in 1793, to act offensively against certain Indians southwest of the Ohio.

That the expedition against these Indians, as appears from the muster-rolls, comprehended a period of above five months, or from the 22d of July to the 31st of December, 1793.

That it was undertaken without authority derived from the President, under the laws of the United States, and for the avowed purpose of carrying the war into the Cherokee country.

That the tenor of the instructions from the Department of War to the Governor of the Southwestern Territory, particularly the annexed letter, dated the 14th day of May, 1793, forbade offensive operations.

That these considerations have heretofore opposed the settlement of the claim, and occasioned the reference for legislative interference.

Having given these facts, it may be proper to add, that it appears, by a recurrence to official papers, that the Indians had greatly perplexed and harassed, by threats and murders, the frontier inhabitants of Tennessee; and previous to the service for which compensation is demanded, had shown themselves in considerable force, and killed at two stations (one of them within seven miles of Knoxville) fifteen persons, including women and children, as stated in the annexed letter; that it must rest with Congress to judge how far these aggressions of Indians, and such other circumstances as can be adduced by the parties, constituted a case of imminent danger, or the expedition a just and necessary measure.

All which is respectfully submitted to the House of Representatives.

JAMES MCHENRY.

[Note.—For the papers referred to see Indian Affairs, No. 71, page 585; and for a report of a committee of the House of Representatives, see Indian Affairs, No. 74, page 621.]

4th CONGRESS.]

No. 77.

[2d SESSION.

ON EXTENDING THE BENEFIT OF THE RESOLVE OF CONGRESS OF SEPTEMBER 16, 1776, TO THE REPRESENTATIVES OF OFFICERS AND SOLDIERS WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 3, 1797.

Mr. COIT, from the committee appointed to inquire into, and report their opinion of, the equity and expediency of extending to the representatives of officers and soldiers of the late army of the United States who died in service, the benefits given by the resolution of Congress of the 16th of September, 1776, to the representatives of officers and soldiers who died in service, made the following report:

That, by said resolution, in addition to the pay and bounty in money and clothing allowed to officers and soldiers who should engage in the army and serve during the war, certain quantities of land were promised to those who should so engage and serve, and to the representatives of those who should be *slain* by the enemy; and that by a resolution of Congress of the 18th day of the same month, (September,) the same encouragement was extended to those who had, before said resolution of the 18th, engaged to serve during the war, as was given to those who should engage thereafter. For a variety of reasons, which your committee suppose it of no consequence to detail to the House, they can well conceive that it might have been a question of expediency at the time of passing said resolutions, whether the benefits secured to the representatives of those who were *slain* by the enemy should not have been extended to those who *died* in service. But those reasons appear to have no application to the present question; and it is now more than twenty years since said resolution of the 16th September was passed, and more than thirteen years since the close of the period of service to which it applied: the committee are, therefore, of opinion that there are no considerations, either of equity or expediency, which would justify or require the extension contemplated in the reference.

4th CONGRESS.]

No. 78.

[2d SESSION.

DEPRECIATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Gilbert Dench, made the following report:

That it appears by the statement of the petitioner, and is proved by the documents which accompany his petition, that, in the year 1781, he contracted with Jabez Hatch, then deputy quartermaster general, to transport clothing, &c. for the United States; and in 1782, he made another contract with the same officer to transport military stores for the United States; which two contracts were both faithfully performed by him. The first contract was made for certificates, and paid according to the terms of it; the second contract, to the amount of more than \$20,000, was made for specie; and when it became due to the petitioner, the said Hatch had not cash to fulfil the contract on the part of the United States. Application was made to the commonwealth of Massachusetts, and a loan obtained in certificates or orders, in anticipation of the continental taxes then in collection. Having obtained these orders or certificates, the said Jabez Hatch paid the same to the petitioner in satisfaction of the contract, and he gave a receipt in full, as having received specie, nominally. This loan was soon after reimbursed in the Treasury of Massachusetts, by an order from the Superintendent of Finance of the United States.

The committee find that those certificates, issued in anticipation of the taxes, like other public paper at that time, passed at a discount, and that the petitioner suffered by their depreciation; they are, however, of opinion, that at this time to undertake to redress the injuries sustained by individuals in the depreciation of public paper during the late war, would be productive of greater evils than any possible advantages resulting from the attempt could compensate.

The petitioner has heretofore brought this subject under the view of Congress, who, after a full investigation, resolved that the prayer of his petition ought not to be granted. Though the committee are sorry for the misfortunes of Mr. Dench, they cannot find sufficient reasons to justify an opinion that the House should now make a different decision; and therefore report that he have leave to withdraw his petition.

4th CONGRESS.]

No. 79.

[2d SESSION.

INDEMNITY FOR INDIAN DEPREDATIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 12TH OF JANUARY, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of James Ore, made the following report:

That this petitioner prays compensation for five horses, which he states were stolen from him after the treaty between the United States and the Cherokee nation of Indians, concluded in the year 1791, and before that concluded in 1794.

By the tenth and twelfth articles of the treaty of 1791, it is stipulated, if any Cherokee Indian or Indians, or any person residing among them, or who shall take refuge in their nation, shall steal a horse from, or commit a robbery or murder, or other capital crime, on any citizens or inhabitants of the United States, that the nation shall deliver the offender up to the United States, to be punished according to the laws of the United States; and that neither party, in case of violence done to the persons or property of the other, shall attempt retaliation or reprisals, till after satisfaction shall have been demanded and refused.

The mode of proceeding, in such cases, being thus expressly pointed out and defined, the United States cannot, under that treaty, adopt another or different one that shall affect the Cherokees for thefts which they may have committed. The claim of the petitioner, consequently, cannot be satisfied out of their annual stipend, unless by way of reprisal or war, or by authority derived from a subsequent treaty.

With respect to the subsequent treaty of 1794, it confirms the stipulations in the treaty of 1791, augments the annual stipend to the Cherokees from one thousand to five thousand dollars, and provides, not that they shall pay for previous thefts, but that the United States may deduct from their stipend fifty dollars for every horse that shall be stolen in future from any citizen of the United States by any of their nation.

Independent of this exposition of the treaties, if the petitioner was entitled to relief under the law of the 19th of May last, other evidence than he has presented to the committee would be requisite; according to that law, it should be made to appear that the several horses, for which compensation is claimed, were stolen by a Cherokee within the limits of country ceded to the United States.

From an attentive consideration of the case, the committee are of opinion that such claims should not be taken out of the course prescribed by treaties, and the laws for their investigation and settlement; and therefore report that the prayer of the petition of the said James Ore cannot be granted.

4th CONGRESS.]

No. 80.

[2d SESSION.]

POWDER MANUFACTURER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 16, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Frederick Hebner, made the following report:

That the petitioner prays for the settlement of his father's account for making powder, &c. in the time of the late war.

This account was duly and properly settled at the Treasury in March, 1784, and on the 14th of that month a receipt given for the balance found due.

If gentlemen, before they present petitions, would make inquiry concerning the subject-matter of them, they might, in many instances, save themselves and the House, and the officers of the Treasury, and of other Departments, a needless loss of time, and no inconsiderable trouble.

They might also prevent some of those disagreeable emotions which the committee are too frequently doomed to suffer from the discharge of their duty.

In the present instance there is no ground for the support of the petition, and the committee think it ought to be rejected.

4th CONGRESS.]

No. 81.

[2d SESSION.]

BOUNTY LAND AND ARREARS OF PAY.

COMMUNICATED TO THE SENATE, JANUARY 27, 1797.

WAR DEPARTMENT, *January 27, 1797.*

The SECRETARY OF WAR, to whom was referred the petition of Mary Hibbon, respectfully reports:

That it appears from the records of the Department of War, that Francis Cranberry, late husband of the petitioner, enlisted to serve during the war on the eighth day of March, 1778, and died the 15th of September, 1780.

That the petitioner claims, as widow of the said Cranberry, the land promised by the acts of Congress to those soldiers who should engage to serve, and continue to the close of the war.

Heretofore, the construction given to the resolution of Congress of the 16th and 18th of September, 1776, have admitted to the benefit of the provisions therein promised those soldiers only who had engaged to serve during the war, and who actually continued in the army to its termination; and the representatives of those who had been slain by the enemy, or who had died in consequence of wounds inflicted by them.

With respect to the resolution of the 18th of September, 1776, it is considered as explanatory of the resolution of the 16th, or as intended to remove any doubt as to the object of the provisions, and ensure to those who *had* enlisted to serve during the war previous to its passage, the same bounty and land as to those who *should* enlist.

Such appearing to be the true construction of these two resolutions, the Secretary of War thinks it would not be expedient to grant the prayer of the petitioner.

All which is respectfully submitted to the Senate of the United States.

JAMES MCHENRY.

WAR DEPARTMENT, *January 27, 1797.*

The SECRETARY OF WAR, to whom was referred the petition of Michael Van Kleeck, respectfully reports:

That it appears, by the records of the Department of War, that the petitioner was mustered in the fourth company of the second regiment (or New York) artillery, to serve from the 25th July, 1782, for three years; that, on the 14th July, 1784, the final settlement certificates, due to the said regiment, were placed in the hands of William Stevens, agent to the said regiment; and that among these were three certificates for one hundred and twenty-nine dollars, issued in the name of, and to satisfy arrears of pay due to the petitioner.

The claim of the petitioner is understood to respect a compensation for these three certificates. Taking it then for a fact that the agent to the regiment to which the petitioner belonged has not delivered to him the certificates in question, are the United States liable to make good his arrears of pay?

If the stipulations of the United States with their soldiery are examined, it will be found that the soldiery have neither subjected themselves by any act of their own, nor have been subjected by any resolution of Congress, to risk their compensation in the hands of the agents who might be employed to pay them.

On the 27th May, 1778, Congress resolved, "that the paymaster of a regiment be chosen *by the officers of a regiment* out of the captains or subalterns, and that the *officers* were to risk their pay in their hands." On the 3d November, 1783, Congress further resolved, "that the paymaster general deposite in the hands of regimental agents the certificates for the arrears of pay due to the officers and soldiers of their respective lines, to be by them delivered to the individuals to whom they belong, or deposited, for their benefit, as the supreme Executive of the State to which the respective agents belong shall direct."

The latter resolution being silent as to the mode for electing regimental agents, it was prescribed, by a general order, that the same mode should be followed which Congress had directed in the case of regimental paymasters; in consequence of which, the choice of agents to pay arrearages was made by the *officers* of each regiment, without the participation of the soldiery.

From the nature, then, of the contract between the soldiery and the United States, and the resolve of Congress vesting the power of choosing regimental paymasters in the officers, exclusively, and declaring, as a consequence, that the officers were to risk their pay in their hands; and, from the same mode having been observed in the election of agents, it is reasonable to infer that the soldiery, who were excluded from any participation in the election of either officer, were not considered by Congress as liable to be affected by their delinquencies.

Did, therefore, no other obstacle exist to the petitioner's claim, the Secretary of War would think it proper to suggest the propriety of a legislative interference.

The impediment alluded to is the act of limitation, which shuts out the petitioner from relief, as it does not appear that he has exhibited his claim for liquidation within the period assigned by law.

All which is respectfully submitted to the Senate of the United States.

JAMES McHENRY.

4th CONGRESS.]

No. 82.

[2d SESSION.

DISBANDED OFFICERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1797.

WAR DEPARTMENT, *February 3, 1797.*

The SECRETARY OF WAR, to whom were referred the petitions of Bezaleel Howe, late a major, and David Jones, late a chaplain in the legion of the United States, reports:

That to form a just opinion of the subject of these petitions, it will be proper to consider the nature of the contract between the parties, as discoverable in the laws under which the petitioners engaged to serve the United States.

By the "Act for regulating the military establishment of the United States" passed April 30, 1790, it is provided that the commissioned officers therein mentioned, and one thousand two hundred and sixteen non-commissioned officers, privates, and musicians, be raised for the period of three years, "unless they should previously, by law, be discharged."

By the "Act for raising and adding another regiment to the military establishment of the United States, and for making further provision for the protection of the frontiers," passed March 3, 1791, it is provided that an additional regiment of infantry be raised, the officers and soldiers of which to serve for a like period, unless sooner discharged.

By the "Act for making further and more effectual provision for the protection of the United States," passed March 5, 1792, three regiments are added to the establishment, to serve till the United States should be at peace with the Indians, or for the period of three years, unless previously discharged.

By the "Act for continuing and regulating the military establishment of the United States, and for repealing sundry acts heretofore passed on that subject," the troops raised by former acts are declared to be continued in service, and a right expressly reserved to the Government, in all cases of enlistments of the troops of every description, to discharge the whole, or any part thereof, at such times, and in such proportions, as may be deemed expedient.

From these acts, it appears that the United States reserved an express right to disband the whole or any part of the army at pleasure. Shall the right, then, to make a reduction in the military establishment, be construed as extending to release Government from contributing to the unavoidable expenses that must be incurred by the officer from its exercise?

The stipulations in those acts no doubt include the idea of half-pay or any other permanent provision; but would it not be to adhere too strictly to literal interpretation, to affirm that they exclude also all obligation to compensate the deranged officer by some days' or months' extraordinary pay, proportionate to the expenses he must encounter in returning from the army to his place of residence.

If the order for a reduction of officers had found them in a foreign region, would it not have been incumbent upon Government to have furnished them with the means of transportation to their country, and to have continued to them their pay, till such time as they could have re-entered it? And will it be less incumbent upon Government, when they dismiss them at a very distant part of the Union, to respect the same principle?

It is well known how little a soldier is able to save out of his pay, by the strictest economy, to meet such events; and how seldom, when his services are required, that he is found entering into cautious pecuniary stipulations with regard to the future. If, then, he is not mercenary; if it is for a short period only that he is called on to assume the military character; if his pay is little more than sufficient to his daily occasions; and if he has faithfully performed his duties, it would seem but reasonable (all results from construction apart) that his country, when his services are no longer wanted, should enable him, without his entrenching on the little he may have saved, to return to the place where it had taken him up.

The officers who have been deranged by the act of 1796, (including the petitioners) consist of two majors, eight captains, four lieutenants, one surgeon-general, and one chaplain; the pay of these for one month would amount to five hundred and fifty-seven dollars. It is therefore respectfully suggested (grounded on the foregoing considerations) that an extension of pay be directed to those officers who have been deranged by that act, commensurate to the expenses of a journey to their several places of residence.

All which is respectfully submitted to the House of Representatives.

JAMES McHENRY.

4th CONGRESS.]

No. 83.

[2d SESSION.]

SUPPLIES FURNISHED AN EXPEDITION AGAINST THE CREEKS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of George Colbert, chief and warrior of the Chickasaw nation of Indians, made the following report:

That this petitioner has requested to be paid for provisions which he says he furnished to a party of inhabitants from Tennessee, who went into the Chickasaw nation to aid in their resistance against an invasion made by the Creeks.

The committee have carefully and attentively investigated this claim, and, upon due consideration, report that, though the motive which induced a party of the frontier citizens to offer their services to the Chickasaw nation, when threatened with an invasion, might be justifiable, and possibly commendable, yet, inasmuch as the proceeding was unauthorized by Government, and, if countenanced, might lead other citizens to a like intermeddling, and thereby involve the United States in hostilities with the offended nations; and inasmuch as the United States are not expressly bound by treaty to afford succors to the Chickasaws in their wars; and as it would be inexpedient to establish a precedent which might countenance that principle, they are of opinion that any claim which the petitioner may have on account of the subject of this petition should be left for the consideration of the Executives, who are competent to decide what is proper to be done; and that the prayer of the petition ought not to be granted.

4th CONGRESS.]

No. 84.

[2d SESSION.]

RENEWAL OF LOST CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 6, 1797.

Mr. CORR, from the committee to whom was referred a motion relative to provision, by law, under specific restrictions, for the renewal of destroyed certificates of certain descriptions, made the following report:

That no provision appears to have been made by the United States for the renewal of destroyed certificates of any kind, except those of the description called loan office certificates, and those called final settlements.

That, by resolutions of Congress of the 10th of May, and 18th of July, 1780, provision was made for the renewal of loan office certificates destroyed, on proper proof made of the destruction of such certificates to the officers of the Treasury.

That, by the act of Congress of the 24th of April, 1794, the provisions of the said act were extended to certificates of the description called final settlements; other regulations were made respecting the renewal of loan office certificates, and those called final settlements; and it was declared that all claims for renewal of loan office certificates and final settlements not presented at the Treasury on or before the 1st day of June, 1795, should be barred.

That, by act of Congress of the 3d of March, 1795, all certificates, commonly called loan office certificates, final settlements, and indents of interest, outstanding at the time of passing the said act, and which should not be presented at the office of the Auditor of the Treasury on or before the 1st day of January, 1797, were declared to be forever after barred or precluded from settlement or allowance.

That most of the cases where certificates of the public debt are said to have been destroyed, took place long before the passing of the said act of the 24th of April, 1794; and, probably, a great proportion of them before the passing of the said resolution of the 10th of May, 1780; from which circumstance, as well as the nature of the subject, it would be extremely difficult, if not impossible, at this time, to guard against fraud and imposition, should further provision be made for renewing them; and the committee cannot find stronger reasons in favor of keeping in force the statutes of limitations in relation to any class of claims, than to that contemplated in the resolution referred to them; they are, therefore, of opinion that the House ought not to agree to the same.

4th CONGRESS.]

No. 85.

[2d SESSION.]

SEVEN YEARS' HALF-PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Anna Welsh, made the following report:

That the petitioner asks for an allowance of the seven years' half-pay promised to the widows and orphans of certain officers killed in the service of the United States during the late war.

It appears that Mrs. Welsh's husband was a captain of marines; that he served on the expedition to Penobscot, and was there slain. The resolutions of Congress, promising seven years' half-pay to the widows of officers who fell in service, did not extend to officers of the navy.

The repeated decisions made by Congress against petitions of this nature forbid the expectation of an allowance; and the committee can discover no sufficient reason for making a discrimination between this and other similar cases heretofore considered.

The petitioner, as executrix of the last will and testament of her brother, George Hurlbut, deceased, further asks for an allowance of the commutation and land warrants, to which she apprehends she is entitled, on the principle that her brother continued in service till the end of the war. That gentleman was a captain in Sheldon's regiment of light dragoons; he was wounded by the enemy, in the performance of his duty, at Tarrytown, in the summer of 1781, and languished of his wounds until the 8th day of May, 1783, when he died. On this statement, there is no doubt but a right to so much land as was promised to captains in the army has vested in the petitioner; and, on proof of the facts, she may now receive the warrants at the War Office, without aid from Congress.

With respect to the claim for commutation, some further attention will be requisite. By the act of Congress, of the 21st of October, 1780, half-pay for life was promised to the officers of the army who should continue in the service to the end of the war. This was afterwards, on the 22d of March, 1783, commuted for five years full pay.

If Captain Hurlbut lived to the end of the war, he was entitled to commutation, and in his right the petitioner, as executrix of his will and legatee, would be entitled; otherwise, not. The question then arising is, when did the war end? or, in other words, was there an end of the war before the 8th of May, 1783, the day of Captain Hurlbut's death? On the solution of this question rests the claim of the petitioner for commutation; it being placed on the ground of contract only.

The provisional articles of peace between the United States and Great Britain were signed November 30, 1782; and the treaty between France and Great Britain, on which the efficacy of those articles was conditioned, upon the 20th of January, 1783. The first information Congress appears to have had of them was on the 24th of March, 1783, when the armed vessels, cruising under commissions from the United States, were recalled. On the 11th of April, 1783, a cessation of hostilities was ordered by proclamation of Congress.

On the 23d of April, Congress, by their resolution of that date, declared their opinion that "*the time of the men engaged to serve during the war does not expire until the ratification of the definitive treaty of peace.*" By the acts of May 26, June 11, August 9, and September 26, 1783, Congress directed parts of the army to be furloughed; and, by their proclamation on the 18th of October of the same year, they discharged absolutely, after the *third day of November* then ensuing, such part of the federal armies as had been furloughed by the several acts aforesaid.

On the 25th of November, New York was evacuated by the British troops. The definitive treaty of peace was, in fact, signed on the 3d of September, 1783, but not received by Congress until about the middle of January, 1784. In the settlements made for pay, &c., by the commissioners of Congress, with the officers and men engaged to serve during the war, and furloughed as aforesaid, *the 3d day of November*, the day when the troops were discharged by proclamation, has been regarded as the end of the war; and they have been settled with and paid to that day accordingly.

It appears, by the accounts of Colonel Sheldon's regiment, that certificates for Captain Hurlbut's commutation were, in fact, issued; but, on a further examination of the nature of the claim, it was thought that no act of Congress would justify the granting of commutation for any officer similarly circumstanced, and therefore the certificates were cancelled. Had the committee found no resolution of Congress which seemed to have determined the question when the war ended, they might have been induced to fix on a period antecedent to the death of Captain Hurlbut, and, consequently, have been of the opinion that the petitioner was entitled to relief. But as Congress seem to have fixed on a later period by their resolution of the 23d of April, and by continuing in service the troops engaged to serve during the war, and paying the officers and men till the 3d of November, 1783, as they were liable until that time to be again called into service, and, in case of disobedience, would have been subjected to the penalties of the rules and articles of war; and as the House of Representatives, under the present Government, rejected a petition for commutation, founded on principles exactly similar to the present, by the administrator to the estate of Major Torrey, who died in September, 1783, the committee conceive they are not at liberty to contradict authority and precedent so respectable. They therefore report that the prayer of the petition of the said Anna Welsh ought not to be granted.

INDEMNITY FOR THE OCCUPATION OF, AND DAMAGES DONE TO, PRIVATE PROPERTY,
BY THE TROOPS OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom were referred the petition of the corporation of Rhode Island College, and a report of the Secretary of the Treasury thereon, made the following report:

That, having attended to the said business, they are convinced the report of the Secretary of the Treasury on this subject is well founded; they therefore ask leave to report the same, and to subjoin, for the consideration of the House, the following resolution, viz:

Resolved, That the accounting officers of the Treasury liquidate and settle the claims of the corporation of Rhode Island College for compensation for the use and occupation of the edifice of the said college, and for injuries done to the same, from the 10th of December, 1776, to the 20th of April, 1780, by the troops of the United States; and the sum which may be found due to the said corporation for damages done to, and occupation of, the said edifice, as aforesaid, be paid them out of any moneys unappropriated in the Treasury.

TREASURY DEPARTMENT, *January 31, 1795.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of the corporation of Rhode Island College, respectfully makes thereupon the following report:

The said petition seeks indemnification for injuries done to, and compensation for the occupation of, the edifice of the college of Rhode Island, from the 10th of December, 1776, to the 10th of April, 1780, by the troops of the United States; and from the 20th of June, 1780, to the 27th of May, 1782, by the troops of France, co-operating in the defence of the United States; in the first instance as a barrack, in the second as a military hospital.

The principle of this claim is the same with that of the corporation of trustees of the public grammar school and academy of Wilmington, in Delaware, which was provided for by an act of Congress of the 13th of April, 1792. The facts appear by the accompanying documents to be substantiated, and there is no trace of any compensation having been heretofore made.

It is the opinion of the Secretary, as expressed on former occasions, that, in this and all similar cases affecting the interests of literature, indemnification and compensation ought to be made. He therefore submits it as expedient, in this case, to make provision similar to that which was made in the case above quoted. It will be the duty of the accounting officers of the Treasury, among other things, to investigate carefully whether compensation, in whole or in part, has or has not been heretofore made, and to adjust the claim accordingly.

All which is respectfully submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *March 10, 1792.*

The SECRETARY OF THE TREASURY, to whom were referred the petition of the ministers and trustees of the Lutheran church in Rheland township, Chester county, in the State of Pennsylvania; the petition of the wardens of the Calvinist church in Vincent township, in the county and State aforesaid; and the petition of the corporation of trustees of the public grammar school and academy of Wilmington, in Delaware State, respectfully submits the following report thereupon:

The two first-mentioned petitions seek an indemnification for damages alleged to have been done to two several places of religious worship in the county of Chester, in the State of Pennsylvania, in consequence of their having been made use of, during certain periods of the late war, as military hospitals for the accommodation of the troops of the United States.

The facts stated in the said several petitions are no otherwise authenticated to the Secretary than by the certificates which accompany them respectively, and which are stated to be from persons appointed by General Greene to appraise the damages which were sustained. Nevertheless, the Secretary does not perceive any ground to doubt the truth of the allegations which are contained in the said petitions.

There is no evidence of any application for an adjustment of either of these claims in the manner, or within the periods prescribed by the acts of limitation; wherefore they are to be considered as barred by those acts.

The last-mentioned petition, namely, that from the trustees of the public grammar school and academy of Wilmington, seeks an indemnification for the occupation and injury, by the troops of the United States, of the building in which that school and academy were kept.

The material facts alleged in the said petition, with respect to the occupation and injury of the building in question, and the several applications for indemnification, are satisfactorily established, as will be seen by the documents herewith transmitted.

There are two precedents among the files of the Treasury of allowances for the occupation and injury of public institutions: one of the 14th January, 1783, which is an account settled at the Treasury with the proprietors of the Pennsylvania Hospital for the rent of a house and laboratory occupied by the apothecary of the United States, from the 1st day of August, 1778, to the 1st August, 1781; another of the 27th of May, 1784, which is an account settled with the managers of the House of Employment in Philadelphia, for damages done to that building while occupied as a general hospital.

It appears, also, that the Reverend Doctor John Witherspoon stands charged in the books of the quartermaster's department with the sum of \$19,040, received by him in the year 1779, for the purpose of repairing the college at Princeton, which had been damaged by the troops, for which he has signed a receipt, promising to be answerable if the advance was not approved of by Congress. But it does not appear that any further proceeding has been had upon the subject.

A question arises, whether the claim of the petitioners is barred by any act of limitation.

Considering that this claim was duly exhibited prior to the existence of those acts; was referred by Congress to the Board of Treasury to be filed among similar papers, and a decision thereupon *specialy* referred by that body to the *termination of the war*, to be then taken into consideration, in common with other applications of a similar nature; the Secretary is of opinion that these circumstances amount to a virtual exception of the case out of the acts of limitation.

But in whatsoever light this may be received, it appears to him most consistent with the justice and liberality of the Government to authorize the allowance of reasonable compensation, in all cases, in which any place of religious worship, or any seminary of learning, has been occupied or injured, for or by the troops of the United States; the acts of limitation notwithstanding.

An innovation or relaxation in this particular will, it is conceived, be sufficiently discriminated by the nature of the object, so as essentially to obviate all difficulty on the score of precedent.

If it should appear to the Legislature advisable to authorize a compensation in such cases, the Secretary is of opinion that it will be expedient to leave the quantum to be ascertained, upon due proof, by the accounting officers of the Treasury, as in other cases of claims against the United States.

All which is humbly submitted.

ALEXANDER HAMILTON, *Secretary of the Treasury.*

4th CONGRESS.]

No. 87.

[2d Session.

INDEMNITY FOR PROPERTY DESTROYED BY THE TROOPS OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Thomas Frothingham, made the following report:

That this petitioner prays for compensation for a dwelling-house, the property of his late mother, burnt at Charlestown, in Massachusetts, in March, 1776, by order of General Sullivan, then commanding the American troops at that place. The committee find that the house, for which compensation is now sought, was, with several other buildings in the vicinity at that time, in possession of the British troops; and that, for the purpose of dislodging them, General Sullivan sent a party of troops, with orders to set fire to the buildings, which was done accordingly.

The committee apprehend that the loss of houses, and other sufferings by the general ravages of war, have never been compensated by this or any other Government. In the history of our revolution, sundry decisions of Congress against claims of this nature may be found. In the present case the claim rests on the same basis with all others where sufferings arise from the ravages of war. As Government has not adopted a general rule to compensate individuals who have suffered in a similar manner, the committee are of opinion that the prayer of this petition cannot be granted.

4th CONGRESS.]

No. 88.

[2d Session.

ARREARS OF PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom were referred the petitions of Samuel Abbot and others, John Bennet, in behalf of himself and Abraham Sutton, Samuel Edy, Francis Guillow, Thomas Roche, Lemuel Snow, Joshua Whitney, by Timothy Winn, his agent, and Thomas Wells, made the following report:

That the object of these petitioners is to obtain from the public the arrears of pay, &c., due them for their services during the last war. Their accounts were duly and properly liquidated; certificates for their respective balances were issued by the proper commissioner, and deposited in the hands of the regimental agents, pursuant to an act of Congress of the 3d day of November, 1783. But the petitioners allege that they never received their certificates, by reason of the default of the agents of the regiments to which they respectively belonged. The committee having been instructed to report on this subject, generally, have not confined their inquiries to the special merits of the individual claims, but have considered it with a view to all who are similarly circumstanced, and alike unfortunate.

By the establishment for the army, made by Congress on the 27th of May, 1778, it was directed "that the paymaster of a regiment be chosen by the officers of the regiment, out of the captains or subalterns; and that the officers should risk their pay in their hands." Every officer being thus interested in the ability and integrity of the agent, as well on his own account as on account of the soldiers, was an inspector of the conduct of the paymaster. The choice was generally good; there were but few well-grounded complaints against the persons appointed; and for those prompt, and probably judicious, remedies were administered by courts-martial.

At the end of the war it became expedient to disband the army, whom the United States could not then pay, without even delivering to the individuals the evidences of the debts respectively due to them for their services.

Accordingly, on the 3d of November, 1783, Congress resolved, "That the paymaster-general deposite, in the hands of regimental agents, the certificates for the arrears of pay due to the officers and soldiers of their respective lines, to be by them delivered to the individuals to whom they belonged, or deposited for their benefit, as the supreme Executive of the State to which the respective agents belonged should direct."

The last-mentioned resolution is silent as to the mode of electing regimental agents. In pursuance of a general order, the agents were appointed by a majority of the officers of each regiment, as in the case of the regimental paymasters. They were, therefore, to be considered as the legal representatives of the commissioned officers; but the non-commissioned officers and privates neither voted nor were they consulted in the choice; they could not, of course, equitably be made answerable for the fidelity of the said agents. Some of those agents proved unfaithful to their trusts, and some of the non-commissioned officers and privates have thereby been prevented from receiving their just dues.

The question now results whether the public are not, upon the principles of equity and justice, under obligations to make good to the non-commissioned officers and privates, who have suffered by the defaults of the said regimental agents, the arrears of their wages, &c. to which they are entitled.

From the nature of the contract between the United States and the soldiers who engaged in service; from the circumstance of the election of the paymasters having, by act of Congress, been vested exclusively in the officers; and from the express declaration that the officers should risk their pay in the hands of the paymasters; and from the circumstance of the same mode having been observed in the election of the agents, whose deficiencies are complained of, it seems but reasonable to infer that the soldiery, who were excluded from any participation in the election of either the paymaster or the agent, were not considered as liable to be affected by their delinquencies.

Upon an attentive and deliberate consideration of the subject, the committee cannot find any just principles upon which the public, without payment, can be exonerated from the obligation to provide for that suffering class

of citizens; they are, therefore, of opinion that provision should be made, by law, to afford relief. Great caution, on the part of the officers of the Treasury, to prevent abuses, would undoubtedly be requisite. It is the opinion of the committee that such caution might be exercised, and such checks provided, as would prevent any great danger of imposition; they, therefore, submit, for the consideration of the House, the following resolutions:

Resolved, That provision ought to be made, by law, for the relief of such non-commissioned officers and soldiers, of the late continental army, as have not received their certificates from the regimental agents to whom the same were delivered, pursuant to the act of Congress of the 3d day of November, 1783.

Resolved, That the officers of the Treasury be authorized to issue registered certificates for such sums as shall be ascertained to be justly due to any non-commissioned officers and soldiers, who, by default of the regimental agents, were prevented from receiving their certificates issued as aforesaid.

4th CONGRESS.]

No. 89.

[2d SESSION.]

DIPLOMATIC SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 23, 1797.

DEPARTMENT OF STATE, February 22, 1797.

The SECRETARY OF STATE, to whom, during the last session of Congress, was referred the memorial of Antonia Carmichael, widow of William Carmichael, deceased, soliciting "that an act may be passed, recognising her late husband, the said William Carmichael, as *chargé des affaires*, from the year 1782 to 1790, and fixing the principles on which the settlement of his accounts, during that period, shall be made; and also allowing him such privileges and emoluments, under his commission of *chargé des affaires* dated the 20th of April, 1790, as were granted to others holding a similar appointment from the United States," has examined the same, and, pursuant to the order of the House of Representatives, respectfully reports his opinion thereon.

On the examination made by the Secretary, the following facts have appeared:

That Mr. Carmichael, a delegate in Congress from the State of Maryland, was, on the 29th of September, 1779, appointed by Congress secretary to Mr. Jay, their minister plenipotentiary for negotiating a treaty with His Catholic Majesty.

That the commissions to the secretaries of the ministers plenipotentiary of the United States, at that period, contained the following clause: "In case of the death of our said minister, you are to signify it to us by the earliest opportunity; and, on such event, we authorize and direct you to take into your charge all our public affairs which were in the hands of our said minister at the time of his death, or which may be addressed to him before notice thereof, and proceed therein according to the instructions to our said minister given, until our further orders."

That the said secretaries were furnished with letters of credence to the courts to which the ministers plenipotentiary were respectively sent, *in case of the death or the necessary absence* of the minister, to reside at such court, and to transact all such matters and things relating to the United States, as might from time to time be necessary:

That on the 4th of October, 1779, Congress "*Resolved*, That each of the ministers plenipotentiary be allowed at the rate of two thousand five hundred pounds sterling per annum, and each of their secretaries at the rate of one thousand pounds sterling per annum, in full for their services and expenses, respectively."

That Mr. Jay continued in Spain until about the 20th of May, 1782, when he was called to Paris to assist in the negotiations of peace, leaving, of course, the business of his mission in Spain in the hands of Mr. Carmichael.

That on the 20th of February, 1783, (the provisional articles of the treaty of peace between the United States and Great Britain having been signed at Paris on the 30th of November preceding,) Mr. Carmichael was received by the court of Spain as the *chargé des affaires* of the United States, although (owing to the particular etiquette of that court) not presented to the King until the 23d of August of that year.

That Mr. Carmichael continued at the court of Spain, corresponding with the Department of Foreign Affairs on the affairs of the United States, until he received a formal appointment of *chargé des affaires*, under the new Government of the United States, by a commission bearing date the 20th of April, 1790.

From this state of facts, the conclusion seems indisputable, that Mr. Carmichael was the actual *chargé des affaires* of the United States to the court of Spain from the time of the departure of Mr. Jay for Paris until his formal appointment took place, on the 20th of April, 1790; that it was manifestly the intention of Congress, in their acts in 1779, before cited, so to consider their secretary to the legation of Spain. And this construction is confirmed by an expression in a letter, dated October 2, 1789, from Mr. Jay, the Secretary for Foreign Affairs, to Mr. Carmichael: "You have been *reappointed* *chargé des affaires* for Spain."

Hence it follows, that Mr. Carmichael was entitled not only to the salary of one thousand pounds sterling per annum, originally granted to him as Secretary of the legation to Spain, but to such other allowances as were proper to be made to a *chargé des affaires* or minister of the United States at a foreign court. These have been specified since the formation of the present Government, and were enumerated to Mr. Carmichael in a letter from the Secretary of State of the date of August 6, 1790, viz: "For gazettes, translating or printing papers, where that shall be necessary, postage, couriers, and necessary aids to poor American *sailors*, in addition to the salary." But, under the former Government, it is presumed that no such specification took place. And it is certain, that although the salaries for the ministers plenipotentiary and their secretaries, established by the resolve of October 4, 1779, before cited, were expressed to be "in full for their *services* and *expenses*," yet, by resolves of the same Congress, the Marine Committee were directed to lay in such stores as they might deem necessary for the use of the minister then lately appointed to the court of Spain, and to prepare all necessary accommodations, on board the frigate *Confederacy*, for him and his family; and to make the like provision for Mr. Adams and his family, on their passage for France. And afterwards the like provision was ordered to be made for Mr. Laurens, who, in

November, 1779, was appointed to go to Holland to negotiate a loan for the United States; and for Mr. Jefferson, when appointed a minister plenipotentiary, in May, 1784.

The accounts of the ministers of the United States in Europe, (particularly those of Dr. Franklin,) after their salaries were fixed as above mentioned, show that, in addition to their salaries, they were allowed for house rent, stationary, postage, messengers, presents to the servants of the ministers of the court, and the expenses of journeys performed on public business.

Similar expenses appear to have been incurred by Mr. Carmichael in Spain, and, from the inquiries of the Secretary, appear to him at least as unavoidable as at any court in Europe.

Another and extraordinary expense is peculiar to foreign ministers in Spain. Besides Madrid, there are four other places which, at different seasons of the year, become successively the residences of the court. At each, a foreign minister, annually following the movements of the court, must provide himself with a house. For this single extra expense of travelling and house rent, the Secretary is well informed, the European Governments make to their ministers extra allowances, to one to the amount of five hundred pounds sterling a year, and for the other usual extra expenses four hundred pounds sterling a year.

On a consideration of these facts, the Secretary, pursuant to the order of the House, reports his opinion:

1. That Mr. Carmichael, as actual chargé des affaires of the United States at the court of Spain, from the 20th of May, 1782, to the 20th of April, 1790, was entitled to a salary of one thousand pounds sterling, equal to four thousand four hundred and forty-four dollars and forty-four cents a year.

2. That the same Congress which granted the salaries before stated to their ministers plenipotentiary and secretaries of legation, "in full for their services and expenses," by providing immediately for their voyages to Europe out of the public purse, proved that the term *expenses*, in the resolve fixing the salaries, was not meant to comprehend every contingent expense attending their missions to foreign courts.

3. That the charges of a variety of expenses by the ministers of the United States to whom those salaries were granted, and the admission of them, as before mentioned, in the settlement of their accounts, are precedents which authorize similar charges on the part of Mr. Carmichael.

4. That Congress not having prescribed any positive regulations on the subject, the usages of all the European courts, in allowing to their ministers either several accounts of extra expenses actually incurred, or gross sums at some fixed rate in lieu thereof, warranted the American ministers in conforming to those usages, and thereby incurring similar expenses; of which, consequently, they may justly claim an allowance.

5. That, on these principles, the following extraordinary expenses, charged in Mr. Carmichael's account, should be allowed, viz:

| | | Reals. |
|------------------------------------|--|------------|
| 1782 to 1789. | 1. Presents to porters and other servants of the ministers of state, &c. eight years, at 1,840 reals of vellon a year, - - - - | 14,720 00 |
| | 2. Expenses of presentation at court, - - - - | 3,680 00 |
| 1783 to 1789. | 3. Expenses of illuminations, seven years, - - - - | 6,028 17 |
| 1782 to 1789. | 4. For postage of letters, eight years, - - - - | 26,103 00 |
| Do. | 5. Presents to letter carriers, eight years, at the King's country seats, - - - - | 1,562 06 |
| Do. | 6. Expenses of paper, quills, ink, &c. eight years, - - - - | 10,870 00 |
| Do. | 7. Expenses of copying different papers, eight years, - - - - | 9,686 00 |
| | 8. Expenses of a journey from Madrid to Paris, and back to Madrid, - - - - | 16,010 00 |
| | 9. For house rent at the <i>sitios</i> (country residences of the King) at Aranjuez, La Grange, L'Escorial, and Le Pardo, eight years, - - - - | 76,515 19 |
| | | 165,175 08 |
| Equal, at 20 reals to a dollar, to | | \$8,258 76 |

averaging one thousand and thirty-two dollars a year, for eight years, being a little more than one-fourth part of the annual allowance to some other foreign ministers, for extraordinary expenses, at the same court.

Such parts of the extraordinary expenses charged in Mr. Carmichael's account for the years subsequent to 1789 as come within the regulations communicated to him by the Secretary of State in August, 1790, as before mentioned, the Secretary conceived should be left to the ordinary mode of settlement; and therefore he has not noticed them.

With regard to the last claim in the memorial of Mr. Carmichael's widow, for an allowance of such privileges and emoluments, under his commission of chargé des affaires dated the 20th of April, 1790, as were granted to others holding a similar appointment from the United States, intending, as is supposed, the amount of one year's salary (or four thousand five hundred dollars) for an outfit, the Secretary is of opinion that it ought not to be allowed; because it was not a new appointment, but a continuance of Mr. Carmichael in an office in which, under a different arrangement, he had been many years established; because the expenses of his voyage to Spain, in the first instance, were defrayed out of the public purse; and because the allowances for extra expenses hereinbefore stated, the greater part of which would be inadmissible under the present arrangement, are a full equivalent for the outfit granted to a chargé des affaires under the act of Congress passed the 1st of July, 1790.

All which is respectfully submitted.

TIMOTHY PICKERING, *Secretary of State.*

4th CONGRESS.]

No. 90.

[2d Session.]

ACTS OF LIMITATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, who were "instructed to inquire into, and report on the expediency or in expediency of designating certain claims against the United States, to be excepted from the operation of the acts of limitation," made the following report:

That, in obedience to the orders of the House, they have made all the inquiries which to them appear necessary; that they have attentively and deliberately considered the subject referred to them, and are of opinion that it would not be expedient to designate any species of claims against the United States, which are now affected by the acts of limitation, to be excepted from the operation of those acts.

In considering this subject, a review of the situation of the United States, as respected their finances, during the period when most of the demands originated, was requisite. It was also necessary to ascertain what measures had been adopted by Congress, both under the old and under the present Government, to bring all the demands against the States to a liquidation and settlement.

It will be recollected that, at the commencement of the war, the United States were destitute of money; and, during a long period of years afterwards, were obliged to rely principally on credit for carrying on all their important operations.

Having, at that time, no settled national government, a regular system for conducting public business, especially money transactions, depending on credit, was not to be expected.

Great numbers of individuals were necessarily invested with the powers of binding the public by their contracts. Almost every officer of the army, whether in the commissary's department or otherwise, in different stages of the war, had it in his power to contract debts legally or equitably binding upon the United States. We find Congress, at various times, during the war, endeavoring to make arrangements which should prevent an undue use of the powers vested in individuals, and the dangerous consequences to which the Government was thereby necessarily exposed. The acts of the 5th of March, 1779, and of the 23d of August, 1780, were calculated to limit the public responsibility in such cases. After the peace, and under the old Government, periods were prescribed within which claims of certain descriptions, and, finally, all unliquidated claims, were to be exhibited for settlement, or to be forever thereafter barred.

It must be acknowledged by all that, during those periods, every provision, which could rationally have been expected, was made for the accommodation of individuals having claims against the public, to enable them to obtain proper settlements of their demands. The journals of Congress under the confederation will abundantly justify this remark.

Commissioners were appointed, with special or general powers, to settle the claims of individuals in all the departments; and, in every instance, the powers given were plenary and explicit. Sufficient time was given for every one to obtain information, and pursue his remedy; and ample opportunity was given for all to substantiate their claims, or, at least, to present abstracts of them, which would have prevented their being foreclosed by the acts designed eventually to operate upon them. The cases cannot be numerous in which the want of opportunity to bring forward claims can be justly pleaded as an excuse for the omission.

By the act of the 17th of March, 1785, all persons having unliquidated claims against the United States were required, within twelve months, to exhibit particular abstracts of such claims to some of the commissioners in the State in which they respectively resided, who were sent and empowered to settle accounts against the United States, under the penalty or condition that accounts not so presented should be thereafter settled only at the Treasury.

By another act of Congress, of the same year, viz: November 2, 1785, all persons having claims for services performed in the military department were directed to exhibit the same for liquidation to the commissioners of army accounts, on or before the first day of August then ensuing. By that act it was expressly resolved, that all claims, under the description above mentioned, which might be exhibited after that period, should be forever thereafter precluded from adjustment and allowance.

And it was provided, by the act of July 23, 1787, that all persons having unliquidated claims against the United States, pertaining to the late commissaries', quartermaster's, hospital, clothier's, or marine departments, should exhibit particular abstracts of such claims to the proper commissioner appointed to settle the accounts of those departments, within eight months from the date of the said act; and all persons having other unliquidated claims against the United States were to exhibit particular abstracts thereof to the Comptroller of the Treasury of the United States, within one year from the date thereof; and all accounts, not exhibited as aforesaid, were to be precluded from settlement or allowance.

These regulations were adopted by Congress under the old Government. Great care was taken to have them extensively published, so that every individual, who was interested, might be informed of their existence and operation.

Under the present constitution there has not been wanting a disposition to relieve certain individuals whose claims were considered as peculiarly meritorious, which had been affected by the acts above recited.

With this view, in March, 1792, two several acts of Congress were passed, suspending, for two years, the operation of the resolutions of Congress of November 2, 1785, and July 27, 1787, so far as they had barred, or might be construed to bar, the claims of the widow or orphans of any officer of the late army to the seven years' half-pay of such officer, or the claims of any *officer, soldier, artificer, sailor, and marine*, of the army of the United States, for personal services rendered to the United States, in the military or naval departments.

In consequence of these suspensions many claims were exhibited and allowed against the Government. There is reason to apprehend, in some instances, the public were defrauded for want of proper pre-existing checks and evidences of payments having been made. This suspension continued for the term of two years, which was till March, 1794. In the mean time, viz: on the 12th of February, 1793, the act "*relative to claims against the United States, not barred by any act of limitation, and which had not been already adjusted*," was passed by Congress, after a serious and attentive consideration of the subject.

By that law it was provided, "that all claims upon the United States, for services or supplies, or for other cause, matter, or thing, furnished or done, previous to the fourth day of March, 1789, whether founded upon certificates or other written documents from public officers, or otherwise, which had not already been barred by any act of limitation, and which should not be presented at the Treasury before the first day of May, 1794, should

forever after be barred and precluded from settlement or allowance." But this was not to be construed as affecting *loan office certificates, certificates of final settlements, indents of interest, balances entered in the books of the Register of the Treasury, registered certificates, foreign loans, or certificates issued under the act making provision for the public debt of the United States.*

One other act, passed the third day of March, 1795, provided that *loan office certificates, final settlements, and indents of interest*, then outstanding, should be presented at the office of the Auditor of the Treasury, on or before the first day of January, in the present year, 1797, or be forever after barred or precluded from settlement or allowance.

This summary contains a general view of the principal acts of limitation, by which claims against the public have been affected.

From an attentive consideration of them, and of the circumstances under which they were enacted, the committee are fully impressed with an opinion that it would not be expedient to suspend their operation.

Some remarks, extracted from a report heretofore made to Congress, are subjoined by the committee as pertinent to the subject.

It was essential to the public administration that the extent of just demands upon the Government should be, within a reasonable period, definitely ascertained. It was essential to public safety and to right, in relation to the whole community, that all unsettled claims should be made known within a time when there were yet means of proper investigation, and after which the public responsibility should terminate, and the possibility of charging the Government by collusive and fictitious contracts should be at an end.

The justice as well as policy of acts of limitation, under such circumstances, cannot be doubted.

The situation of no country ever presented a more clear necessity for, or a more competent justification of, precautions of that nature. And all the reasons for adopting them operate to recommend unusual caution in departing from them, with the additional force of this circumstance, that the subsequent lapse of time has increased the difficulties of a due examination.

The accounts of a considerable number of officers, who had it in their power to bind the public by their contracts, and who were intrusted with large sums of money for fulfilling their engagements, remain unsettled; some of those persons are dead; others have absconded; the business has been conducted by others with so little order as to put it out of their power to render a proper statement of their transactions; the books and papers of others, who had extensive trusts, have been destroyed, so as to preclude the possibility of settlement. Hence it must appear that the Government would, in a great number of cases, be destitute of the means of repelling unfounded, and even satisfied claims, for want of documents and vouchers, which could only have resulted from a due settlement with those officers, and from the possession of their books and papers.

It might be inferred, without proof, and it has appeared in the course of business at the Treasury, that it was a practice with certain public officers, on obtaining supplies, to give receipts and certificates for them; and, when they made payments, either partially or totally, to take distinct receipts from the parties, without either endorsing the payments upon the original vouchers, or requiring a surrender of them. Hence it would often happen that parties could produce satisfactory vouchers of their having performed services and furnished supplies, for which, though satisfaction may have been made, the evidences of it would not be in the possession of the Government. And hence, from relaxations of the limitation acts, there would be great danger that much more injustice would be done to the United States than justice to individuals.

The principles of self-defence, therefore, require and justify an adherence to those acts *generally*; and there are not any *particular* species of claims which, in the view of the committee, ought to be exempted from their operation.

Those which have been most frequently referred to, by some members of the House, are such claims as include the arrearages of pay and other emoluments to officers and soldiers of the late army, &c.

Pursuant to an order of the House, at the first session of the present Congress, a report was made to them, having special reference to this subject. It was considered in Committee of the Whole, and agreed to by the House on the fifth day of February, 1796. To that report, and the documents accompanying the same, the committee ask leave to refer the House, and respectfully submit the whole subject to their consideration.

[For the report and documents here referred to; see No. 68, page 182.]

5th CONGRESS.]

No. 91.

[2d SESSION.]

FINAL SETTLEMENT CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 22, 1797.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Azor Bagley, made the following report:

That the said Azor Bagley seeks, by this petition, to obtain compensation for two final settlement certificates, issued from the Treasury Department, and transferred, by virtue of powers of attorney, which he alleges to have been forged and counterfeit.

In the investigation of this claim, the committee have inquired at the proper offices for facts, so far as they could be there ascertained. They are detailed in a letter received from the Comptroller of the Treasury, which is hereunto subjoined, and to which the committee ask leave to refer, and pray that the same may be received as a part of this report. The original powers, by virtue of which the certificates were issued, are also herewith annexed; if they were really forged and counterfeit, a fact difficult to ascertain, but which the committee, from the information they have received, think it highly probable, still they bear such marks of authenticity, as would not, at first view, justify suspicion. Whether the individuals alleged to have been guilty of the fraud are or are not of ability to compensate the petitioner, is not in proof before the committee.

The committee are convinced that due and reasonable precautions were exercised by the officers of the Treasury in issuing and transferring the certificates. The question results, whether, on this statement of facts, the United States are bound to compensate the petitioner?

Government is undoubtedly bound to enact laws for the punishment of forgery as well as other crimes, but has never been considered as liable to claims for indemnity, to individuals suffering by forgery.

The committee consider the petitioner as among the unfortunate; they are, however, of opinion that his petition ought not to be granted.

SIR:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *December 12, 1797.*

In reply to your letter of the 7th instant, enclosing the petition of Azor Bagley, I have the honor to submit to the Committee of Claims the following brief statement of the case. "*Such remarks and information*" as my sense of justice and duty shall suggest, will also be added, agreeably to your request.

Azor Bagley, a private in the 2d New York regiment of artillery, at the termination of the late war, was entitled to two final settlement certificates: one for sixty-six dollars and sixty-six cents, (a gratuity,) with interest from the 1st day of December, 1783; the other for eight dollars and ninety-eight cents, (arrears of clothing,) with interest from the 1st day of January, 1784. Certificates for these balances were regularly prepared and issued by John Pierce, late commissioner of army accounts, and remained in the hands of the agent and the Auditor of the State of New York, until the 6th day of November, 1792, when they were returned to the Treasury; where, among many others, in consequence of a general arrangement, they were entered in the books of the Treasury, as balances due and unclaimed. It has been the usage of the Treasury to issue certificates of registered debt for these balances to the persons entitled to receive them, either upon personal application of the original claimant, or to his attorney, or other legal representative properly constituted. Since the 27th day of March, 1792, in obedience to the last section of an act of that date entitled "An act providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established," such balances have been uniformly registered in the name of the original claimant only; in consequence of which, in all applications by attorney, two powers have been required; that is to say, one to settle and receive the certificate of registered debt, the other to transfer the debt so registered to the name and credit of any other person. Here it will be proper to observe, that, while these balances continued to be evidenced by the certificates of John Pierce, they have been regarded at the Treasury, since the passage of the act of the 27th day of March, 1792, above alluded to, in the light of claims capable of being perfected; but in respect to the obligations of the public and the rights of individuals, they remain, until registered, altogether in an inchoate state.

From the termination of the war, until about the 19th day of August, 1796, no application was made for the balance stated to be due to Azor Bagley; about that time a person appeared at the Treasury by the name of David Craig, of the city of Philadelphia, who claimed under authority of the annexed power of attorney (A) all sums of money, or certificates due, or in anywise belonging to his constituent, Azor Bagley. This power of attorney underwent the usual examinations, and, bearing the appearances of authenticity, was admitted; the Comptroller of the Treasury thereupon issued his warrants to the Register in the usual form, and two certificates of registered debt, one for the sum of sixty-six dollars and sixty-six cents, with interest from the 1st day of December, 1783; the other for eight dollars and ninety-eight cents, with interest from the 1st day of January, 1784, were made out in the name and for the use of the said Azor Bagley, and delivered to David Craig, who then applied for them as his attorney.

Some short time after, the said David Craig appeared again at the Treasury, presenting the two certificates above mentioned, with a power of attorney executed after the date of their registry, and in other respects sufficiently descriptive to be admitted under the act of the 27th of March, 1792. Upon this power, which is commonly called the transfer power, the certificates registered in the name of Azor Bagley were transferred, on the 1st day of September, 1796, to John Wright, of the city of Philadelphia. The original paper upon which this transfer was made is also herewith transmitted, for the satisfaction of the committee, (marked B.)

Although circumstances occurred, and information was received, shortly after this transaction, (that is to say, about the 20th of October, 1796,) which excited apprehensions that frauds of this description had been successfully practised to a very considerable amount, yet no application was made at the Treasury by the petitioner for the balances which he now claims, until some time in the month of May, 1797, by attorney, and afterwards in person in the month of July or August following, when, without examining the evidences of his identity, he was informed that the certificates were issued, and, if an imposition had been committed, it was incumbent on him to prosecute the perpetrator of the fraud.

If information or even legal assistance should be necessary, he should have any in the power of the Treasury to afford; but with respect to indemnification, that was not to be expected, unless through the liberality of the Legislature. The present residence of David Craig, and his ability to reimburse the petitioner, are not, I presume, among the objects of your inquiry. The latter will be regularly ascertained by the issue of a suit which has, or ought to have, been instituted, upon the first discovery of the fraud.

Upon this statement, which contains all the material points in the petitioner's case, I respectfully conceive that he is not entitled to indemnification from the United States. This opinion is deliberately formed, after a careful attention to the nature and extent of private rights on the one hand, and the moral obligations of the public on the other. If the principle upon which the application is founded were less questionable, the danger to be apprehended from the precedent would justify a refusal; and, in addition to this objection, it has not been made to appear that the pretensions of the petitioner are supported by any of those extraordinary causes which sometimes render a deviation from the common rules of proceeding reasonable and necessary.

If the account of the petitioner was adjusted within a reasonable time after the services were performed; if the petitioner was not prevented from applying to the agent or to the Treasury for the evidences of his claim by *continued absence* from the United States, or from insanity, or other unavoidable cause; if the United States were at all times, during the space of thirteen or fourteen years, ready to deliver certificates for these balances upon the application of the person entitled to receive them; if the Comptroller of the Treasury, in issuing and transferring these certificates upon powers of attorney, now alleged to be forged, was not justly chargeable with remissness or inattention, it would indicate a singular degree of refinement upon the principles of justice to admit that the United States are to be held responsible for impositions which would have been prevented if application had been made by the claimant within a reasonable time.

Such are the evils which exist, and to which either the United States or the claimants of these balances are and have been unavoidably exposed. It rests with the Legislature to devise a suitable remedy, and no time can be more proper for that purpose than the present. In my judgment, the safe, certain, and radical cure will be to

adhere steadfastly to the statutes of limitation heretofore enacted, and to make provision, during the present session of Congress, to bar that description of claims usually styled "balances entered in the books of the Register of the Treasury, for which certificates remain to be issued;" this measure is recommended by considerations of public expediency, and supported by the deductions of reason and equity.

Statutes of limitation are generally admitted to be necessary in the intercourse of private life, where, between man and man, the claims of justice are not less impressive than between a Government and its citizens; their utility and wisdom have long been undisputed in most, if not all, the State Governments, and in other countries where justice is well administered and public credit held sacred. With these respectable examples in view, and relying upon the effect which the late frauds committed on the Treasury will probably produce in the minds of the committee, I consider it superfluous to urge arguments in favor of a measure already adopted in part, and which the interest and circumstances of the United States at the present time pre-eminently require should be rendered more complete.

It may be confidently stated to the committee, as an opinion confirmed by the experience and observation of all the officers of the Treasury, that the relaxation from the acts of limitation of the 27th of March, 1792, so far as respected personal services, was attended with consequences less favorable to the original claimants than was intended by the Legislature, and far more injurious to the public interest than could have been anticipated.

I have the honor to be, sir, with great respect, your most obedient servant,

JOHN STEELE, *Comptroller.*

The Hon. DWIGHT FOSTER, Esq., *Chairman of the Committee of Claims.*

A.

Know all men by these presents, that I, Azor Bagley, soldier in the 2d regiment of artillery, commanded by Colonel John Lamb, have constituted, made, and appointed, and by these presents do constitute, make, and appoint my trusty and loving friend, David Craig, of the city of Philadelphia, formerly of Chester county, schoolmaster, true and lawful attorney, for me and in my name and stead, and to my use, to ask, demand, sue for, levy, recover, and receive all sum and sums of money, debts, rents, goods, wares, dues, accounts, and other demands whatsoever, which are or shall be due, owing, payable, and belonging to me, or detained from me, by any manner of ways or means whatsoever by the United States, or any other State whatsoever, for my services rendered in the regiment above mentioned, as to land or pay, rations, clothing, or any other emolument whatsoever, that may be due, owing, payable, or belonging to me; giving and granting unto my said attorney, by these presents, my full and whole powers, strength, and authority in and about the premises, to have, use, and take all lawful ways and means, in my name, for the recovery thereof; and upon the receipt of any such debts, dues, or sums of money aforesaid, acquittances, or other sufficient discharges, for me and in my name, to make, seal, and deliver, and generally all and every other act and acts, thing and things, device or devices, in the law whatsoever, needful and necessary to be done in and about the premises, for me, and in my name to do, execute, and perform as fully, largely, and amply, to all intents and purposes, as I myself might or could do, if I was personally present, or as if the matter required more especial authority than is herein given; and attorneys, one or more under him, for the purpose aforesaid, to make and constitute, and again at pleasure to revoke; ratifying, allowing, and holding for firm and effectual all and whatsoever my said attorney shall lawfully do in and about the premises by virtue hereof.

[L. s.] In witness whereof, I have hereunto set my hand and seal, this 18th day of August, in the twenty-first year of American independence, Anno Domini, one thousand seven hundred and ninety-six.

AZOR BAGLEY, his \times mark.

Sealed and delivered in the presence of

JOSEPH FRAZAR,
PETER MARTIN.

STATE OF PENNSYLVANIA, *Chester county, ss:*

Personally came before me, the subscriber, one of the justices of the peace in and for the county above mentioned, the within named Azor Bagley, and acknowledged the within power of attorney to be his act and deed, and desired the same be recorded as such.

Witness my hand and seal, this 19th day of August, in the year of our Lord, 1796.

W. WORTHINGTON. [L. s.]

STATE OF PENNSYLVANIA, *Chester county, ss:*

I, William Gibbons, prothonotary, &c. in and for the county aforesaid, do hereby certify, that the above-named William Worthington, Esq., before whom the above acknowledgment appears to have been taken, was, at the time of taking the same, one of the justices of the peace in and for the said county, duly admitted and commissioned; and, as such, due faith and credit is and ought to be given to all acts and proceedings had and taken before him by virtue of the authority vested in him by his said commission.

Given under my hand and seal of office, the 19th day of August, 1796.

WILLIAM GIBBONS, *Prothonotary.* [L. s.]

B.

Know all men by these presents, that I, Azor Bagley, do make, constitute, and appoint David Craig my true and lawful attorney, irrevocably, for me and in my name to sell, assign, and transfer, and also to receive the interest now due, or hereafter to grow due, upon the sum of sixty-six dollars and sixty-six cents, also upon eight dollars and ninety-eight cents of unfunded stock, standing on the books of the Register of the Treasury of the United States of America, numbered 3,639, also one numbered 3,640; with power also an attorney or attorneys under him for that purpose to make and substitute, and to do all lawful acts requisite for effecting the premises; hereby ratifying and confirming all that my said attorney, or his substitute or substitutes, lawfully do therein. By virtue hereof, I have hereunto set my hand and seal, this 29th day of August, in the year of our Lord, 1796.

AZOR BAGLEY, his \times mark.

Sealed and delivered in the presence of us,

PETER MOOR,
W. WORTHINGTON.

STATE OF PENNSYLVANIA, *Chester county, ss:*

Be it known that, on the 29th day of August, in the year of our Lord 1796, personally came before me, the subscriber, one of the justices of the peace in and for the county aforesaid, the above named Azor Bagley, and acknowledged the above power of attorney to be his act and deed.

Witness my hand and seal, the day and year first above written.

W. WORTHINGTON. [L. s.]

STATE OF PENNSYLVANIA, *Chester county, ss:*

I, William Gibbons, prothonotary and clerk of the court of common pleas in and for the county of Chester, do hereby certify, that the within named William Worthington, Esq., before whom the within acknowledgment appears to have been taken, was, at the time of taking the same, one of the justices of the peace in and for the said county, duly admitted and commissioned; and, as such, due faith and credit is and ought to be given to all acts and proceedings had and taken before him, by virtue of the authority vested in him by his said commission.

Given under my hand and seal of office, the 29th day of August, A. D. 1796.

WILLIAM GIBBONS, *Prothonotary.* [L. s.]

5th CONGRESS.]

No. 92.

[2d SESSION.]

PROVISION MADE FOR THE DAUGHTERS OF THE LATE COUNT DE GRASSE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 27, 1797.

Mr. LIVINGSTON, from the committee to whom was referred the memorial of the daughters of the late Count de Grasse, made the following report:

That the sum heretofore granted by Congress to the petitioners seems to have been intended only as a temporary provision, until the events of the war should permit them to take possession of an estate in the island of St. Domingo; but that it was not considered as a permanent support, to which the amount was wholly inadequate.

The facts stated by the former committee of this House show that the most important services were rendered by the late Count de Grasse to the United States, from motives the most honorable, under the greatest responsibility, and at a risk the most hazardous that can be encountered by an officer of rank and reputation.

With the recollection of these services, and their extensive results, your committee conceive that it will consist neither with the honor nor justice of the United States to refuse an adequate provision for the orphan children of the man who rendered them.

They therefore recommend the following resolution to the House:

Resolved, That in consideration of the important services rendered to the United States by the late Count de Grasse, provision ought to be made, by law, for the payment of \$—— per annum, severally, during life, to Amelie, Adelaide, Melanie, and Silvie de Grasse, the daughters of the said Count de Grasse.

To the Senate and House of Representatives of the United States: The memorial of Justine Adelaide Maxime de Grasse, and Melanie Veronique Maxime de Grasse, daughters of the late Count de Grasse, in behalf of themselves and their absent sisters, Amelie and Silvie de Grasse, respectfully represents:

That your memorialists, with a grateful impression of the generosity of the United States, as exemplified in their act of ——, cannot, without extreme diffidence and hesitation, again appear before that honorable body in the character of supplicants.

But the funds arising from that grant of Congress are already exhausted by the payment of debts previously contracted, combined with the subsequent expenses of their maintenance.

When compelled to abandon a peaceful retreat, by political arrangements which established a new order of things in France, they relied for their future support on the income of a St. Domingo estate, the bequest of a fond father to his unfortunate orphans, who had the consolation to reflect, in his last moments, that it would be amply sufficient to gratify their wants; but, from the unhappy convulsions of that devoted island, it has ceased to be productive.

Thus circumstanced, they are induced, by their present forlorn and helpless situation, again to appeal to the benevolence of Congress for relief; still cherishing a hope, which they trust will not prove delusive, that at a future period their property will be available, and thereby enable them, with grateful acknowledgments, to reimburse the Treasury of the United States.

JUSTINE ADELAIDE MAXIME DE GRASSE,
MELANIE VERONIQUE MAXIME DE GRASSE.

PHILADELPHIA, *December 19, 1797.*

Mr. AMES made the following report to the House of Representatives, February 18, 1795:

The committee, to whom was referred the memorial of Amelie, Adelaide, Melanie, and Silvie de Grasse, daughters of the late Admiral Count de Grasse, respectfully report:

That the memorialists, indulging the hopes of their being eventually repossessed of their considerable property near Port de Paix, in St. Domingo, request of Congress the loan of a sum of money. But although the committee

suppose that, on the termination of the troubles of that colony, they may be in a condition to discharge the loan, they deem it unadvisable to grant it. But as the grateful sentiments universally entertained in the United States for the late Count de Grasse appeared to the committee to constitute a claim in favor of his daughters, who have taken refuge in our country, and are in a state of absolute want, to the sympathy, and, if it could be done with propriety, to the generous assistance of the public, they thought it their duty to make more particular inquiry into the nature and circumstances of the services alluded to.

They find the most decisive evidence that the late Count de Grasse, being authorized to co-operate with the forces of the United States only during a limited period, and which would have proved too short for the successful prosecution of the siege of Yorktown, was prevailed upon, by his zeal in our cause, and by the most urgent request of the American commander-in-chief, enforced by the Marquis Lafayette in person, to remain with the fleet under his command in the Chesapeake, at his own risk and responsibility, until the surrender of Earl Cornwallis and the British army. That had the Count de Grasse declined complying with the request of the commander-in-chief of the forces of the United States, and retired with the powerful fleet under his command, as he was authorized to do by the letter of his orders, the brilliant attempt upon Yorktown would have been frustrated with disgrace and aggravated injury to the American cause. That, considering the merit of the conduct of the Count de Grasse in this particular, as exclusively and perfectly personal, and as the event proved decisive of the object of the war, the independence of the United States; if, under the circumstances of the case, the House should be of opinion that the interference of Congress for the relief of the memorialists would not only be a proper evidence of the grateful remembrance of their services before mentioned, but should, moreover, conceive that an allowance to them will be justified by such peculiar circumstances as will not afford a precedent to encourage embarrassing future applications, then the committee recommend as proper the following resolution:

Resolved, That in consideration of the extraordinary services rendered the United States by the late Count de Grasse in the year 1781, on the urgent request of the commander-in-chief of the American forces, beyond the term limited for his co-operation with the troops of the United States, there be allowed and paid to Amelie, Adelaide, Melanie, and Silvie de Grasse, daughters of the late Count de Grasse, respectively, the sum of one thousand dollars.

To the honorable the Congress of the United States of America: The memorial of Amelie, Adelaide, Melanie, and Silvie de Grasse, four daughters of the late Count de Grasse, respectfully represents:

That the memorialists arrived in Boston, with a passport from France, in the beginning of July last, and have since their arrival resided at Salem.

That they have considerable property in the vicinity of Port de Paix, in the island of St. Domingo, and were induced to come from France to this country, in hopes of receiving supplies for their support from their said property; in which, however, they have as yet been disappointed, on account of the troubles in that country, but have good reason to be confident of receiving some of their property when a more favorable opportunity than has latterly offered shall occur for getting it from St. Domingo.

That the memorialists, having expended what effects they brought to this country, are now entirely destitute of the means of support, and without any friend or acquaintance in this part of the world to assist them.

That it is with extreme pain and reluctance they have been led to trouble the honorable Congress with this recital of their present unfortunate situation; their distressed circumstances could alone constrain them to it, and they therefore hope they will be indulgently considered as a suitable excuse for such a trespass.

The memorialists take the liberty further to suggest, that, being reconciled to the dispensations of Providence, and content with a bare subsistence, a present loan of two thousand dollars, which they solicit to be accommodated with, would probably relieve them, until they might receive some of their property, when they would instantly repay it with the most grateful acknowledgments.

All which they beg leave to submit to the consideration and humanity of the honorable Congress.

AMELIE MAXIME ROSALIE DE GRASSE,
JUSTINE ADELAIDE MAXIME DE GRASSE,
MELANIE VERONIQUE MAXIME DE GRASSE,
ALEXANDRINE SILVIE MAXIME DE GRASSE.

SALEM, January 22, 1795.

CLAIMS OF GENERAL KOSCIUSKO FOR MILITARY SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1797.

TREASURY DEPARTMENT, December 28, 1797.

The SECRETARY OF THE TREASURY, in obedience to the order of the House of Representatives of the 22d instant, respectfully submits the following report:

That the accounts of General Kosciusko, for services in the army during the late war, were settled at the Treasury in the year 1784, when a certificate was issued for the sum of twelve thousand two hundred and eighty dollars, and forty-nine ninetieths, bearing interest at six per centum per annum, from the 1st of January, 1784.

In pursuance of a resolution of the late Congress, passed on the 3d of February, 1784, a stipulation was expressed in the certificates issued to the foreign officers who served in the United States, that the interest on their demands should be paid annually at Paris.

By the fifth section of the act entitled "An act supplementary to the act making provision for the debt of the United States," passed on the 8th of May, 1792, moneys were granted to discharge the principal and interest of

the debts due to the foreign officers as aforesaid. When this provision was made, it was supposed that all the officers had received their interest to the first day of January, 1789, as sufficient funds were known to have been remitted by the late Government.

It now appears, from an examination of the accounts of Mr. Grand, the American banker at Paris, that no interest has been received by General Kosciusko for four years, namely, from 1785 to 1788, inclusive.

Sufficient funds to discharge the interest for the years 1789, 1790, 1791, and 1792, were in the latter part of the year 1792 placed in Amsterdam, subject to the disposal of Mr. Morris, minister of the United States residing in Paris. It appears that a bill for the amount of this interest was, by the direction of Mr. Morris, remitted to Mr. Pinckney, minister of the United States at London. Pursuant to the request of General Kosciusko, Mr. Pinckney directed the American bankers at Amsterdam to remit the amount to Leipsic or Dresden, according to the most favorable rate of exchange. Whether the bankers at Amsterdam complied with the directions given by Mr. Pinckney is not known. It is alleged by General Kosciusko, that the money has never been received by him; it must, therefore, remain subject to his disposal, at Amsterdam, Leipsic, or Dresden.

On the 17th of September, 1792, a notification was published by the Treasurer of the United States, that provision had been made for discharging the *principal* debt due to foreign officers at the Treasury, on the application of the creditors, at any time after the 15th of October, 1792; also that provision had been made for the payment of *interest* at Paris, conformably to the stipulations expressed in the certificates. The creditors were also notified that the interest upon their respective demands would cease after the last day of December, 1792.

It is stated by General Kosciusko, that the certificate issued to him, which was of the description usually called registered debt, has been lost or destroyed.

Upon the foregoing facts, the Secretary respectfully reports:

1. That the powers of the officers of the Treasury, founded on law and established usage, are competent to the payment of twelve thousand two hundred and eighty dollars and fifty-four cents, being the principal sum aforesaid, and to the payment of two thousand nine hundred and forty-seven dollars and thirty-three cents, being interest during the years 1785, 1786, 1787, and 1788, on receiving the bond of General Kosciusko to indemnify the United States against any claim on account of the certificate which has been destroyed or lost.

2. It is not in the power of the Treasury to advance, at present, the amount of the interest supposed to have been remitted to Leipsic or Dresden; though for any sum which may hereafter be redrawn and credited to the United States at Amsterdam, payment will be immediately made.

3. It is not in the power of the Treasury to take into consideration the circumstances which have prevented General Kosciusko from receiving payment of the principal sum due to him, as aforesaid, or to allow interest thereon since the first day of January, 1793.

All which is respectfully submitted by

OLIVER WOLCOTT, *Secretary of the Treasury.*

5th CONGRESS.]

No. 94.

[2d SESSION.]

INDEMNITY FOR INDIAN CAPTIVITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 8, 1798.

Mr. DWIGHT, from the Committee of Claims, to whom was referred the petition of John Frank, made the following report:

That this petitioner states that he was a soldier in the service of the United States during the revolutionary war, and again under the command of General St. Clair, and again for three years under General Wayne; and that he was honorably discharged at Greenville, in the month of August, 1794. That, within two hours after his discharge, while proceeding on his way to the State of New York, his place of residence, he was captured by the Miami nation of Indians; and that he was detained in bondage, suffering extreme hardships and cruelties, nearly three years, before he made his escape.

He now prays some allowance may be made to him.

The committee have no reason to doubt the truth of the statement made by the petitioner.

Had he been captured before he had actually received his discharge, he would, according to the established principles and practice, have been considered as in service, and entitled to his wages as a soldier during the time of his captivity, and have been settled with accordingly. As he was in fact discharged from the public service when he was taken, the accounting officers do not consider themselves as authorized to make him any allowance.

In a case like this, where the discharge was given to the petitioner so many miles from home, in a situation at that time greatly exposed to the attacks of the savages, who immediately laid hands on the unfortunate sufferer, the committee think some relief should be granted. They therefore submit, for the consideration of the House, the following resolution, to wit:

Resolved, That the proper officers be, and they are hereby, directed to settle the accounts of John Frank, and to allow him the same pay and emoluments as a soldier, from the month of August, 1794, during the time of his captivity, as he would have been entitled to had he not been actually discharged from public service at the time when he was made prisoner by the Indians.

OUTSTANDING CERTIFICATES AND INDENTS OF INTEREST NOT REGISTERED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 8, 1798.

TREASURY DEPARTMENT, *January 8, 1798.*

THE SECRETARY OF THE TREASURY, in obedience to the order of the House of Representatives of the 14th of December, 1797, respectfully submits the following report:

That according to the best estimate which can be formed, after a careful revision of former communications to Congress, and on examination of the public records, it appears that the following sums were barred by the operation of the fourteenth section of the act passed on the 3d day of March, 1795, entitled "An act making provision for the support of public credit, and for the redemption of the public debt."

| | | | | | | | | | |
|--|---|---|---|---|---|---|---|----------|----|
| In loan office certificates, bearing interest on a nominal capital of \$43,500, the specie value of which is estimated at | - | - | - | - | - | - | - | \$27,935 | 00 |
| In loan office certificates, bearing interest on the specie value | - | - | - | - | - | - | - | 147,105 | 53 |
| In final settlement certificates of all kinds | - | - | - | - | - | - | - | 96,206 | 69 |
| In indents of interest of all kinds | - | - | - | - | - | - | - | 70,052 | 18 |
| The amount of arrearages of interest prior to January 1, 1791, on the certificates aforesaid, which by the funding act of August 4, 1790, were liable to become three per cent. stock, are computed at | | | | | | | | 164,000 | 00 |

Making, in the whole, the sum supposed to be barred by the act of March 3, 1795, - - \$505,299 40

But though the public accounts exhibit the sums aforesaid as being outstanding, there is reason to believe that the amount which would be claimed, if the act of limitation should be suspended, is much less considerable. The accounts of the Treasury, comprising transactions of great extent, in various offices, and for a period of twenty years, cannot, in these particulars, be pronounced to be entirely free from errors. Considerable allowances ought also to be made for the loss and destruction of certificates by accidents during so long a period. This is to be inferred, no less from the nature of the case, than from observations upon the course of business at the Treasury. The amount of the principal certificates funded in the year 1795 was only \$71,524 59, and in the year 1796 no more than \$37,335, 01.

The loan office certificates were issued under well devised checks and precautions; and it is not known that they have ever been successfully counterfeited. Of the indents of interest, by far the greater part were printed on paper manufactured for that sole purpose, of which no counterfeits have appeared.

The sums in the final settlement certificates are all expressed in manuscript writing. These sums have frequently been altered in a manner to defeat every scrutiny, except that arising from a comparison with the original marginal checks. The arrangements made at the Treasury are such, that forgeries can almost always be detected; but an examination to preclude any considerable risk would be tedious, and require great care and attention.

The Secretary having stated such facts respecting the certificates in question as he conceives most likely to be influential in favor of a repeal of the act of limitation, attempts with diffidence to fulfil the remaining duty enjoined upon him; he, however, submits the following observations to the indulgence of the House of Representatives:

1. That it was an important principle, in the establishment of the system for the reduction of the public debt, to ascertain its possible extent.
2. That the proposition to the creditors was, in itself, reasonable, and conducive alike to public information and individual security; and that the propriety of the measure, as a *general rule*, cannot now be questioned, without innovating upon a system which was deliberately established.
3. That, without impairing the *general rule*, a mode of relief can be devised for all such cases of accident or misfortune, as on principles of equity ought to be deemed exceptions.
4. That a general repeal of the act of limitation at this time would operate as a revival of claims, which for a year past have had no legal validity.

But if, on a consideration of all circumstances, a repeal of the act of limitation, in respect to certificates and indents, shall be deemed proper, the Secretary, with a view to prevent the inconveniences which would result from a further increase of that description of capital stock which is in a train of reimbursement, respectfully submits the following propositions to the consideration of the House:

1st. That an appropriation of money be made, sufficient to discharge the *principal* of the loan office and final settlement certificates, with the interest thereon since January, 1791; and also the *principal* of the unfunded or registered debt credited in the books of the Treasury and loan offices; and that it be declared by law that interest on the debts aforesaid shall cease from and after the _____ of _____.

2d. That the creditors be allowed to receive the arrearages of interest on the debts aforesaid prior to January, 1791, in funded three per cent. stock, or to receive certificates for the said arrearages of interest, as debts hereafter to be provided for by Congress.

3d. That an appropriation be made to satisfy such balances as shall be allowed on settlements at the Treasury, of transactions during the late war, and that hereafter no certificates of unfunded or registered debt be issued.

4th. That a time be limited, by law, after which credits on the books of the Treasury for transactions during the late war, which, according to the course of the Treasury, have hitherto been discharged by issuing certificates of registered debts, shall be barred and declared void, unless claimed by the proper creditors or their legal representatives.

The amount of the unfunded or registered debt now credited in the public books is about eighty-five thousand dollars. This sum is due to about five hundred and seventy creditors, of whom more than five hundred and forty are creditors for sums under two hundred dollars each: the trouble of calculating dividends and keeping the accounts would at least be saved if the propositions submitted shall be adopted by Congress.

All which is respectfully submitted by

OLIVER WOLCOTT, *Secretary of the Treasury.*

5th CONGRESS.]

No. 96.

[2d SESSION.]

COMPENSATION FOR MILITARY SERVICES, AND INDEMNITY FOR RESPONSIBILITY
INCURRED ON PUBLIC ACCOUNT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1798.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Lucy Clark, widow of Thomas Clark, deceased, made the following report:

That the objects of this petition are two-fold: First, to obtain compensation from the United States for sundry services of the said Thomas Clark, as director of artificers during the late war; and second, the reimbursement of the sum £32 10s. 9d. Virginia currency, with interest from August 14, 1787, being the amount of money she alleges she has been obliged to pay on a judgment and execution against her, founded on a bond executed by the deceased in his lifetime, for the hire of a negro man employed by him in public service.

With respect to the first, it is to be observed, that whatever claim may have heretofore existed, it has long since been foreclosed by the acts of limitation; and, unless a general suspension of those acts should take place, the committee think it cannot now be admitted.

With respect to the last claim, the committee are of opinion, that, as the demand was exhibited against the petitioner after the death of her husband, and upon a bond which *on the face of it* did not carry any marks of its having been executed on public account, it ought not to be considered as affected by the limitation acts, and that provision should be made for the settlement thereof.

They therefore submit, for the consideration of the House, the following resolution, to wit:

Resolved, That the accounting officers of the Treasury be, and they are hereby, authorized and directed to settle the account of Lucy Clark, widow of Thomas Clark, deceased, for moneys she paid pursuant to a judgment rendered against her in the State of Virginia, and founded on a bond executed by the said Thomas Clark, in his lifetime, for the hire of a negro man, employed by him in public service.

5th CONGRESS.]

No. 97.

[2d SESSION.]

AMOUNT OF INDEMNITY MADE TO THE ESTATE OF THE LATE MAJOR GENERAL
GREENE FOR HIS RESPONSIBILITIES ON PUBLIC ACCOUNT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 14, 1798.

Mr. DWIGHT FOSTER made the following report:

The Committee of Claims, to whom were recommitted the petition of Henry Hill, and the several reports thereon, "with instructions to report a statement of the facts relative to the demands against which the United States have indemnified General Greene, as surety for John Banks," having investigated and had the same under consideration, now present, as the result of their inquiries, the following report:

The transaction in which the claim in question originated, took place as long ago as the month of December, 1780; at which time Joseph Clay, then paymaster for the southern army, paid to Major Burnett, aid-de-camp to General Greene, and by his orders, the sum of 37,200 dollars, in bills of exchange, for specie.

Pursuant to General Greene's direction, Major Burnett lodged those bills in the hands of Charles Pettit, Esq., of Philadelphia, who was then assistant quartermaster general under General Greene.

A part of the bills, amounting to 9,800 dollars, Mr. Pettit delivered to Mr. Morris, then Superintendent of Finance, who accounted for that sum; the remaining 27,400 dollars were sold by Mr. Pettit. They produced 19,516 $\frac{3}{8}$ dollars in money, of which he paid 10,903 $\frac{3}{8}$ to Major Burnett for the use of General Greene, by whom it has been accounted for. The balance, amounting to 8,612 $\frac{2}{8}$ dollars, remained in the hands of Mr. Pettit, who retained it as public money, in payment of a balance, which he alleged to be due to him from the public in the quartermaster's department. In this manner he has always declared himself ready to account for it, and the committee find it actually charged to the quartermaster general, in an account between that department and the United States, which was stated by Mr. Burrall, the late commissioner, on the 1st of May, 1789, but has not yet been finally closed.

The Treasury Department, at that time under the direction of Mr. Morris, viewed this transaction in a different light from Mr. Pettit; regarding Major Burnett as a principal in the business, they opened an account against him, in which he was charged with the whole amount of bills received from Mr. Clay, and credited, not for the whole amount as delivered by him to Mr. Pettit, but for the sums paid by Mr. Pettit to the Superintendent of Finance, and to General Greene; thus the balance of 8,612 $\frac{2}{8}$ dollars retained by Mr. Pettit, stood on the books of the Treasury as a charge against Major Burnett.

Not long afterwards Major Burnett formed a co-partnership in trade with John Banks, and sundry other persons, under the firm of Hunter, Banks, and Co.

It was with John Banks, a partner in this house, that General Greene, in the fall of the year 1782, and in pursuance of authority from the Department of War, concluded a contract for supplies of clothing for the troops under his command. Banks contracted on behalf of the house, and the supplies for completing the contract were purchased on credit by the contractors from certain British merchants in Charleston.

Soon afterwards proposals were made by John Banks, on behalf of the same house, for the supply of provisions for the southern army, for which General Greene had also been authorized by the Superintendent of Finance to contract. These proposals, the urgent necessities of the service compelled General Greene to accept, and the new contract for this object was concluded on the 15th of February, 1783. In this contract Banks alone appeared, and the accounts at the Treasury were opened in his name, but it is fully understood that he acted on behalf of the house of Hunter, Banks, and Co.

It soon appeared that the engagements of the house, under this last contract, were beyond their means; they were pressed for payment by the merchants from whom the goods for completing their first contract had been purchased, and who insisted that the funds of the house should be applied solely to the discharge of their demands, unless new and satisfactory security should be given. This security the house was unable to find, and the funds in question, the only means whereby they had the least chance of completing their second contract, were thus locked up.

In the dilemma, they had recourse to General Greene, who, in order to set free their funds, and enable them to furnish the army with provisions, became surety for them to sundry persons, and in a large amount; the bonds whereby this security was given were executed about the 8th of April, 1783.

As a counter-security for himself, General Greene exacted from Banks, who represented the house throughout the whole transaction, an engagement that the moneys to become due from the United States under the contract should be applied solely and exclusively to the discharge of those debts for which he had thus become responsible; and the more effectually to ensure the performance of this engagement, authority was given by Banks to James Warrington, one of those creditors, and agent for the others, to receive those moneys in Philadelphia, as they should become due. He accordingly did receive 27,000 dollars under this authority from Mr. Pettit in Philadelphia, who was the agent of Banks, and drew the money from the Treasury as it became due under the contract. Some payments, but to a much smaller amount, were likewise made in the same manner to other creditors of this description. It does not appear that the above-mentioned engagement was ever reduced to writing, or assumed the shape of a formal contract; nor is it known to have been made at the time when General Greene became security; but there is no doubt of its having been considered and represented by the house as a stipulation, not only with General Greene, but also with their creditors; and that they gave their agent, Mr. Pettit, instructions to conform to it by paying the contract money in discharge of those debts, with a statement of which they also furnished him. Banks, however, was far from observing this engagement; for a considerable part of the funds in question were diverted by him into other channels.

When the account of Banks under this contract for the supply of provisions came to be settled with his agent, Mr. Pettit, at the Treasury of the United States, the Superintendent of Finance, Mr. Morris, considered Major Burnett as one of the contractors; and finding him charged in the books of the Treasury with the balance of \$8,612 $\frac{24}{100}$, which Mr. Pettit had formerly retained out of the proceeds of the bills brought from the southward by Burnett, in 1780, he insisted on placing that sum to the debit of the contract account. This he did upon the principle that this money was due to the United States by Burnett, one of the contractors, and ought, therefore, to be deducted out of the sums due from the United States under the contract of the house whereof Burnett was a partner.

Mr. Pettit, on the other hand, contended that the bills placed in his hands by Major Burnett, in pursuance of General Greene's orders, were public property, in the transmission of which from Mr. Clay to him, Burnett ought to be regarded merely as the messenger of General Greene, and that the money arising from these bills being public money, he, as assistant quartermaster general, had a right to retain and account for them in that department; so that no charge could justly be made on this account against Major Burnett; nor did he admit that if the charge against Burnett was just, his private debts to the public could be set off against the claims of Banks, who alone appeared in the contract, and in whose name, individually, the contract account had been opened and kept at the Treasury.

However doubtful the last of these points may be, the committee, upon full consideration, are clearly of opinion that Mr. Pettit was right as to the first, and that the balance in question ought never to have been charged to Major Burnett. He manifestly acted as the mere agent of General Greene in transmitting those bills of exchange from the hands of Mr. Clay to Mr. Pettit; and if it was proper to open any account against him at the Treasury for this transaction, he ought to have been charged with the bills as received from Mr. Clay, and credited with them as delivered to Mr. Pettit; and then the account would have been balanced and closed.

If the committee are right in supposing that Major Burnett ought not to have been charged with this balance, which Mr. Pettit had retained, and was willing to account for, it follows that no foundation existed for the charge against Banks in the contract account. The Superintendent of Finance, however, settled the account in his own way; and this balance, with interest, amounting in the whole to \$9,786 $\frac{81}{100}$, was charged to Banks; but the propriety of this decision was never admitted, either by the latter or by his agent. The settlement took place, partially, on the 31st of December, 1783, and the above-mentioned charge was made; on the 30th of March following, the account was finally closed. Upon this settlement, and after charging Banks with the balance in question, there was a balance against him of \$2,715 $\frac{88}{100}$. From this statement it appears, in a manner satisfactory to the committee, that the United States have been twice credited with this sum of \$9,768 $\frac{81}{100}$, first in the quartermaster general's department, and secondly in the contract account of John Banks, to whom, they are of opinion, it was improperly charged on the settlement in December, 1783. This error, they conceive, ought to be corrected by placing the sum in question to his credit on that day; so that, instead of a balance against him of \$2,715 $\frac{88}{100}$, there would be a balance in his favor of \$7,052 $\frac{88}{100}$, for which sum the United States must, of course, be considered as indebted to him on the 31st of December, 1783. But, as the account was closed at the Treasury under the former Government, and as the present Treasury Department have adopted a rule that no such accounts shall now be opened, this error cannot be corrected without the aid of Congress.

It is this sum of \$7,052 $\frac{88}{100}$, contended to have thus become due from the United States to John Banks on the 31st of December, 1783, that is now claimed by Henry Hill, as the attorney in fact of James Miller, who rests his claim on an assignment from Banks. The assignment, a copy of which is subjoined to this report, bears date on the 7th day of April, 1784. From the paper itself, as well as from an explanatory letter from Charles Pettit, Esq. to Mr. Hill, which is also subjoined, it appears clearly to include the above-mentioned sum. By a certificate from the late Auditor of the Treasury, which is also annexed, it appears that, in the winter of 1789-90, this assignment was produced to him by Mr. Hill, in support of his claim against the United States for the balance in question. The reasons why the claim could not be admitted at the Treasury have already been stated.

About the time of this assignment, the house of Hunter, Banks, and Co. failed, and Banks soon after died insolvent. Those creditors of the house to whom General Greene had given security brought suits against his estate, and his legal representatives applied to Congress for relief and indemnity. This application was made by the petition of General Greene's widow, on the 4th of March, 1790. A bill granting the indemnity was introduced and read a first time on the 5th day of April, 1792.

On the 4th of April, 1792, while this measure was still depending, Mr. Hill presented a petition to Congress, stating his claim against the United States under John Banks, and praying that no act which might be passed for the relief of General Greene's estate might be so framed as to impair his claim. This petition was referred to a committee, who reported favorably on the 10th of April, 1792, and their report was referred to the Committee of the Whole House, who then had under consideration the bill above mentioned. With this matter thus before it, the House proceeded, on the same day, to pass the bill.

This bill, which passed into a law on the 27th of the same month, contained the following clause: "Provided, also, that the said executors shall make over and assign to the Comptroller of the Treasury and his successors, for

the use of the United States, all mortgages, bonds, covenants, or other counter-securities-whatsoever, *now due*, which were obtained by the said General Greene, in his lifetime, from the said Banks and Co., on account of his being surety for them as aforesaid, to be paid for in the name of the said executors, for the use of the United States."

On the 8th of November, 1792, James Warrington, as attorney in fact for Joseph Blachford, one of the creditors of John Banks, presented a petition to Congress, stating the balance due, as above mentioned, from the United States to Banks, and praying that it might be paid to him in satisfaction of the debt of his principal. This petition was referred to a committee, who reported on the 1st of February following. After reciting the circumstances of the case, they recommend the following resolution: "*Resolved*, That the accounting officers of the Treasury cause the sum of \$9,768⁸¹/₁₀₀, charged to John Banks on the 31st day of December, 1783, to be credited to the said John Banks; and that the sum so credited be charged to such other person as, in their opinion, shall be justly chargeable therewith." This resolution was adopted on the 20th of February, 1793. A bill was brought in and passed, and sent to the Senate, at the same session; but the Senate adjourned without acting upon it, and, of course, it was lost.

James Warrington took no further steps in the business; but, on the 16th of December, 1793, Henry Hill, in behalf of himself and other creditors of John Banks, presented a petition to the House, stating that such a bill had passed the House at a former session, and praying that a similar bill might be passed for the benefit of those entitled under Banks. This petition was referred to a committee, who reported favorably on the 7th of January, 1794. No proceedings, however, appear to have been had on the report till the 22d of January, 1795, when it was referred to the Committee of Claims. That committee made a favorable report on the 26th of May, 1796, which was referred to a Committee of the Whole House, but not further acted upon during that session.

On the 9th of December, 1796, the report last mentioned was again referred to a Committee of the Whole House, who, on the 14th of the same month, were discharged from the further consideration thereof, and it was recommitted to the Committee of Claims. On the 13th of January, 1797, that committee again made a favorable report, which was the subject of the last recommitment.

These various reports, which are to be found on the files of the House, uniformly recommend the passing of a law similar to the bill actually passed by the House on the petition of James Warrington, and the effect of which would be to correct the error committed by the Treasury in the settlement of Banks's contract account on the 31st of December, 1783, by placing the aforementioned balance to his credit on that day; those legally entitled to this balance under Banks might then obtain it, either by application to the Treasury, or by judicial decision, in case of controversy.

On the 14th of March, 1796, while these proceedings on Mr. Hill's application were had, a second petition was presented to Congress by the representatives of General Greene, praying for relief and indemnification against others of Banks's creditors, to whom he had become surety in the manner and for the purposes already stated. In consequence of this petition, an act was passed on the 1st of June following, granting the relief prayed for, and containing the following proviso:

"The said executors shall make over to the Comptroller of the Treasury and his successors, for the United States, all property, mortgages, bonds, covenants, and other counter-securities whatsoever, if such there are, which were obtained by General Greene, in his lifetime, from the said John Banks and partners, or either of them, and causes of action on account of his being surety for them as aforesaid; to be paid for in the name of the said executors, for the use of the United States."

It appears that, under these two acts, the following sums have been paid out of the Treasury of the United States, in discharge of debts originally contracted by Hunter, Banks, and Co., for which General Greene became surety:

| | | | | | |
|----------------------|---|---|--------|---|-------------|
| Under the first act, | - | - | - | - | \$27,504 15 |
| Under the second, | - | - | - | - | 20,000 00 |
| | | | | | \$47,504 15 |
| | | | Total, | - | - |

for which sum the committee apprehend there can be no doubt that the United States may justly consider themselves as the creditors of Hunter, Banks, and Co.

The debt of Harris and Blachford having been one of those for which General Greene was bound, and against which his estate has been indemnified, it is to be remarked that, had the bill which was founded on the petition of James Warrington been enacted, and the money contemplated by it been paid to Warrington, that money would have gone in discharge of so much of the debt due from Hunter, Banks, and Co. to Harris and Blachford, and, of course, would have reduced by so much the sum for which the United States became responsible by virtue of the second act of indemnity for General Greene's estate; but whether, in case that bill had passed into a law, the said money would have been paid to Warrington or to Henry Hill, by virtue of his assignment, the committee cannot decide.

The facts here stated appear in the various reports and other documents respecting this business which are now on the files of the House; but, as the papers are numerous and detached, the committee, instead of merely referring to them, have thought best to form a connected statement of those facts which appear to be material.

This they now present, and hope it is so full as to avoid the necessity of any further research, and that it may furnish all the information requisite for guiding the House in its decision.

The engagement by John Banks to General Greene and his creditors, that the money which should become due to him on the contract should be applied to the payment of the debts for which General Greene was surety, having been long previous to the negotiation under which the petitioner claims, it appears to the committee that those who claim under General Greene and said creditors have clearly the best right to all moneys which may remain due on said contract account; and that the United States having indemnified the estate of General Greene for the engagements entered into by him as aforesaid, all right to this money which was in General Greene, on the said creditors, whose debts they have paid, must be considered as vested in the United States.

Indeed, laying aside the consideration of the order by John Banks to apply the contract money to the payment of those debts, the committee conceive that, as the debt which the United States owed to John Banks was not assignable in its original nature, or made so by any subsequent agreement of the United States, they are entitled to retain it in part payment of the debt which has since become due to them from John Banks.

Whereupon the committee submit, for the consideration of the House, the following resolution, to wit:

Resolved, That the accounting officers of the Treasury cause the sum of \$9,768⁸¹/₁₀₀, charged to the contract account of John Banks on the 31st day of December, 1783, to be credited to the said John Banks; and that the sum so credited be charged to the accounts of such other person as, in their opinion, shall be justly chargeable therewith; and that they charge the said contract account with all such sums as have been paid by the United States, to indemnify the estate of General Greene for debts by him paid, or secured to be paid, of the said John Banks, or of John Banks and Co.

DR.

Charles Pettit, Esq., in account current with John Banks.

CR.

| Dates. | Names. | Dolls. 90ths. | £ s. d. | Dates. | Names. | Dolls. 90ths. | £ s. d. |
|----------------|--|---------------|-------------|----------------|--|---------------------------------------|--------------|
| 28 July, 1783, | To Turnbull's draught on Turnbull & Co. - - | 50 00 | 11 13 4 | Oct. 30, 1783, | By balance per your estimate of this date, - | 31,697 00 | 7,395 19 4 |
| " " " | To arrearages in February, - \$1,348 46 | | | " " " | By sum paid Mr. Warrington, - \$729 60 | | |
| " " " | To arrearages in March, - 3,245 46 | | | " " " | By sum paid Mr. Collet, - 1,122 00 | | |
| " " " | To warrant for April issues, - 20,854 60 | | | " " " | By sum paid H. & B. Blachford, - 2,370 30 | | |
| " " " | To account for May and June issues, 35,787 22 | | | " " " | Commission, - 42 00 | | |
| | | 61,235 84 | 14,288 7 8 | | | 4,264 00 | 994 18 8 |
| December, " | To issues in July, - - \$7,344 13 | 7,344 13 | 1,713 12 8 | " " " | By Captain Burrows, - - - - | 200 00 | 46 13 4 |
| " " " | To bill of General Greene on R. Morris, at sight, - 200 00 | 200 00 | 46 13 4 | " " " | By Lewis Morris, - - - - | 300 00 | 70 0 0 |
| " " " | To bill of General Greene on R. Morris, at sight, - 200 00 | 200 00 | 46 13 4 | " " " | By Thomas Elliot, for draught at 30 days, - - | 233 19 | 54 7 6 |
| " " " | To bill on J. Pierce, in favor of Colonel Kosciusko, - 64 00 | 64 00 | 14 18 8 | Jan. 27, " | By Major Butler's bill, at 30 days, - - - | 280 63 | 65 10 0 |
| " " " | To bill on J. Pierce, in favor of Captain Cairns, - 12 00 | 12 00 | 2 16 0 | Feb. 7, " | By John McQueen's bill, at 30 days, \$642 48, or - | 642 70 | 150 0 0 |
| " " " | To two bills on J. Pierce, in favor of John Hurt, - 56 00 | 56 00 | 13 1 4 | " " " | By Lieutenant Hamilton, clothier general, due him, - | 16,747 33 ¹ / ₂ | 2,507 14 8 |
| " " " | To two bills on J. Pierce, in favor of Benj. Williams, 13 48 | 13 48 | 3 3 1 | " " " | By General Greene, due on public account, - | 4,691 33 ³ / ₄ | 1,094 13 1 |
| | | 69,175 55 | 16,140 19 5 | | | 53,056 44 | 12,379 16 7 |
| | To balance per contra, | \$16,119 11 | £3,761 2 10 | | Balance, | 16,119 11 | 3,761 2 10 |
| | | | | | | \$69,175 55 | £16,140 19 5 |

Mr. James Miller, in his letter of September 11, 1792, to H. Hill, says, Mr. Pettit convinced him that the balance was only about \$9,600.

(Errors excepted.)

CHARLESTON, April 7, 1784.

JOHN BANKS.

CHARLESTON, *April 7, 1784.*

I, John Banks, by these presents, do make and constitute James Miller my assignee in and to what money and other profit which shall be found due to me upon the result of final adjusting and settlement of the within account betwixt Charles Pettit and me: hereby constituting and appointing the said James Miller in my full right and place of the premises, for now and ever, with power to uplift, discharge, and pursue for the same, transact thereanent, and to do every thing I might have done myself before granting this assignation; which assignation I bind and oblige myself, my heirs, and executors, to warrant to the said James Miller, his heirs and executors, from all facts and deeds done and to be done by me or my aforesaid prejudicial thereto.

In witness whereof, I have hereunto set my hand and seal this seventh day of April, one thousand seven hundred and eighty-four.

JOHN BANKS. [L. s.]

Test: DANIEL MUNROE.

SIR:

PHILADELPHIA, *January 16, 1798.*

The account you left with me, dated Charleston, April 7, 1784, signed John Banks, purporting to be an account current between me and the said John Banks, and stating a balance in his favor of \$16,119 $\frac{11}{10}$, with an assignment on the back of it, transferring the right to receive the balance to Mr. James Miller, was presented to me in or about the year 1784, and the balance demanded by the said Mr. Miller, or by you as his transferee, to whom I paid such balance as appeared to be due from me to Mr. Banks. But the balance so paid was, to the best of my remembrance, not more than between fifteen and sixteen hundred dollars, owing to several items in the account subsisting between us, which do not appear in the account above described and alluded to.

Mr. Banks was the contractor for supplying the Southern army with provisions, and as he was to receive payments from the Treasury, in Philadelphia, at stated periods after furnishing accounts of the issues of provisions, he authorized me, by power of attorney, to receive the money for him. On sending forward the accounts, he usually debited me with the amount. I passed the money to his credit when I received it. Hence a difference appeared in our respective accounts, as some deductions were occasionally made at the Treasury from his demands. One of the most material of the items which occasioned the variance arose from a charge made by the Superintendent of Finance for a balance said to be due from Major Burnett, amounting, with interest charged upon it, to \$9,768 $\frac{81}{100}$. I refused, in behalf of Mr. Banks, to admit this as a charge against him as contractor. But it was said that Major Burnett was his partner, and that Mr. Banks and he might settle the matter. I persisted in opposing the charge, as well for the reason above suggested, that Mr. Banks alone was the contractor, as by denying that such balance was due from Major Burnett. But the Superintendent, having the power in his own hands, stopped the money out of the contract accounts, of which I gave early notice to Mr. Banks.

The balance claimed from Major Burnett arose from public bills of exchange transmitted from General Greene to me for sale, of which Major Burnett was the bearer; but this transaction was previous to his connexion in business with Mr. Banks, or even an acquaintance with him. The balance arising from the sale of the bills was retained in my hands by permission of General Greene, and credited as so much public money in the account of the then late Quartermaster General's Department, and accounted for accordingly in the settlement of General Greene's accounts as quartermaster general. So that neither Major Burnett nor Mr. Banks remain chargeable with it by the United States.

I am, respectfully, sir, your most obedient servant,

CHARLES PETTIT.

PHILADELPHIA, *January 26, 1798.*

I certify that Henry Hill, Esquire, of Philadelphia, attended at the office of the Auditor of the Treasury, in the winter of the year 1789-90, and presented to me his claim against the United States for a balance due on a contract with John Banks, and assigned by him to James Miller, with vouchers.

OLIVER WOLCOTT, *late Auditor of the Treasury.*

5th CONGRESS.]

No. 98.

[2d SESSION.]

CLAIM AS A SUPERNUMERARY AID-DE-CAMP TO THE LATE MAJOR GENERAL WAYNE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1798.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Thomas Lewis, made the following report:

That he asks for compensation as a supernumerary aid-de-camp to the late Major General Wayne, from the sixteenth of July, one thousand seven hundred and ninety-four, to the time of the general's death.

The committee find that two aids were allowed to General Wayne; that two were in service, and have received their pay and emoluments accordingly; and that one of those acted as his secretary while he was employed as commissioner for treating with the Western Indians. They further find, that the petitioner, at the time when he states he was appointed a third aid-de-camp, was a captain in the service of the United States, and that he has received the pay and emoluments of a captain in the line.

It is understood that it has not been usual to allow an officer pay in two capacities at the same time. The committee, believing this principle to be just, report, as their opinion, that the prayer of this petition ought not to be granted.

5th CONGRESS.]

No. 99.

[2d SESSION.

BILLS ISSUED BY THE RESPECTIVE STATES, CALLED "NEW EMISSION BILLS."

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1798.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom were referred the petitions of Joseph Ball, William Henderson, W. and F. Constable, Samuel Ward, and Nathaniel Prime; and of Jeremiah Allen, John Marston, Joseph Ward, Daniel Austin, and William Dana, for themselves and others, holders of bills of credit issued pursuant to a resolution of Congress of the 18th of March, 1780, commonly called "new emission bills," made the following report:

That a statement of the case of the holders of bills of this description is contained in a report of the accounting officers of the Treasury made on the 24th day of December, 1795, in pursuance of an act entitled "An act relative to claims against the United States, not barred by any act of limitation, and which have not been already adjusted," in the words following, to wit:

"Class 8. The claims of this class are founded on bills of credit commonly called bills of the new emissions, issued on the funds of individual States, pursuant to an act of Congress of the 18th of March, 1780. The following clause of the said act shows in what event the United States were to become answerable for the payment of these bills: 'that the said new bills issue on the funds of individual States for that purpose established, and be signed by persons appointed by them; and that the faith of the United States be also pledged for the payment of the said bills, in case any State on whose funds they shall be emitted, should, by the events of war, be rendered incapable of redeeming them.'

"The interest accruing on them was to have been paid by the United States annually, if called for, in bills of exchange on Europe, and the amount charged to the States respectively. It does not appear, however, that any such payments were made.

"It is understood that the several States concerned have passed laws providing for the redemption of their respective portions of this money, and it is presumable that the far greater part thereof has been redeemed accordingly. The bills for which payment is now claimed are chiefly of those issued by the States of New Hampshire, Massachusetts, and Rhode Island.

"This species of paper has never been considered as forming any part of the debt of the United States."

In the various arrangements which have been made since the establishment of the present Government, relative to the debt of the United States, no provision has ever been made for these bills; they appear, from the face of them, to be evidences of debt against the States individually who had issued them, and could not be provided for by the United States, without raising a charge against those States; and it was reasonably to be presumed that the States concerned would make such provision as the justice and equity of the case required.

The Secretary of the Treasury, in his report of the 16th of January, 1795, recommended that such of these bills as had been exhibited at the Treasury in pursuance of the act entitled "An act relative to claims against the United States not barred by any act of limitation, and which had not been already adjusted," amounting to the sum of \$90,574 should be provided for by taking the principal sum of them, without interest, on loan at five per cent., payable quarter-yearly, redeemable at the pleasure of the United States, and payable in thirty years; he remarks "that the resolutions of Congress and the endorsement upon those bills engage the absolute promise of the United States for the payment of the interest indefinitely, and their eventual guaranty of the principal, in case any State on whose funds the bills should be emitted should, by the events of war, be rendered incapable to redeem them; which is, in effect, though not in form, an absolute guaranty of the principal; for the United States are bound to pay the interest perpetually till that is discharged.

"Good faith demands that the United States should supply the omissions of the States which issued the bills, by providing, themselves, at least for the interest upon them; but it is not as easy to pronounce on what terms they ought to be provided for.

"On their face, and according to the *unrevoked* resolutions of Congress, they are of specie value equal to their nominal amount, bearing five per cent. interest.

"But it is known that they were issued by different States at different inferior values fixed by previous laws.

"The true nature of the contract, therefore, and the true equity of the case, are from these circumstances involved in some question."

The proposition of the Secretary on this subject was not adopted by Congress.

It is a fact notorious that these bills sunk in the same vortex of depreciation with the old continental bills, and, while they continued to circulate, were generally in the ratio of forty of the old for one of the new.

This unfortunate depreciation, which operated upon all the paper money, notes, and certificates, issued during the war, necessitated the United States to adopt principles relative to them which cannot apply in cases of ordinary contract; the States, individually, have assumed similar privileges; and, in making provision for the bills in question, in some instances have considered them as a depreciated currency.

The committee are informed that all the States who issued bills of this description have already made provision for their redemption, either at their nominal amount or at a certain ratio of depreciation except the State of Rhode Island; and they think it is fairly to be presumed that the States have made as liberal a provision as the nature of the case demanded.

The United States have once made allowances to the several States in settlement of their accounts for the supplies for which those bills were issued; should they make any further provision, they must consider the several States as indebted to them for the amount of such provision.

From an attentive consideration of all the circumstances of this case, which the committee have endeavored fully to examine and present to the view of the House, they are of opinion that it will not be expedient for Congress to make any provision for the payment of said bills; they therefore recommend that the petitioners, respectively, have leave to withdraw their petitions.

[5th CONGRESS.]

No. 100.

[2d SESSION.]

LOST CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 9, 1798.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom were referred the memorials and petitions of George P. Frost, Charles Jackson, Gassaway Watkins, George Read, Thomas Underwood, Jabez Hall, Grove Pomeroy, Alexander Roxburg, and Philip Bush, made the following report:

That these petitioners severally seek to obtain renewals or compensation for loan office certificates, final settlements, and quartermasters' certificates, land warrants, and lottery tickets, which they allege they once possessed, and which are severally stated to have been accidentally lost or destroyed.

The resolutions of Congress of the 10th of May, and of the 18th of July, 1780, provided for the renewal of loan office certificates destroyed through accident, and prescribed the terms on which such certificates might be renewed.

By the act of Congress of the 24th of April, 1794, entitled "An act limiting the time for presenting claims for destroyed certificates of certain descriptions," the provisions in case of loan office certificates were extended to final settlements; and further regulations were made respecting the renewal of certificates of each of those descriptions. By the same law it was expressly enacted, that all claims for the renewal of such certificates should be forever barred and precluded from settlement or allowance, unless the same should be presented at the Treasury on or before the 1st day of June, 1795.

No provision appears to have been made, at any time, by the United States, for the renewal of quartermasters' certificates, land warrants, or lottery tickets.

A great number of applications, similar to those contained in the petitions now under consideration, have been heretofore made to Congress, both before and since the passage of the act above mentioned.

The committee do not find that provision has, in any instance, been made, other than by the general regulations and law above referred to.

At the last session of the last Congress, a select committee was appointed for the express purpose of considering and reporting on a motion then made relative to a provision, by law, under specific restrictions, for the renewal of destroyed certificates of certain descriptions.

That committee made a report against the measure proposed.

It was justly stated by them "that most of the cases where certificates of the public debt are said to have been destroyed, took place before the passing of the said act of the 24th of April, 1794, and probably a great proportion of them before the passing of the said resolution of the 10th of May, 1780; from which circumstance, as well as the nature of the subject, it would be extremely difficult, if not impossible, at this time, to guard against fraud and imposition should further provision be made for renewing them." That committee further stated, "that they could not find stronger reasons in favor of keeping in force the statutes of limitation, in relation to any class of claims, than to that contemplated in the resolution referred to them; they were, therefore, of opinion that the House ought not to agree to the same." That report was considered, and, after a full and deliberate discussion, was agreed to by the House.

The committee do not find any reasons which will apply with more force, if so powerfully, in favor of provision being made for quartermasters' certificates, land warrants, and lottery tickets, than for the other kinds of certificates.

Precedents have been already thus established by authority, which the committee feel themselves bound to respect.

They apprehend the House would not adopt principles in these cases different from those which influenced on former like occasions; and thereupon they respectfully submit, as their opinion, that the several petitions aforesaid ought not to be granted.

[5th CONGRESS.]

No. 101.

[2d SESSION.]

INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 26, 1798.

Mr. DWIGHT FOSTER made the following report:

The Committee of Claims, to whom was referred a motion in the following words, to wit: "*Resolved*, That a committee be appointed to inquire whether any, and, if any, what amendments ought to be made in the acts respecting invalid pensioners, and to report by bill or otherwise," having examined the several laws relative to that subject, and taken the same into consideration, now submit the following report:

As early as the 26th day of August, 1776, Congress adopted resolutions by which commissioned and non-commissioned officers and private soldiers in the army, commanders, commission and warrant officers, marines, and seamen of any of the vessels of war or armed vessels belonging to the United States, wounded or disabled in the service, were, under the restrictions and limitations expressed in said resolutions, to be placed on the pension list, and provided for at the public expense.

At various periods afterwards, in the course of the war, we find Congress making divers provisions and arrangements for the officers and troops of the United States, as well those wounded and disabled as others.

Upon the 7th of June, 1785, some time after peace had been established and the army disbanded, the subject appears to have been particularly under the consideration of Congress. Divers resolutions regulating claims to

military pensions, and allowing officers to return their commutation, were then adopted. Among others which passed on that day, we find the following, which are selected as designating the principles on which grants of this kind were made, to wit:

Resolved, That it be, and it is hereby, recommended to the several States to make provision for officers, soldiers, or seamen who have been disabled in the service of the United States, in the following manner:

1. A complete list shall be made out, by such person or persons as each State shall direct, of all the officers, soldiers, or seamen, resident in their respective States, who have served in the army or navy of the United States, or in the militia in the service of the United States, and have been disabled in such service, so as to be incapable of military duty, or of obtaining a livelihood by labor. In this list shall be expressed the pay, age, and disability of each invalid; also the regiment, corps, or ship to which he belonged; and a copy of the same shall be transmitted to the office of the Secretary of War, within one year after each State shall pass a law for this purpose; and a like descriptive list of the invalids resident in the respective States shall, from year to year, be annually transmitted to the office of the Secretary of War.

2. No officer, soldier, or seaman shall be considered as an invalid or entitled to pay, unless he can produce a certificate from the commanding officer or surgeon of the regiment, ship, corps, or company in which he served, or from a physician or surgeon of a military hospital, or other good and sufficient testimony, setting forth his disability, and that he was thus disabled while in the service of the United States.

3. That all commissioned officers within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military duty, or of obtaining a livelihood, be allowed a yearly pension equal to half of their pay, respectively; and all commissioned officers, as aforesaid, who shall not have been disabled in so great a degree, be allowed a yearly pension, which shall correspond with the degree of their disability compared with that of an officer wholly disabled; that all non-commissioned officers and privates within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military or garrison duty, or of obtaining a livelihood by labor, be allowed a sum not exceeding five dollars per month; and all non-commissioned officers and privates, as aforesaid, who shall not have been disabled in so great a degree, be allowed such a sum as shall correspond with the degree of their disability compared with that of a non-commissioned officer or private wholly disabled.

4. That each State appoint one or more persons of suitable abilities to examine all claimants, and to report whether the person producing a certificate setting forth that he is an invalid be such in fact, and, if such, to what pay he is entitled; and thereupon the persons appointed to make such inquiry shall give to the invalid a certificate, specifying to what pay he is entitled, and transmit a copy to the person who may be appointed by the State to receive and record the same.

5. That each State be authorized to pay to the commissioned officers, non-commissioned officers, and privates, the sum or sums to which they shall be respectively entitled, agreeably to the before-mentioned certificates; the said payments to be deducted from the respective quotas of the States for the year on which they shall be made: *Provided*, That no officer who has accepted his commutation for half-pay shall be entered on the list of invalids, unless he shall have first returned his commutation.

Upon the 14th of September, 1786, to remedy inconveniences experienced by some officers applying for pensions, who had sold their commutation certificates, Congress resolved "that invalid officers be permitted to return their commutation in other securities of the United States, where they have parted with their own, provided the same shall be of equal amount, and bearing the same interest." Upon the 12th of July, 1787, a further provision was made, "that all officers in the line of the late army entitled to pensions in pursuance of the acts of Congress in that behalf made, should, previous to the receipt of such pension, deposit with the proper officers appointed to discharge the same in the State in which they reside a certificate from the commissioner of army accounts, purporting that no balance was due from the claimants to the United States."

The last important regulation made by Congress, under the old Government, relative to the invalid establishment, was on the 11th of June, 1788. On that day Congress resolved, "that each State should have credit in its general account with the United States for such sums as became due to invalids before the 1st day of January, 1782, and which had been or should be paid to them by the State; and for such sums as became due to invalids, from the said 1st day of January, 1782, inclusive, to the 1st day of January, 1788, and which had been or should be paid to them by any State, the State should have credit in the existing specie requisitions of Congress; and for sums that might so become due after January, 1788, and be paid by any State, the State should have credit in the specie requisitions of Congress which might thereafter be made."

They further resolved, that no person should be entitled to a pension as an invalid, who had not, or should not, before the expiration of six months from that time, make application therefor, and produce the requisite certificates and evidence to entitle him thereto.

That limitation took effect on the 11th day of December, 1788.

After the adoption of the present constitution, during the *first Congress*, acts were passed providing for certain individuals, and for the discharge of the arrears of pensions due to officers, non-commissioned officers, and soldiers, and assuming, from the 4th day of March, 1789, the payment of the pensions certified by the several States.

By the act passed on the 23d of March, 1792, the operation of the acts of limitation of claims for invalid pensions were so far suspended, that all persons who had become invalids, in the service of the United States, during the war, might apply for pensions for the space of two years from the time of passing the act, and, under certain restrictions, might be placed on the pension list.

On the 28th of February, 1793, an act passed, repealing, in part, that of March the 23d, 1792, and allowing two years from the said 28th of February, 1793, for the application of invalids, under certain restrictions, expressed in said act. By virtue of the last mentioned law a large number of individuals have been placed on the list, and are now in the receipt of pensions, according to the several rates ascertained by the examining physicians, appointed by the district judges, pursuant to said law.

In the year 1795, sundry claimants for pensions having made application for arrears, the subject was referred to the Committee of Claims, and was brought into the view of Congress by a report from that committee on the petition of Joab Stafford. The reasoning contained in that report against an allowance of arrears, appears to the committee to have been well founded, and to have merited the sanction given it by Congress.

The extracts which follow evince, in some measure, the principles which induced the passing of the law of the 21st of February, 1795.

"The pensioners claim an original promise of Government, founded on the principles of justice, that all persons who should become invalids, under certain circumstances, should receive pensions, in nature of a maintenance, and that such maintenance, both from the terms and nature of the promise, should commence at the period of their becoming invalids, or when their full pay ceased. They suppose Government ought to adopt the same rule of construction, when contemplating this promise, as a court of justice would adopt, were it in the power of the

claimants to bring the question before such court; and that the laws of the United States have, by repealing the limitation acts, revived the original promise in all its extent; and that the very circumstance of their being placed on the pension list precludes the necessity of any further proof or argument that they are entitled to arrears.

"The committee are of opinion that this act of the 28th February, 1793, is not a repeal of any limitation act, so as to revive any former act respecting invalid pensioners; and that all persons claiming under this law are allowed a pension from the time they prove an existing disability, but can, by the law, claim no arrears. In point of equity, if maintenance is the meaning of this pension, because the invalid is rendered incapable of labor, it is some proof that, antecedent to the applications under the existing law, the applicants were able to procure a maintenance, or they would have applied before, when so many opportunities offered. And although the committee, who reported on the returns of invalids last session of Congress, supposed, and the Legislature, by accepting and passing the law they reported, confirmed the supposition, that the most strict construction of that part of the law now in force which directs that a good and sufficient reason shall be given why application was not antecedently made, ought not to be given against the invalids as to future maintenance; yet it is clear a more strict construction is justifiable in reference to arrears.

"The excuses for most of these persons are merely those of inconvenience, on their part, to have applied sooner; certainly, if they could not have procured a maintenance, they would have been excited to a more early attention. Add to this, that a considerable proportion of the sum of these arrears will be given to commissioned officers. There is a manifest reason why they did not apply sooner, as they were obliged, in all instances of admission on the pension list, to return commutation, if they had received it. The arrears of a full pension will now purchase the commutation to be returned, and leave a handsome sum over; which, in fact, will place the officer in a situation to receive what he has accepted as an equivalent to half-pay for life, and, in addition, a pension equal to half-pay for life, which, in effect, is placing him on full pay, whereas no pension is to exceed half-pay. In addition, no proper rule can be adopted to ascertain the ratio of arrears, as the present inability, in almost all instances, must have increased with the age of the invalid, and many concurring accidents, which would render it unjust that the present monthly allowance should be the ratio for arrears; and unless a tribunal be established for that purpose, no other ratio can be adopted."

By the last-mentioned law, entitled "*An act supplementary to the act concerning invalids*," it was enacted "that the right any person then had, or might thereafter acquire, to receive a pension, by virtue of the act passed on the 28th day of February, 1793, entitled "*An act to regulate the claims to invalid pensions*," should be considered to commence at the time of his completing his testimony before the district judge, or commissioners, pursuant to the said act; and that nothing should be allowed to any invalid of the description aforesaid, by way of arrears of pension, antecedent to the date of his completing his testimony, as aforesaid; and that the pensions allowed under the said act should be continued to the respective pensioners, during the continuance of their disability."

It was also further enacted, "that no commissioned officer who had received commutation of half-pay should be paid a pension as an invalid, until he should return his commutation into the Treasury of the United States, except where special provision had been made, in particular cases, for allowing pensions on the return only of certain portions of the commutation."

Upon examination of the testimony taken before the district judges and commissioners, pursuant to the act of the 28th of February, 1793, it was found that the examining physicians, in many instances, had neglected to ascertain the ratio of disability, and, consequently, that the applicants could not be placed on the list. To relieve those individuals, a resolution was passed on the 18th of April, 1796, providing that new returns should be made by the examining physicians, specifying the ratio of disability, that the proper order might be taken thereon by Congress.

Pursuant to that resolution, additional numbers have been already provided for, and the committee expect more will yet be returned, and entitled to be placed on the list.

The preceding pages contain a general view of the regulations adopted by the United States on this subject.

The committee think the provisions heretofore made for admission of claims of this nature have been as extensive as the principles of justice, equity, or good policy required; and that it would not be expedient to make any alteration in the existing laws.

INDEMNITY FOR LOSSES SUSTAINED BY THE MILITIA IN 1794.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 5, 1798.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom had been referred the memorials and petitions of sundry inhabitants of the four western counties of Pennsylvania, made the following report:

That the petitioners seek compensation for sundry losses and damages, which they allege to have sustained by the militia army which was ordered into those counties to suppress the insurrection in the year 1794.

It is not in proof before the committee whether any, or, if any, what loss or damage was sustained by the petitioners. If the petitioners furnished supplies for the army, or had their property taken or used by the public, the powers of the accounting officers are adequate to the settlement and liquidation of their demands; but if their demands are not of a nature to come within the authority of such officers for settlement, they must stand on the same basis with all others, when sufferings result from the ravages of war.

Government have never made a general rule to compensate people who have suffered in a similar manner, and the committee conceive that it would not be expedient to make any special legislative provision for them.

A report against the first-mentioned petition was made on the 31st of May, 1796, but that report has never been acted upon by the House. The committee are of opinion that the prayer of these petitions and memorials ought not to be granted.

5th CONGRESS.]

No. 103.

[2d SESSION.

INDEMNITY FOR MONEY LOST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 16, 1798.

Mr. DWIGHT FOSTER made the following report:

The Committee of Claims, to whom was referred the petition of Jonathan Haskell, with a report of the former Secretary of War thereon, [See No. 34,] having examined and considered the same, submit, as their opinion, that it would be right and expedient for Congress to agree to the report of the Secretary of War in this case.

It is in proof before the committee, that since the loss of the small sum for which he prays an allowance, and which stands charged against him on the books of the Treasury, and long after this petition was presented, the petitioner saved to the United States \$4,900, which had been lost by the wreck of a boat descending the river Ohio. Circumstances were such, that had Captain Haskell been dishonestly inclined, he might, without being exposed to detection or suspicion, have converted the whole of that sum to his own use; like an honest man, however, he caused it to be restored to the proper officer, for the use of the United States.

His character for integrity and uprightness has ever stood fair and unimpeached, and the committee have no doubt of the truth of the statement contained in the petition. They think it reasonable he should be relieved, and therefore submit, for the consideration of the House, the following resolution, to wit:

Resolved, That the proper accounting officers be directed to credit and allow to Jonathan Haskell the sum of two hundred and fifty-eight dollars and twenty-five cents, placed in his hands for the use of the detachment under his command, and by him lost in the month of September, 1791.

5th CONGRESS.]

No. 104.

[2d SESSION.

INDEMNITY FOR LOSSES SUSTAINED BY THE INSURGENTS IN 1794.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 2, 1798.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Benjamin Wells, made the following report:

That the petitioner states that he was collector of the revenue in the fourth survey of the district of Pennsylvania, in the years 1791, 1792, 1793, and 1794, and sustained, at different times, but principally in the year 1794, a considerable loss of property from persons in the western parts of Pennsylvania, who were opposed to the execution of the laws under which he acted. That he received, in virtue of the act of the 27th of February, 1795, the sum of eight hundred and twenty-seven dollars and fifty cents, but that that sum was only in part of the losses he had sustained, as the sum appropriated by said act fell short of the losses which had been sustained from the destruction of property by the insurgents; and therefore he prays further compensation. His actual loss and damage sustained by the rioters he states at one thousand five hundred and fifty-three dollars and fifty cents.

The committee conceive, that when individuals, whether officers of Government or private citizens, are obstructed in the prosecution of their business, or have their property destroyed by rioters, they must be left to seek their compensations by actions at law against those who have done them injuries; and had they any doubts of the justice of this sentiment, they would find themselves confirmed in it by the act of Congress referred to by the petitioner, and in virtue of which he has received the said sum of eight hundred and twenty-seven dollars and fifty cents. The sums provided to be advanced by that act, in aid of such officers of Government and other citizens who sustained losses of their property by the insurgents in the western counties of Pennsylvania, were not, by said act, to be given them in compensation for such losses, but to be accounted for by them in such manner as might, by law, thereafter be directed.

The committee are therefore of opinion that the prayer of this petition ought not to be granted.

5th CONGRESS.]

No. 105.

[2d SESSION.

INDEMNITY FOR LOSSES ON BULLION DEPOSITED IN THE MINT.

COMMUNICATED TO THE SENATE, JULY 9, 1798.

Mr. BINGHAM made the following report:

The committee to whom was referred a bill, entitled "An act for the relief of John Vaughan," with an instruction to make a particular report, report thereon:

That the petitioner, John Vaughan, solicits indemnification for the loss he sustained, in consequence of various depositories of bullion in the mint of the United States, for the purpose of being converted into coin.

That the law establishing the mint determined the value of standard silver which was to be issued in the shape of coin, which was to form an invariable measure of exchange, by becoming the circulating medium of the United States, and was fixed at the rate of 1,485 parts fine silver to 179 of alloy; the consequence of an arbitrary and sudden deviation from this standard, as it affects the political economy of the country, by its operation on the value of property, is irrelative to the present question; it is, however, a fact, that Mr. Rittenhouse, the first director of the mint, departed from the provisions of the law, which fixed the intrinsic value of the coin, and raised the standard, by mixing in the coinage of silver an over proportion of fine metal. His successor, Mr. Desaussure, "impressed (as he observes) with the weighty sanction of Mr. Rittenhouse's authority," persevered in this deviation, on a presumption that the law would be altered, and be made to accommodate to the change they had introduced. The succeeding director of the mint, Mr. Boudinot, aware of the extent of his responsibility, refused to sanction the errors of his predecessors, and ordered that the coinage should conform to the precise terms of the law.

In consequence of the system adopted by the two former directors, during whose administration Mr. Vaughan made his deposits, he received a less number of coins of a determinate value than by law he was entitled to, considering the quantity of standard bullion he had deposited; and the difference in the relative proportion of fine metal introduced into the legal and the assumed standards constitutes the foundation, and determines the extent of his claim.

In order to encourage the manufacture of the precious metals into coin, for the purpose of providing a national medium of exchange, the faith of the United States was pledged that, on the deposit of bullion at the mint, coins should be delivered, free of expense, at a fixed rate; any operation which deprives the depositor of the quantity he may claim violates a contract, and does him a wrong; for *which wrong* he is entitled to a remedy by application to the United States.

The committee, therefore, recommend that the bill entitled "An act for the relief of John Vaughan" should pass without amendment.

-DEAR SIR:

MINT OF THE UNITED STATES, April 20, 1798.

Agreeably to your request, I have caused the books and files of the mint to be carefully searched, and have compared them with the petition of Mr. John Vaughan referred to me by you. This was necessary before I could with propriety give a just statement of facts, as his petition relates to transactions previous to my appointment.

There is no evidence arising from the books or files of the mint, by which it can appear that any coins have ever been issued from the mint, but of the standard appointed by law. The report of the chief coiner, who has been in the mint from its first commencement, is, that the then director ordered all the coin to be made agreeably to the standard; but that the then assayer insisted that so great an alloy would prevent the rolling of the silver, and that the pure silver should be increased to 10oz. 16dwts. instead of 10oz. 14dwts. $4\frac{2}{3}$ grs. which was the legal standard.

When the present director came into office, he understood this had been done, which led him to issue an order strictly to adhere to the legal standard, leaving the consequences with the Legislature.

The assayer, who it was said had made the alteration, died very suddenly, immediately after the present director coming into office, so that he had no opportunity of examining into the reasons or principles of not adhering to the legal standard.

But to judge properly of the justice of Mr. Vaughan's petition, it will be necessary to analyze his complaint. It is not that he did not receive his whole quantity of silver deposited in the mint, but that the officers had not mixed so great a quantity of alloy with it, as was directed by law, by which the coin was purer than necessary, and of course the quantity lessened.

The act of Congress of April 2, 1792, does certainly direct the standard of the United States to contain 1,485 parts of pure silver to 179 parts alloy, to be formed of copper. It also appoints five commissioners, consisting of the Chief Justice of the United States, the Secretary of State, Secretary of the Treasury, Comptroller of the Treasury, and the Attorney General, to attend at the mint on the second Monday in February, in every year, to try the coin previously issued during the year. If they find it agreeably to the standard appointed by law, or within 144 parts of it, (which is termed the remedy,) the officers are to be discharged; but, if not, they are to report to the President, and the officers guilty of the offence are to be removed from office.

The commissioners did meet on the days appointed by law, and on assaying the reserved pieces of all the coins, previously issued from the mint, they found them all within the remedy appointed by law, and of course, discharged the officers concerned in the coinage. These commissioners, being the proper jurisdiction appointed by law, are the sole judges of this business; and they having on actual experiment determined the coinage to have been legal, it must be conclusive in this business.

If the former assayer did really decrease the quantity of alloy, (which seems to be probable,) I cannot conceive any principle on which he could have acted, consistent with common prudence, but that of its being within the remedy provided by law, as a latitude given to his discretion. This idea is strengthened by the addition to the fine silver, contended to have been added, so as to raise the standard of 10oz. 14dwts. $4\frac{2}{3}$ grs. equal to 10oz. 16dwts., which is within the smallest fraction equal to the 144 parts given by law as the remedy. However this conduct may discover a want of prudence, yet it was strictly legal, although it is pretty evident that the original design of the law was to guard against accidental errors, and not wilful ones. But even if the petitioner's complaints were ever so well founded, he could in justice only require permission to prosecute the assayer's bond for his own use, as it would be very unreasonable to make the Government liable for every officer's violation of his trust. On the same principle that the petitioner is entitled to redress from Government, every depositor to the amount of upwards of \$300,000 is entitled to equal justice. The extent of this claim must therefore appear rather extravagant. I ought not to omit the fact, that the deposit of 31,014oz. made by Mr. Cox, was made by him, not as a public officer, but as the private agent of Mr. Vaughan, who employed him for that purpose, and indemnified the mint, by an express agreement, against all losses occasioned by such agency; and, therefore, if he deposited that sum under a false standard, Mr. Vaughan must abide by the consequences of his misconduct.

With regard to the claim of the petitioner for the delay attending the coinage of his deposit of January, 1795, with those following, I conceive it is not well founded. The mint began its operations under great disadvantages, in October, 1794; these were increased by the first deposit, being that of the Bank of Maryland, of upwards of 90,000oz. of very base silver, yet by law was entitled to the first payment. Mr. Vaughan made his deposit the seventh in order, and therefore was necessarily postponed according to law; yet, from his urgent necessity for the money, and his silver being of purer quality, both the Bank of Maryland and that of North America, who were entitled to the priority, consented to his taking their place in part; and accordingly he received, on the 4th, 5th, and 7th of March following, \$20,000; April 2d, 7th, 21st, 28th, and 30th, \$34,000; 8th, 12th, 17th, and 20th of June, \$24,000; and so on, till the several deposits were paid, although these different payments were comprised

in single warrants, which, from the dates being at the time the warrants were signed, makes it appear as if the petitioner had lain out of his deposite till the date of the warrant. On the whole, the payments were made to the petitioner with less delay than could have been expected under the disadvantage of the petitioner being the seventh depositor.

On the whole, therefore, I cannot discover that the petitioner has any solid foundation for the support of his complaint.

I have the honor to be, with very great respect, dear sir, your obedient, humble servant,

ELIAS BOUDINOT, *Director of the Mint.*

The Hon. Mr. FOSTER.

To all whom it may concern:

MINT OF THE UNITED STATES, TREASURER'S OFFICE, *July 12, 1798.*

I do hereby certify, that John Vaughan, by himself, and by the agency of the Bank of the United States, did, between the 1st of January, 1795, and 21st November of the same year, inclusive, lodge in the mint of the United States, for coinage, bullion which contained two hundred and thirty thousand eight hundred and eighty-eight ounces ten penny-weights of standard silver, agreeably to the statement by him annexed to his petition to the Senate and House of Representatives, which, by examination, has been found to agree with the books of the mint; the whole of which silver was assayed by the late Albion Cox, assayer to the mint.

NATH. THOMAS, *Clerk to the Treasurer.*

Standard silver, 230,888oz. 10dwts.

Silver Bullion. No. 16.

MINT OF THE UNITED STATES, TREASURER'S OFFICE, *July 9, 1795.*

I acknowledge to have received from John Vaughan, of Philadelphia, merchant, silver bullion, weighing eleven thousand seven hundred and nineteen ounces and five pennyweights, to be assayed and coined, and for which, according to the value of standard silver therein contained, silver coins of the United States are to be delivered to the said John Vaughan, agreeably to law and the usage of the mint.

NICHOLAS WAY, *Treasurer.*

Gross weight 11,719oz. 5dwts.

TREASURER'S OFFICE, *July 11, 1795.*

By the assayer's return, the above-mentioned deposite is found to contain twelve thousand and sixty ounces and six pennyweights of standard silver, and is, therefore, equal in value to thirteen thousand nine hundred and fifteen dollars and seventy-three cents.

NICHOLAS WAY, *Treasurer.*

Standard weight 12,060oz. 6dwts.

Value \$13,915 73.

PHILADELPHIA, *July 11, 1798.*

The standard weight was 10.16 as formerly used in the mint, which is at the rate of 9 parts fine to 1 part alloy. Since the present director's administration, the legal standard has been adopted, 1,485 fine to 179 alloy.

On assaying the pieces that were reserved out of the coinages made from the bullion deposited by Mr. Vaughan and others, it was found that they were rather above the standard of 10.16 which Mr. Cox had in use.

JOSEPH RICHARDSON, *Assayer of the Mint.*

5th CONGRESS.]

No. 106.

[3d SESSION.]

INDEMNITY FOR LOSSES SUSTAINED IN CONSEQUENCE OF OBEYING A SUMMONS
FROM THE HOUSE OF REPRESENTATIVES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1799.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of John Rogers, made the following report:

That he says he repaired from the country of the Cherokee nation to Philadelphia, pursuant to a summons of the committee of the House of Representatives, to give testimony on the examination relative to the impeachment of William Blount; that, in consequence of his journey to Philadelphia, he lost several cattle which he had designed to drive to market. He prays that some person or persons may be appointed in the State of Tennessee to receive and adjust such accounts of losses as he may be able to substantiate.

It is understood that the petitioner has received compensation for his journey, expenses, and services, in obeying the summons of the committee. To make provision for settlement of claims of the nature set up by the petitioner would be introducing a new principle, and one which, in its consequences, the committee think would be highly improper. They therefore report that the prayer of this petitioner ought not to be granted.

6th CONGRESS.]

No. 107.

[1st SESSION

INDIAN DEPREDATIONS.

COMMUNICATED TO THE SENATE, JANUARY 23, 1800.

Mr. ANDERSON, from the committee to whom was referred the memorial of Daniel Smith, of the State of Tennessee, praying compensation for a negro man and two horses which were stolen from him by the Cherokee Indians, made the following report:

That, having examined the claim of the memorialist, they find that the negro man and horses are stated to have been stolen on the 4th day of March, 1794.

The committee have attentively examined the several treaties which were made between the United States and the Cherokee nation of Indians, prior to the period at which the theft is stated to have been committed. The treaty of Hopewell was entered into on the 28th day of November, 1785. The treaty of Holston was made on the 2d day of July, 1791. Neither of those treaties contains any article making provision for compensation for horses or other property stolen from the citizens of the United States by the Cherokee Indians. And your committee cannot find that any other treaty was made with the Cherokee Indians, until the 26th day of June, 1794, when a treaty was entered into with the Cherokee Indians, at the city of Philadelphia; the fourth article of which provides that the Cherokee nation do agree, in order to evince their sincerity of intention in future to prevent the stealing of horses, that for every horse which shall be stolen from the white inhabitants, by any Cherokee Indian, and not returned within three months, the sum of fifty dollars shall be deducted from the annuity of five thousand dollars, which sum is allowed by said treaty.

Your committee have seriously considered the principles upon which the claim of the memorialist is founded, and lament sincerely his loss: but knowing that an immense number of the citizens of the United States have been plundered of property to a very great amount, both by land and sea, in the same unwarrantable manner, and believing that the whole revenue of the United States would scarcely be commensurate to meet the demands of applicants in similar cases, should compensation be made in this, the committee are of opinion it would be inexpedient to open so extensive a field, and that therefore the prayer of the memorialist cannot be granted,

6th CONGRESS.]

No. 108.

[1st SESSION.

WIDOWS AND ORPHANS OF OFFICERS WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1800.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Susannah Fowle, made the following report:

That she represents herself to be the widow of an officer who died while in the service of the United States, in the year 1790, and prays that Congress would make some provision for her, in consideration of the loss of her husband. It has never been usual for any provision to be made in cases like that of the petitioner. The principles heretofore adopted by Congress for the relief of widows and orphans appear to have been liberal, and the committee are of opinion they ought not to be further extended. They, therefore, report that the petitioner should have leave to withdraw her petition.

6th CONGRESS.]

No. 109.

[1st SESSION.

REMISSION OF DUTY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1800.

Mr. HARPER, from the Committee of Ways and Means, to whom was referred the petition of David Wiley and others, made the following report:

The petition, besides some general observations on the nature of the still tax, which the committee do not think it necessary to examine, states, that the petitioner has suffered a loss from the drying up of the spring from which his distillery was supplied with water, whereby he was deprived of the use of his still during a considerable portion of the time to which his license extended, and he prays to be relieved from part of the duty in consideration of this loss.

The committee are of opinion, that the accident in question is of the number of those to which individuals must ever be exposed from the operation of revenue laws, however framed or modified; and that it is not consistent with the policy necessarily adopted, and hitherto adhered to by this Government, to insure against such accidents by reimbursing from the public purse those individuals on whom they may happen to fall. The true security against accidents of this particular description, and a security which, perhaps, will be found entirely sufficient, is that already provided by law, namely, to take licenses for shorter periods. In pursuance of these principles, the committee beg leave to recommend the following resolution, viz:

Resolved, That the prayer of the aforesaid petition ought not to be granted, and that the petitioners have leave to withdraw the same.

6th CONGRESS.]

No. 110.

[1st Session.]

DIPLOMATIC SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 4, 1800.

Mr. DWIGHT FOSTER made the following report:

The Committee of Claims, to whom were recommitted the several petitions of Stephen Sayre, with the several reports heretofore made thereon, have examined and considered the same, together with the documents which have been presented for their inspection, and thereupon now respectfully submit to the House the following report:

The object of the petitioner in his first petition appears to have been to obtain compensation for sundry services and expenditures which he said he made in Europe during the war with Great Britain.

A short statement of the measures pursued relative to this claim, and of the doings of Congress thereon, so far as the same have come to the knowledge of the committee, is submitted, as tending to elucidate the nature of the demand, and leading to a proper decision thereon.

The services for which compensation is claimed, in one account signed by Mr. Sayre, under date of December 1, 1797, are stated to have been performed from May, 1777, to January, 1779; and by this account he makes a balance due him from the United States to the amount of £4,643 6s. 8d. sterling, equal to \$20,637; in another account, signed also by Mr. Sayre, dated February 10, 1797, his services are stated to have been performed from May, 1777, to September, 1779; and by this account he makes a balance due him to the amount of £6,050 sterling, equal to \$26,888 88. In one other statement, previously exhibited by him, and dated January 1, 1794, the United States are debited for his services from May 1, 1777, to September 5, 1779, and two months for his return to America, being two years and six months, a principal sum, exclusive of interest, to the amount of £2,500 sterling.

The first application which appears to have been made to Congress relative to this matter was not till the 15th of February, 1785; at which time it appears, by a letter addressed to the Secretary of Foreign Affairs, Mr. Sayre made a representation that he withdrew himself from Great Britain in February, 1777, and went to Paris, with intention to embark for America; but it being proposed by the commissioners that he should go with Mr. Lee to Berlin, he did so; that, when all prospects of doing any public business at that court were at an end, he repaired to Copenhagen, and finally to Stockholm, where he was instrumental in rendering some essential services to his country. Having made this representation, he requested "to be favored with an opportunity of proving the facts above stated, the nature of the services he had rendered, and unfold, under proper circumstances, some matters of consequence to the public and to himself, and which he conceived could not, with propriety, be detailed in a public letter." This letter was laid before Congress, and, on the 22d of the same month, was referred to Mr. Jay, then Secretary of Foreign Affairs, "to investigate the facts and report thereon."

Mr. Jay, by letter, under date of February 25, 1785, requested Mr. Sayre "to state accurately, and particularly, in writing, the facts and the evidence of them on which his claims to compensation were founded." About six weeks afterwards, viz. on the 7th of April, 1785, the Secretary made and submitted to Congress the following report, viz:

OFFICE FOR FOREIGN AFFAIRS, *April 7, 1785.*

The Secretary of the United States for the Department of Foreign Affairs, to whom was referred back Mr. Sayre's letter of the 15th February last, "to investigate the facts and report thereon," reports:

That, agreeably to the order of Congress, he proceeded to investigate the facts in question, and, in sundry conferences with Mr. Sayre, heard and received all that he thought proper to say or offer on the subject.

That the several matters laid before him by Mr. Sayre may be arranged under the following heads, viz:

- 1st. His station and character.
- 2d. His political conduct, and his losses occasioned by it.
- 3d. His employment by the American commissioners.
- 4th. His services to America when not so employed.
- 5th. His account for expenses and right to compensation.

1st. On these points Mr. Sayre stated that, in the year 1775, he was an eminent banker in London, and in support of this fact produced a letter, dated the 29th of June, 1775, from Sir Simeon Stewart, a Member of Parliament for the county of Hampshire. This letter is in packet No 1, herewith sent.

That he enjoyed the friendship and good opinion of very distinguished characters, such as the late Lord Chat-ham, Lord Mahon, Lord Effingham, Baron Vander Capellan, &c.; and, as evidence of this fact, produced sundry letters from them to him; which are also enclosed in packet No. 1, herewith sent.

That, although his friends suffered by the failure of his bank, yet that their opinion of his honor and integrity remained unchanged. In proof of this he produced three letters, two from William James, a merchant in London, of the 18th of November, 1779, and the 18th of September, 1782; the latter of these is not signed, and the letters W. I. are subscribed to the former; the third letter was from John Robert Reynolds, a clergyman in London, dated in April, 1782, and signed John Robert R. These three letters are also enclosed in the packet No. 1, herewith sent.

2d. His political conduct, and his losses occasioned by it. On these points Mr. Sayre stated that, from the commencement of the late troubles, he took the American side of the question.

That he was one of the sheriffs of the city of London, and that he zealously promoted the opposition made to the then anti-American administration.

That, becoming by such conduct very obnoxious to the ministry, he was, on the 23d of October, 1775, committed to the Tower; and that the failure of his bank, and the loss of a very considerable part of his property, was owing to that circumstance.

That a strong attachment to the cause and service of his country induced him to quit England and go to Paris, at a time when Lord Rockingham and other noblemen endeavored to prevail upon him to stay, by promising him a seat in the House of Commons and a respectable place under Government, as soon as a change in the ministry should be effected.

3d. His employment by the American commissioners. On this point Mr. Sayre stated that in 1777 he went, at the instance of the American commissioners, with Mr. A. Lee, to Berlin. In support of this fact, there are in this office two letters from Mr. Lee to the secret committee, of the 13th May, and 11th June, 1777; extracts from which are enclosed in the packet No. 2, herewith sent.

That at the time the commissioners requested him to go to Berlin, they promised to recommend him to Congress for some appointment.

That Mr. Lee staid at Berlin about five weeks, and then returned to Paris.

That he remained at Berlin five months, at the request of the commissioners; but no other evidence of their having made such request appears.

That in 1778 he went to Copenhagen, at the request of the commissioners; and for evidence of this he referred to the subject and tenor of a letter he wrote the 7th of November, 1778, to Doctor Franklin, and the doctor's answer of 25th of December, 1778; and to a letter from Francis Lewis, Esq. to your secretary, dated the 16th ultimo. These three papers are enclosed in packet No. 2, herewith sent.

4th. His serving America, though not actually employed by the commissioners. On this point Mr. Sayre stated particularly—

That in 1779, the French minister at Copenhagen advised him to go to Stockholm, where there was a prospect of his being useful to America. Of this advice no other evidence appears; but for proof of his being there he referred to two letters, one from Jacob De Rou, of the 26th February, 1779, and the other from Doctor Franklin, of 31st of March, 1779; both of which are enclosed in the packet No. 3, herewith sent. Mr. Sayre explained the nature of his negotiations there; and, from his account of them, they were on great subjects and of extensive influence.

Mr. Sayre was apprized that the evidence of the foregoing facts, which resulted from his letters and papers, was less full and particular than might have been expected, and he assigned two reasons for it: 1st. That during the war, and especially in 1777, many letters passing from France to America miscarried; and, 2d. That the disputes which then subsisted between the commissioners occasioned his receiving so few letters from them.

5th. His account for expenses and right to compensation.

His account is herewith sent, marked No. 4.

Your Secretary is of opinion that Mr. Sayre is entitled to a reasonable compensation for his expenses and services while *actually* employed by the American commissioners; for that, although unsolicited and meritorious exertions in the cause of one's country may create claims to acknowledgment and attention, yet that they cannot (unless in certain rare and particular cases) be considered as a proper foundation for pecuniary demands.

Your Secretary therefore thinks that a copy of this report should be transmitted to Dr. Franklin and Mr. A. Lee, and that they be desired to inform Congress exactly how far, and in what manner and capacity, and upon what terms or expectations of reward, they had employed Mr. Sayre, to the end that Congress may thereby be enabled to do full justice to him as a public servant.

As to such of Mr. Sayre's services as do not fall within that line, he thinks it would not become him to suggest whether any or what degree or kind of acknowledgment should be made to him, especially as the order of reference, in pursuance of which this report is made, does not appear to him to comprehend either of those delicate questions.

All which is submitted to the wisdom of Congress.

JOHN JAY.

Here the whole business seems to have rested for more than eight and a half years longer. We learn nothing further respecting it till the 27th of December, 1793, when a petition was presented to the House of Representatives by Mr. Sayre, in which he states his having accompanied Mr. Lee to Berlin; that he had been encouraged to expect some diplomatic appointment under the United States, and represents himself as having been the principal agent in effecting the armed neutrality; that, to bring that object to maturity, he was obliged to visit Stockholm, and "in six weeks after his arrival there he was assured, in a personal conversation, by the King himself, that he would not only adopt every part of the system, but would press it upon the Empress of Russia immediately and incessantly, to make the first declaration of it." This the petitioner states he well knows the King positively did; having, after that declaration, himself been at St. Petersburg to profit under its influence as a merchant. He further says that, upon his return to Paris, in August, 1779, he applied to Mr. Franklin for repayment of the moneys he had expended for the public; "but was answered, that he must apply to Congress; that he did so in 1785, but was informed they were not then able to satisfy him; he therefore returned to Europe, resolving to wait events; and concludes his petition by a request that a committee might be appointed to examine his papers and make a report."

This petition was referred to Mr. Randolph, then Secretary of State, who made a report thereon favorable to the petitioner, and recommending that he should "be considered as secretary for the period of four months, and settled with as such, after deducting a credit of £83 6s. 8d., received by him in May, 1777." This report was referred to a committee of the House of Representatives, consisting of Mr. Parker, Mr. Smilie, and Mr. Bailey, who, upon the 5th of May, 1794, made a report, stating, as their opinion, "that Stephen Sayre was entitled to pay for his services whilst acting as secretary to Commissioner Arthur Lee, at Berlin, and going thence, at the rate of one thousand pounds sterling per annum; and also entitled to three months' pay, at the same rate, for subsistence in returning to the United States, with interest until paid, after deducting eighty-three pounds six shillings and eight pence sterling, paid him by the commissioners at Paris."

In conformity to this opinion, the same committee submitted to the consideration of the House a resolution, "that the accounting officers of the Treasury be directed to credit and settle the account of Stephen Sayre, as *secretary to the legation of the American commission at Berlin*; and that they allow him seven months' pay, at the rate of one thousand pounds sterling per annum, with interest thereon till paid."

The committee, at the same time, also submitted another resolution, recommending that he should be allowed a sum (not defined by the committee) "for extra services rendered the United States subsequent to the departure of Arthur Lee from the court of Berlin."

These reports were afterwards committed to a Committee of the Whole House, and, with all the documents accompanying the same, were taken under consideration; after very lengthy discussions, on the 15th and 16th of December, 1794, the resolutions aforesaid were severally disagreed to, and it was resolved, "that the said Stephen Sayre have leave to withdraw his petition."

To the next Congress, on the 29th of March, 1796, the petitioner presented another memorial, complaining of the decision of the former House, and again urging an allowance of his demands. On the last-mentioned memorial no decision has yet been had. It is the one now under consideration.

The committee have, with care and diligence, examined and endeavored to investigate facts, that they might be enabled to bring the subject fairly into the view of the House.

No important circumstances or documents are exhibited by Mr. Sayre, which were not fully known and apparent at the time when Mr. Jay made his report, nearly fifteen years ago, and which have not been before Congress and considered.

But there is one circumstance mentioned in the report of Mr. Randolph, for which the committee cannot account: whether the Secretary intended to state it as a fact which he had ascertained, or as a statement made by Mr. Sayre; in either case it does not appear to be correct. Speaking of the commissioners, he says, "that not a single letter, in their correspondence with Congress, though supported with diligence and attention, reached that body, from the 2d of June to the 8th of September, 1777; whereby he has lost the opportunity of finding any mention of himself, or of the engagements of the commissioners to him." By recourse to the records in the office of the present Secretary of State, divers public letters are found, which were written by the commissioners in the year 1777, and several within the abovementioned period; in none of them, however, do the committee find any mention made of Mr. Sayre, excepting in those referred to in Mr. Jay's report.

It appears by a letter, dated April 19, 1777, from the commissioners at Paris to Baron Schulenburg, that they had it in contemplation that one of them should go to Berlin, "to explain personally the situation of America, the nature, extent, and importance of its commerce, and the methods by which it might be carried on with Prussia to mutual advantage."

Pursuant to that plan, it appears that, in the month of May following, Mr. Lee did go to Berlin; that, writing to the secret committee of Congress on the subject of his proposed journey, on the 13th of May, he remarks, "that Mr. Sayre was to accompany him as secretary, Mr. Carmichael having refused to go unless the commissioners would give him a commission, which they did not think themselves authorized to do." After his arrival, which was on the 4th of June, in another letter, dated the 11th of that month, he says, "Mr. Sayre accompanies me in the place of Mr. Carmichael, who, after promising, refused to go."

These are the two letters before mentioned referred to by Mr. Jay, and are the only ones in which Mr. Sayre's name is found. By the after correspondence it appears that, the court of Berlin having refused to acknowledge the independence of the United States, Mr. Lee, after a residence of about five weeks, took his departure and returned to Paris.

There can be no doubt but Mr. Sayre remained some time afterwards at Berlin; but the committee cannot say they are satisfied he tarried as a secretary of legation, or as chargé des affaires, or as a public or an authorized agent; on the contrary, they verily believe he remained with views to his own private emolument; but, as in divers instances he has made the declaration, they doubt not he hoped for, and probably expected, some appointment from the United States. In this expectation he seems to have been disappointed.

In a statement made by him, which was printed, and which was called *the case of Stephen Sayre*, speaking of their being at Berlin, to account for a deficiency of papers and evidence, he says, "that all their letters, both public and private, were taken by their servant out of their trunks, at the time Mr. Lee remained at Berlin."

Among Mr. Lee's letters is one addressed to the secret committee of Congress, dated at Paris, the 29th of July, 1777, giving a particular account of his negotiations at Berlin. The following paragraph, relative to the loss of papers, is extracted from that letter, viz: "Whilst I was at dinner one day some person contrived to get into my chamber, which was locked, and broke open my desk, from whence he took all my papers. I soon discovered the robbery, and, alarming the police, the English envoy, who happened to be on a visit to the hotel when the alarm was given, immediately went home, and, in a few minutes, the papers were all returned, apparently unopened." Had Mr. Sayre been left at Berlin, in any public capacity, it is reasonable to suppose that the circumstance would have been mentioned by Mr. Lee, in making this report for the information of Congress. Nothing of this kind is found.

In the same printed statement, made by the petitioner, the committee find a reference to a letter from him to Doctor Franklin, dated November 7, 1778, and to the doctor's answer of the 25th of December following. Upon examining the papers, so far from finding any thing to confirm the idea of Mr. Sayre's acting as an authorized public agent, they find him engaged on the subject of a commercial speculation, and proposing that a vessel should be laden with military stores and sent to the States of Virginia and Maryland, and to return with tobacco, and that he should have the direction as supercargo. He strenuously urges the measure as one which, in its consequences, might be beneficial to the United States; and suggests that, "should any want of confidence still appear, he hopes the consignment of the ship and cargo would be thought safe if Mr. Francis Lewis should be joined with him; that he should have no objection to that, because he had always been his friend and patron in the line of commerce."

Doctor Franklin, in his answer, evidently considers the subject as a *private speculation*, and addresses Mr. Sayre in the following words: "I have considered the proposition you mention, and have given my approbation to it in the fullest manner. If it is carried into execution, I wish you all the success imaginable."

Enclosed, within the same letter from Doctor Franklin, the committee find a small piece of paper, signed by him, which Mr. Sayre says was sent by Mr. Franklin to the Danish minister, and couched in the following terms:

"PASSY, December 25, 1778. I have considered this proposition, and see no objection to it. I will write to the Congress in favor of it, if desired. The Congress, it is to be presumed, will draw no bills of exchange on me without enabling me to pay them. We have paid all their bills hitherto. I have no doubt of Mr. Sayre's being well received by the Congress, agreeable to them, and very proper to be employed in establishing the proposed connexion of commerce."

Mr. Sayre contends that he ought to be considered as a *secretary of legation*; and that, as such, under the resolutions of Congress in force at the time, he was entitled to a salary at the rate of £1,000 per annum. The committee do not so view the question. It does not appear that any gentleman ever held the office of secretary of legation but by an explicit appointment and commission from Congress. Mr. Sayre agreed to accompany Mr. Lee to Berlin. Mr. Lee, in a letter, styles him *his secretary*, which he well might, and yet Mr. Sayre not be considered as secretary of legation. While accompanying Mr. Lee on the excursion to and at Berlin, Mr. Sayre may properly be considered as his *private secretary*. On the settlement of Mr. Lee's accounts, at the Treasury, he stated that Mr. Ludwell Lee acted as *his secretary* from the 25th of March, 1778, to the 25th of March, 1780; he was allowed a salary at the rate of £300 per annum, and no more, and the account was settled accordingly.

Viewing Mr. Sayre in the same capacity, the committee see no reason why a distinction should be made between them. By a receipt, filed at the Treasury, it appears that he received from Mr. Lee the sum of 2,000 livres, on account of his journey to Berlin. This was allowed to him on the 15th of May, 1777, previous to his leaving Paris, and has since been allowed by the public, to the credit of Mr. Lee. It is to be noticed, that sum is equal to a salary, at the aforementioned rate, for more than three months, and for a longer period than the mission to Berlin continued.

It appears very extraordinary, as Doctor Franklin and Mr. Lee were both living at the time when Mr. Jay's report was made, and, as they both lived many years afterwards, and until a considerable time after the adoption of the present Government, if Mr. Sayre had well-founded claims against the United States, which had not been

satisfied, which those gentlemen only could substantiate, that he should not have applied for, and procured, certificates from them; so far from having done that in proper season, after he was apprized that their testimony was requisite to the adjustment of the account, he waited till they were both dead before he brought the subject again before Congress. This appeared the more extraordinary to the committee when they were informed that Mr. Lee was actually present in New York at the time when Mr. Jay's report was made, and that Mr. Sayre was there also.

Having received this intelligence, and accidentally learning that a gentleman of this city was at that time secretary to the then President of Congress, and frequently in company with Mr. Lee, the committee thought it possible his opinion might have been expressed, and even now be ascertained. Application was therefore made to ascertain the fact, and it was stated in answer that Mr. Lee had, in conversation, expressed an opinion against the propriety of the claim. The committee also inquired of Mr. Sayre why he did not apply to, and procure a certificate from, Mr. Lee. His answer was, that he did show the report to Mr. Lee, but he refused to give him any certificate to substantiate his claim; and further added, that there had been a personal quarrel between Mr. Lee and himself.

It is not in proof before the committee that any application was ever made, or attempted to be made, to Doctor Franklin, after the one which Mr. Sayre states that he made in August, 1779, when his application for payment was refused, and he was referred to Congress. There might have been sufficient opportunities for the purpose, had the petitioner been disposed to improve them. Doctor Franklin lived till the spring of the year 1790.

The petitioner has exhibited no evidence to the committee, which they conceive to be material, which was not before the House when the former decision was made. Upon an attentive and full consideration of the subject, the committee are of opinion the former decision was a proper one; that it should be confirmed; and that the petitioner should again have leave to withdraw his petition.

[NOTE.—See No. 89.]

6th CONGRESS.]

No. 111.

[1st SESSION.]

APPLICATION FOR PECUNIARY AID TO PROSECUTE A CLAIM AGAINST THE BRITISH GOVERNMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 13, 1800.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Beriah Norton, styling himself agent for and in behalf of the inhabitants of Martha's Vineyard, made the following report:

That he says he has a demand, in his said capacity, against the British Government for supplies furnished their troops during the revolutionary war, upon which a balance now remains due to the amount of £4,923 sterling; that he thinks the present a favorable time to apply to the British Government to obtain the said balance, and requests that Congress "will grant him such assistance as may enable him to pursue the business, in order to obtain a complete and full settlement." If any aid from the Department of State be requisite, which is proper to be afforded, there can be no doubt but, on making application, it will be extended.

From the statements made by the petitioner, and the documents which he exhibited to the committee, they are induced to believe a balance remains due from the British Government on this claim. The memorialist supposes that, by making another application, the said balance might be recovered.

The committee are of opinion it would not be expedient for Congress to make a grant of money to prosecute a private claim of this nature, and, therefore, that the prayer of this petition cannot be granted.

6th CONGRESS.]

No. 112.

[1st SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 14, 1800.

WAR DEPARTMENT, February 20, 1800.

The SECRETARY OF WAR, to whom were referred the petitions of William Milton and others, inhabitants of Greene county, in the State of Georgia, for compensation to a troop of militia dragoons, commanded by Jonas Fauché, for services stated to have been performed by them, from the 23d April, 1793, to the 25th July, 1794; of John F. Randolph, in the behalf of himself and the soldiers under his command, for compensation to a troop of militia dragoons, for services stated to have been performed, from the 13th of March, 1793, to the 1st of June, 1794; and of John B. Girardeau, for compensation to a troop of militia dragoons, for services performed from the 29th of April, 1796, to the 1st of January, 1797; respectfully reports to the House of Representatives of the United States:

That the frontiers of Georgia being threatened with hostilities by the Indians, in the latter part of the year 1792, the Governor of Georgia was, in consequence, informed by the Secretary of War, in a letter dated 27th

October, 1792, that the constitution of the United States having exclusively vested in Congress (which body was on the eve of a session) the power of declaring war, no offensive operations could be justified, until they were authorized by Congress, before whom every information relative to the hostile designs of the Indians would be laid; that as the evils existing, and apprehended from some of the southern Indians, might be greatly extended, it was submitted to the Governor as highly expedient that the militia should be well armed, and furnished with ammunition, as soon as practicable, so as to be ready for any event; that if the intelligence he received should clearly substantiate any hostile designs of the Creeks against the frontiers of Georgia, he ought to use the most effectual means of defence in his power, and required by the occasion. By a letter dated the 14th December, 1792, the Governor was advised of certain pacific appearances among the Creeks; and by another, dated the 9th March, 1793, that application had been made to the President, by the delegates from Georgia, to establish within the said State magazines of arms, ammunition, and provisions, and to make provisional arrangements for calling out the militia of the neighboring States on the apprehension of danger from the Cherokees; that although it was expected, from the measures taken to secure peace with the Cherokees, that arrangements to the extent required might not be indispensably necessary in the existing juncture, yet the President, desirous to avert apprehensions which might arise from a want of arms and ammunition, had directed a small magazine at Augusta of one thousand stands, and proportionable ammunition, the whole to be deposited with Major Robert Forsyth, with instructions, in case of an invasion, to issue such of them to the Governor's order as he might require, or to serve other purposes requisite for the interest of the United States; the arms issued to the militia, and not returned, to be charged to the State in an account with the United States; that the prospects of peace with the Cherokees and Creeks would render it inexpedient to form, immediately, magazines of provisions, and that the Governors of North and South Carolina had been written to relatively to any irruption of Indian parties on the frontiers. By a letter dated the 29th April, 1793, that information had been recently received from Governor Blount, of the hostile disposition of the Upper Creeks, and mass of the Lower Cherokees, and of an existing war between the Chickasaws and Upper Creeks; that Governor Blount was on his way to Philadelphia to concert with the Executive the most advisable measures; that the President was desirous general principles should be adopted, applicable to the whole southern frontier, and that the result would be transmitted. By a letter dated the 30th May, 1793, that from considerations of policy, at this critical period, relative to foreign Powers, and the pending treaty with the northern Indians, the President deemed it advisable to avoid offensive expeditions into the Creek country, but, from the circumstances of late depredations on the frontiers of Georgia, thought it expedient to increase the force in that quarter for defensive purposes; that he therefore authorized him (the Governor) to call into and keep in service, in addition to the regular force stationed in Georgia, one hundred horse and one hundred militia foot, to be employed under the orders of Lieutenant Colonel Gaither, in repelling inroads; the corps to be engaged of proper characters, to serve until the first day of May or June next, (1794,) unless sooner discharged, which the Government must hold the right of doing; that an additional thousand stands of arms and accoutrements, fifty barrels of powder, and a proportionable quantity of lead and flints, would be forwarded to Major Habersham, to be by him forwarded to Augusta, to the care of Major Forsyth, under like provisions with the former quantity; that as it did not appear the whole of the Creek nation were disposed for or engaged in hostility, it was considered the above force would be sufficient for the object designated; that the case of a serious invasion of Georgia by large bodies of Indians must be referred to the provisions of the constitution, and that the proceeding with efficacy in future (the necessity for which appeared too probable) required absolutely that no unnecessary expense should be incurred in the mean time; and that nothing might be wanting on the part of Government for defence of the frontiers of Georgia, scouts were authorized to be raised, at the rate of five-sixths of a dollar per day, as a better defence than block-houses; two men being considered equal to cover ten or twelve miles of a frontier.

That the force mentioned in the last above-recited letter, of the 30th of May, 1793, continued to be all (except, perhaps, a few men necessary to complete the garrisons for block-houses, authorized for every twenty-five miles of a line exposed to danger, by a letter to the Governor, dated the 14th of May, 1794,) that was authorized by the General Government, until the 25th of September, 1794, when an additional troop of horse was adopted by authority of the President; although it appears that the Governor of Georgia had, in the mean time, called out a considerable body of militia. As soon, however, as information was received of this circumstance, it was made known to him by the Secretary's letter, dated the 10th June, 1793; that in the case of invasion or imminent danger only, the measure taken could be considered indispensable, (placing it upon constitutional ground,) and a hope expressed, that as soon as the danger was over, he would reduce the troops to the number already authorized by the letter of the 30th May, 1793; that a general Creek war, in the then crisis of European affairs, would be a complicated evil of great magnitude, and that to avoid it Mr. Seagrove would be sent into the heart of the Creek country, if compatible with a reasonable degree of safety. By a letter dated the 19th July, 1793, that the reasons given by the President's order, in the Secretary's letter of the 30th May last, still operated to prevent any departure from the line of conduct therein specified. By a letter dated on the 5th September, 1793, that his excellency's letter of the 13th of the last month, covering the proceedings of a council of war, composed of the general officers of the militia, had been received and submitted to the President, whose deliberate opinion it was, for reasons detailed fully, that an offensive expedition against certain towns of the Creek nation, of the kind mentioned, was unauthorized by law, contrary to the existing state of affairs, and to the instructions heretofore given; and that the Secretary was directed to express to his excellency his expectations that it will not be undertaken; that until Congress has declared war against the Creeks, all offensive expeditions against their towns would be unlawful, and the expenses thereof could not be paid by the Government without a special provision by law for the purpose. By a letter dated the 22d February, 1794, the Governor was informed that the President understood, that a body of militia, represented at from one thousand to twelve hundred, had been kept upon the frontiers of Georgia, during the greater part of the last year, exceeding greatly the number which, according to information at this office, appeared to be necessary; that if this number, or, indeed, any excess of the force described in the above-recited letter of 30th May, 1793, should be continued to be kept up, the President desired it might be explicitly understood, that the General Government will not be pledged for the expenses thereof; that in the case of a powerful and sudden invasion of the State, such must be referred to the provisions of the constitution, and submitted to the consideration of Congress; that the one hundred horse and one hundred foot, described in the letter of 30th May, 1793, might, in addition to the continental troops posted in Georgia, be kept up, at present, or during any considerable danger, on condition it should be monthly stated to the War Office, to be submitted to the President, what reasons existed for the continuance of this force; that no returns had been received of the numbers kept in service last year, and, if expected that the said militia are to be compensated by the United States, it would be necessary that returns, musters, and pay-rolls should be given to the agent of this Department in Georgia, in order to the submitting the whole case to Congress; for it was deemed that Congress alone are competent to decide, under a full view of the circumstances of the case, whether any or what proportion of the expenses incurred are to be defrayed by the United States. By a letter dated 14th May, 1794, that the President consented to certain propositions made by the Governor relative to the protection of Georgia,

so far as the establishment of a block-house every twenty-five miles of the line exposed to danger, to be garrisoned with one subaltern, one corporal, and fifteen privates of the militia, and directed the men to be engaged to the 1st of January ensuing, unless sooner discharged; the Governor was further given to understand that the one hundred foot heretofore ordered were to be considered as a part of this arrangement, and that the President conceived the one hundred horse, also heretofore allowed, would be sufficient for the present; that no returns or musters of the number of militia kept up last year had been received; that, when received, the President would impartially consider whether he could give authority to pay them, or, if he could not, as was most probable, submit the question to Congress.

That it appears the Governor of Georgia had ordered an additional troop of horse into service, commanded by Captain Fauché, the adoption of which by the United States was authorized explicitly, from the 25th July, 1794, (when it was stated the Governor called it into service,) until the 1st of November following, in letters to Mr. John Habersham, and Major Constant Freeman, the agent of the War Department in Georgia; and by a letter from Alexander Hamilton, in the absence of the Secretary of War, to the Governor of Georgia, dated the 25th September, 1794. The adoption of this new troop was authorized, from the time it was ordered by the Governor into service, until the 1st of November ensuing, when it was directed to be disbanded.

That, from this period, it does not appear that a second corps of horse was ever authorized; on the contrary, that it was explicitly discountenanced and forbidden; and that the authorized defensive protection of the frontiers of Georgia continued on the footing formerly established, of one hundred horse, one hundred foot, and a chain of block-houses, the one hundred foot being applied towards garrisoning them. That, in the year 1795, measures began to be taken to hold a treaty with the Creek nation, and commissioners for the purpose were appointed, but circumstances obliged a postponement until the middle of May, 1796. That after the treaty, at which the Creeks agreed that military and trading posts might be established within their boundaries, and that all animosity for past aggressions should cease, the Governor of Georgia was informed by a letter, dated the 23d August, 1796, that such an arrangement and use of the troops of the United States was ordered, as ought to satisfy the Indians that their rights will be protected, and the inhabitants of the frontiers that they have nothing to apprehend. That this arrangement rendered it unnecessary to keep up the militia corps of infantry and cavalry; and, in consequence, the agent of the War Department in Georgia would be directed to settle their muster and pay-rolls up to the 15th September ensuing, after which they would be considered discharged. That it appears, from a statement of the agent of the War Department, that Captain Fauché's troop was paid from the 25th July, 1794, the time when the Governor is supposed to have ordered them into service, until the 31st October, 1794, inclusive; and, for subsequent authorized services, up to the 29th February, 1796; and was not paid for unauthorized services prior to the 25th of July, 1794. That Captain Randolph's troop was not paid for services from the 13th of March, 1793, to the 1st June, 1794, they being deemed unauthorized; but was paid for authorized services from the 1st January to the 31st December, 1795, inclusive. That Captain Girardeau's troop was paid from the 29th April to the 15th September, 1796, including so much of the time for which the petition prays a settlement, and not for the residue, it being subsequent to the date at which the troops were ordered to be discharged.

That a letter from the agent of the War Department, dated 17th May, 1797, to the Secretary, advised that he did not receive a letter of the 23d August, 1796, ordering him to have Captain Girardeau's troop mustered to the 15th September, after which they were not to be considered in service before the 23d September; that he communicated his orders to the Governor and to Colonel Gaither on the 24th September, and requested of the latter an officer for the purpose of mustering the troop; that Mr. Whitney was appointed, and received instructions; that it must have been some time before the necessary letters could have reached the persons to whom they were addressed; that Mr. Whitney mustered Captain Girardeau's troop to the 24th October, and has since mustered them to the 31st December, 1796.

That the Secretary can find no documents to establish that the services of the particular troops which are the subjects of reference were authorized by the President for the several periods for which they petition compensation, except for that portion of time included in Captain Girardeau's petition, viz: from the 29th April to the 15th September, 1796, and for which the troop is stated to have been paid; he is, however, of opinion, as the letter ordering the discharge of the latter troop was not received by the agent until the 23d September, subsequent to the time at which they were ordered to be discharged, and they could not probably be mustered before the 24th October following, that they ought and may be paid by this Department to the latter date; but it is doubted whether they could be paid with propriety to the 31st December, the circumstances inducing to the second muster being unknown.

That from the foregoing statement, which is made entirely from documents, unaided by a knowledge of circumstances attending facts which preceded the Secretary's coming into office, it would appear that the Executive of the United States, when perfectly informed of the situation of the frontiers of Georgia, persisted in apportioning a given force for their protection; in discountenancing all offensive measures understood to have been contemplated; and in referring the expense of a much larger force of militia, called out by the Governor, in virtue, as was considered, of the powers given to him by the constitution, in case of actual invasion, or such imminent danger as will not admit of delay, to the provision of Congress.

That it is, however, proper to mention, that letters from the Governor of Georgia, and resolves passed at different times by the Legislature thereof, convey a strong conviction that the people of that State did not consider the force apportioned and authorized for the protection of their frontiers, in any part of the period from 1792 to the latter part of the year 1796, adequate to their security.

That, from documents herewith transmitted, it would appear that the whole or nearly all the authorized services in Georgia have been compensated by the General Government.

That the unauthorized claims for militia services in Georgia, as far as the same have been communicated to this Department, amount to \$129,375 66; but it is supposed by Major Freeman, agent of the Department of War for a number of years in Georgia, there may be further claims, to a considerable amount, the muster-rolls for which have not yet been forwarded.

As the petitions to be decided upon at this time are evidently precursors of claims to a much larger amount, for services stated to have been performed by the militia of Georgia, but unauthorized by the Executive of the United States, and the determination of Congress thereon may influence or conclude the grounds of decision in all such cases, the Secretary therefore prays leave to represent the magnitude and delicacy of the principles which, upon a due consideration, he conceives to be involved in the subject.

The constitution of the United States expressly sets forth, that it was ordained and established by the people, among other intents, "to provide for the common defence."

To carry this intention into effect, it is declared by article 1st, section 3d, that *the Congress* shall have power "to provide for the common defence;" "to declare war;" "to raise and support armies;" "to provide and maintain a navy;" "to make rules for the government and regulation of the land and naval forces;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;" and "to make all laws necessary and proper for carrying into execution the foregoing powers."

To make the protection of the whole and every part of the United States the sole duty of the General Government, when informed of existing danger, without competition or interference, by section 10th of the same article, it takes from the several States the right, without the consent of Congress, "to keep *troops* or ships of war in *time of peace*, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay."

By article 2d, section 2d, it determines "that the President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

And to prevent apprehensions or actual danger to the States, from the restriction on them not to keep troops or ships of war in time of peace, unless with the consent of Congress, the same article and section of the constitution (article 4th, section 4th) which guaranties to each of the States a republican form of government, solemnly engages that "the United States shall protect each of them against invasion, and, on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

From the view of the intention of the constitution, and of the powers vested in the General Government for carrying that intention into effect, exhibited by the preceding citations, the Secretary respectfully assumes that the whole power of making war, and of repelling invasions, is vested absolutely in the General Government, save only in the cases and under the circumstances expressly reserved and excepted; that the only excepted cases are actual invasion, or such imminent danger as will not admit of delay; and that, from the nature of the general authority, and of the specified exception, the State authority, to engage in war under the specified exception, must be held to cease with the pressure of circumstances, and to continue no longer than until the power of the General Government can be fully and competently applied to the exigency.

Now, as the President of the United States did, in fact, apply such part of the force of the General Government to the defence of the menaced territory as, from a full knowledge of all circumstances, in his judgment appeared proper, it follows, from the principles assumed, that the special authority of the State Government was from that moment superseded, or was legitimate only so far as it pursued the line prescribed by the paramount authority. Any deviation from the prescribed limitation, after the President began to act, would appear incapable of attaching to itself the merit and remuneration of lawful service.

The General Government is indeed bound to provide for the general defence, and, in virtue of this obligation, is bound to defray the expense of necessary military preparation and equipment for the defence of any particular portion of the Union which may be menaced or invaded. But the obligation would seem to extend only to such preparation as is made, or service rendered, conformably to the constitutional distribution of powers and authorities, not to gratuitous equipments, and much less to such as have been interdicted by the competent department of the Government.

If the preceding citations have been well considered by the Secretary, and the deductions therefrom justly drawn, it must be admitted that the General Government has, by the constitution, full power to provide for the defence of the territory of the United States, in any part of it which may be threatened or invaded; that the power reserved to the several States applies only to the case of such particular, immediate, and pressing emergency as will not admit of the delay necessarily incident on a recurrence to the federal power; that the reserved power can therefore continue no longer than the emergency; that the emergency can be considered to continue no longer than until the Government of the United States has been enabled to assume the exercise of its powers for the general defence; that, as applicable to the claims in question, or contemplated, the paramount and general authority having been in fact assumed and brought into action, every subsequent exertion of State authority, beyond a prescribed limit, was illegitimate and gratuitous, inducing, consequently, no obligation of payment on the United States.

This conclusion, it is presumed, will derive strength and confirmation from a consideration of the laws of the United States connected with the subject.

By the act of September 29, 1789, entitled "An act to recognise and adopt to the constitution of the United States the establishment of the troops raised under the resolves of the United States in Congress assembled, and for other purposes therein mentioned," section 5, it is enacted "That, for the purpose of *protecting the inhabitants of the frontiers* of the United States from the *hostile incursions* of the Indians, the President is hereby authorized to call into service, from time to time, such part of the militia of the States, respectively, as he may judge necessary for the purpose aforesaid."

This act was repealed by an act of April 30, 1790; but the fifteenth section of the repealing act, entitled "An act for regulating the military establishment of the United States," expressly repeats the preceding provision, and enacts "That, for the purpose of *aiding the troops now in service*, or to be raised by this act, in *protecting the inhabitants of the frontiers* of the United States, the President is hereby authorized to call into service, from time to time, such parts of the militia of the States, respectively, as he may judge necessary for the purposes aforesaid."

By an act of March 3d, 1791, entitled "An act for raising and adding another regiment to the military establishment of the United States, and for making *further provision for the defence of the frontiers*," section 7, it is enacted "That if, in the opinion of the President, it will be conducive to the good of the service to engage a body of militia to act as cavalry, they furnishing their own horses, arms, and provisions, it shall be lawful for him to offer such allowances to encourage their engaging in the service for such time, and on such terms, as he shall deem it expedient to prescribe."

And by the 8th section of the same act it is further provided, "That if the President should be of opinion that it will be conducive to the public service to employ troops enlisted under the denomination of levies, *in addition to or in place of the militia*, which, in virtue of the power vested in him by law, he is authorized to call into the service of the United States, it shall be lawful for him to raise, for a term not exceeding six months, (to be discharged sooner if the public service will permit,) a corps not exceeding two thousand non-commissioned officers, privates, and musicians, with a suitable number of commissioned officers," &c.

By an act of March the 5th, 1792, entitled "An act for making further and *more effectual provision for the defence of the frontiers* of the United States," section 13, it is enacted, "That the President be, and he hereby is, authorized, from time to time, to call into service, and for such periods as he may deem requisite, such number of cavalry as, in his judgment, may be necessary for the *protection of the frontiers*."

By an act of May 2d, 1792, entitled "An act for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," section 1st, it is enacted, "That whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or *Indian tribe*, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper."

This act was limited to two years, and from thence to the end of the next session of Congress; but, before it expired, this provision was re-enacted without limitation, by an act of February the 20th, 1795, in the same words.

At all times, therefore, since the 29th of September, 1789, in virtue of one or other of these acts, has the President of the United States been in full and ample possession, exclusive of the ordinary regular military establishment, of all necessary power and authority to call into service, for the express purpose of protecting the frontiers, and repelling Indian invasions actual or menaced, such portions of the militia as he should deem necessary to the occasion. The constitutional authority of Congress "to provide for calling forth the militia to repel invasions," has never been in abeyance or unexecuted; and the power of the General Government "to provide for the common defence" of the whole and every part of the United States, has been, in theory and in fact, at all times commensurate with any emergency of the kind in question.

The President is the constitutional organ to apply this power, or any part of it, as to him shall seem proper. In the case under consideration, he did apply a part only, and forbade the employment of a greater force. How, then, can militia he did not call into service, or those he authorized but afterwards ordered to be disbanded, be deemed, after the period prescribed by him for their discharge, as "in the service of the United States," *in which case only* they can be entitled to receive pay from the United States?

From a document submitted, and before referred to, (a letter from Major Constant Freeman to the accountant, dated the 13th February last,) it would appear, although his statement of particular cases is not so circumstantial as could be wished, that the claims for compensation are for services which occurred or commenced in 1793, a period when the power of the President, as delineated in the laws, was as great, if not greater, than at present to provide for the protection of the frontiers; and the Secretary takes the liberty to suggest, that to him it does not admit of a doubt that the power of the President to call into service so many of the militia, or *such number*, or *such part* of the militia, as he may judge necessary for the protection of the frontiers, or for repelling invasions, agreeably to the style of all the acts upon the subject, is, to all intents and purposes, a power to *declare* the number, and consequently to *limit* the number to be *employed*; and that there can be no reasonable ground for saying that his authority is not as complete to *reduce* as to *increase*, or confirm, or continue, the force engaged on such occasions. No difference is perceived in the law on this subject now, and that of any former period since September, 1789.

The letter of Major Freeman, and the correspondence of the office, show, that representations of the alarming situation of the frontiers of Georgia in 1793 induced the President to authorize the Governor thereof to call into service, for a given time, at the expense of the Union, one hundred horse and one hundred foot, and afterwards to add scouts, proportioned to a certain extent of frontier, which force he (the President) believed would be equal to the protection required. That the Governor was directed to avoid offensive operations against the Creeks, and arms, ammunition, and equipments, for the force authorized, and a much larger contemplated to be held in readiness, although not called into service, were sent to Georgia, subject to the requisition of the Governor. That the Governor, however, did not think proper to obey his constitutional superior; did not call out all the troops authorized, but drew out the militia to a large amount in contemplation of an expedition into the Creek country, which was not abandoned until after repeated intimations of its illegality, and the positive interdictions of the President; and continued the whole force on the frontier for a considerable time, at least until May, 1794, about which period Governor Matthews, who had succeeded Governor Telfair, pointed out certain parties of the force employed, which were to be considered as the troops authorized by the President; and these have been all or nearly all paid in full.

It cannot be necessary to enter into any consideration of the wisdom, the policy, or the expediency of the constitutional rule, or of the provisions by act of Congress. *Ita lex scripta est*. It would be equally unavailing and irrelevant to discuss the competency of the measures adopted by the Executive on the particular occasion, for he acted under a high constitutional responsibility, and in pursuance of an adequate authority.

The question of compensation to the unauthorized militia would seem to be of easy solution, as between the United States and the particular State which called its militia into service. As between the United States and the individual militia man, it may seem to present more difficulty, and yet perhaps the same answer may apply, because the claim of the individual can only be founded on his having been "in the actual service of the United States;" because every citizen is bound to know and to respect the constitution and the laws; and because the facts which have been exhibited show that the services rendered were called for by the Executive of the State, under the constitutional provision, to which the Executive of the United States could alone refer, and actually did refer, the proceeding. The power exercised by the Governor, derived from this source, was uncontrollable in its commencement; but if the position be true that it applies only to the case of exigence, or imminent danger admitting of no delay, and could exist no longer than until the paramount authority of the General Government was called into action, then it would seem that all services rendered after the Executive of the United States, informed of the extraordinary force kept in the field, had declined to authorize it, and not only so, but reiterated its prohibition of employing more than a limited force, were not rendered in the employment of the United States. And may not the Governor's exercise of his constitutional power be referred from the first to a high responsibility, and, if improperly exercised, his constituents be involved in the same? The Governor is a chosen functionary of a State. The constitution of the United States, by the tenth section of its first article, when it restricts a State from the right, without the consent of Congress, "to keep troops or ships of war in time of peace, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay," gives, by implication, the right to a State, in case of *actual invasion* or *imminent danger* not admitting of delay, "to keep troops, ships of war, and engage in war, in time of peace;" that is, when war has not been declared by Congress; but designates no organ by which the State is to act. Whatever functionary the State shall act by in such presumed cases, the State would seem responsible for, and a discretionary power should ever be restricted by the rules of sound reason.

Another state of facts might furnish some better ground for the claim of the individual, if the President had devolved his whole authority on the Executive of the State, or the militia commander of the expedition, limited only by confidential orders or instructions. If, contrary to these orders and instructions, the commanding officer kept up the whole force that had been, by the President's authority, placed originally under his command, notwithstanding directions to disband a part thereof or the whole; if the service was actually performed under an officer so authorized; if no specific portion or corps of the levies or militia were directed to be disbanded, but the order was merely to disband a certain number, and to continue a certain number in service; and if, under such circumstances, the whole were nevertheless kept in service, the Secretary certainly should, in such case, think that the whole ought to be paid by the United States, under a Congressional provision, and that responsibility should attach on the officer alone who thus neglected or disobeyed the orders of the President, because the individual militiaman could not justly be referred to the source, but only to the channel of authority, because it would be impossible to say what individuals should be admitted to, and who should be excluded from compensation, and because, from the nature of military subordination, there would, under such circumstances, be no protection for the individual against the penalties of disobedience to his immediate military superior. But it will be seen that the ground or support of this latter conclusion does not apply to the unauthorized services now in question. The President never devolved a general authority to call out the militia, when he might judge circumstances required, upon the Governor of Georgia. He vested him only with a special authority to call out a limited number of horse and foot, and these were to be put under the direction of a

continental officer. He restricted him to the exact number; and when a greater number were known to have been employed, he referred the employment of them to the Governor's responsibility, and the constitutional powers vested in him, in cases of actual invasion, or such imminent danger as would not admit of delay; expressly advising him that such a situation of things could alone justify his measures.

Although the general theory of the constitution and the laws, as heretofore stated, is supposed to be incontestable in an abstract view, to wit, that the power reserved to the States cannot be legitimately exercised, even in cases of invasion, or such imminent danger thereof as will not admit of delay, longer than until a recurrence can be had to the authority of the President, and until he can apply his powers for the defence of the country to the particular exigency, yet embarrassment may seem to occur in applying this general theory to particular cases, and especially when the claims are to be determined on the application of the individual soldier for his pay. This embarrassment, the Secretary presumes, may arise from a consideration of the power which each respective State has to provide for its own immediate protection and defence, by calling out its own militia, in the cases specified in the constitution, and of the rule which pervades all the laws, that the militiaman shall be paid, "when called into the actual service," or "while employed in the actual service of the United States." It may be said that no rule or principle has been devised for referring to any other authority than the State itself to determine what particular combination of circumstances shall constitute a case of imminent danger, and that the militia called out by the State so circumstanced, under the constitutional provision, must be deemed to be in the service of, and entitled to pay from, the United States; that, from the necessity of the case, the State must determine in the first instance, and that there is no power to revise or control its decision, so as to annul what it has constitutionally done; that the power itself is founded in strong expediency, particularly in relation to Indian hostilities, which are not governed by any of the established rules of warfare, are, for the most part, sudden in their design and execution, and always break out in States remote from the seat of the General Government; that the State has an authority which it may exclusively exercise, in the first instance, according to its discretion, and, to fulfil the intention for which it was reserved to it, may, even after a reference to the Executive of the Union, still exercise it, whenever future intelligence or indications of increased hostile preparations, imminently threatening the safety of its citizens, and too great to be repelled by the force ordered by the President, shall make it necessary. But it should be recollected that this power or authority of the State is a reserved power, and as such should be strictly construed; that among individuals this is always the case; that it cannot be allowed to interfere with the duty of the General Government, or release from, except in cases of manifest necessity, general restrictions intended for the welfare of all the States in the Union, and without which that harmony and mutual dependence which gives strength to the whole would not exist; that, by the constitution, which is a compact of every citizen with the whole community, "No State shall, without the consent of Congress, keep troops or ships of war in time of peace, or engage in war *unless actually invaded*, or in such imminent danger *as will not admit of delay*;" that the power given by these words is evidently restricted, or, in other words, it is given upon conditions, and only in case of certain events or a given situation of things occurring; that, when properly exercised, it is to affect all the other States, and all the citizens of the Union, by the expenses it will occasion; and that, as in the cases of compacts among individuals, the other parties must reasonably have a right of inquiring whether the authority, by the exercise of which they are to be affected, had actually accrued, whether the events upon which it was dependent had happened, and of refusing, if the events had not happened, to participate in its expense.

To apply the last observations to the cases of claims for militia services in Georgia, for the period before stated, it will be necessary to repeat that no proof of invasion, or of such imminent danger of invasion as would not admit of delay, by any Indian nation, has been produced by the Executive of Georgia at any time; that the correspondence of the War Department within the period in question exhibits strong evidence that the communications to the Executive of the United States evinced nothing more than indications of predatory incursions by detached Indians, and by no means a general or national combination to invade the State of Georgia; that, so informed, the President applied such a force as, in his judgment, was sufficient to resist predatory incursions, and advised and took measures for providing and preparing the militia, in general, to meet a more serious state of things, but not to call them into immediate service; that the Governor of Georgia, while the proper functionary of the General Government was actually exercising his powers according to his judgment and the demand of the exigency, undertook, without consulting the President, to order out large bodies of militia; that, by the correspondence of the War Department, it sufficiently appears he did not even advise the President of the measures he had taken, but that, being advised of them from other quarters, the President wrote to the Governor that the measures he had taken, and the great number of troops he had called into the field, could only be justified by the power vested in him by the constitution, in cases of invasion, or imminent danger thereof not admitting of delay, and expressed a hope that as soon as the apprehended danger was over the troops would be reduced to the limited number he had, in his judgment, thought to be sufficient for the defence of the frontiers; that it also is evident, from other letters to the Governor, and the statement of Major Freeman, that the intention of the numerous troops called into the field was to attack some of the Creek towns, and that this intention was pertinaciously persisted in until the President, informed thereof, positively prohibited the measure as unconstitutional, unless Congress declared war. The calling out of militia, for the purposes of attack, is, in the abstract, manifestly not within the reserved power of a State, and no circumstances have been presented to show that attack, in the then existing situation of things, could have been considered, as it sometimes has been, a necessary defensive measure.

From what precedes, and a full reflection upon the claims for unauthorized services, depending upon the present determination of Congress, the Secretary cannot refrain from saying that his mind is impressed with the opinion that no incidents or occurrences of sufficient magnitude had happened, within any part of the period stated, to justify the exercise, by the Governor of Georgia, of the power reserved to the States. No *invasion* took place, nor did there exist "such imminent danger as would not admit of delay;" the danger was, in fact, represented to the President, and he actually provided against it by directing such a force to be employed as he thought necessary for the purpose, and such preliminary measures to be taken as would ensure a greater when circumstances should require it; that the conduct of the Governor evinced a peremptory and systematic disregard of the President's orders, and interference with his functions, not justified by emergency, and persevered in during a long period, obviously predicated on an opinion that the President had insufficiently provided, not for a case of *imminent and sudden danger*, but either for a *regular* and *permanent* defence, or, as is very probable, for a meditated attack upon the Indian territory, and that he (the Governor) had a right to assume authority to make a more adequate provision for such permanent defence or meditated attack: that such conduct was a manifest and flagrant violation of the constitution on the part of the Governor of Georgia, and was not, in its commencement or outset, such an exercise of the powers reserved to the State, of engaging in war in case of imminent danger, as can at all bring the militia called out by his sole authority within the predicament of having been called into, or employed in, the actual service of the United States.

The interdiction of the constitution is twofold: first, the States shall not keep troops in *time of peace*, without the consent of Congress; second, they shall not engage in war, but in certain excepted cases. If the Georgia

militia, who claim compensation, were called out by the Governor as a mere defensive preparation against a possible or distant danger, it was unconstitutional, according to the first branch of the prohibition, and can unquestionably form no legitimate basis for a demand of pay from the United States; and if they were called out with a view to offensive operations it was equally unlawful, inasmuch as no imminent danger appears to have existed which would not admit of delay; and, in truth, the danger which actually threatened was provided against by the proper or paramount authority to the extent which was by that authority judged necessary. In a word, no circumstances applicable to the unauthorized militia of Georgia, within the period mentioned, appear to the Secretary to afford a ground for compensation, to which the General Government ought to accede, but, on the contrary, to afford every ground for withholding remuneration.

The Secretary apprehends that the award of compensation by Congress to the militia who served under General Sevier on an expedition from the Southwestern Territory against the Creek and Cherokee Indians in the year 1793, and a like award to the militia who served under Major James Ore, for services performed in the year 1794 against the Lower Cherokee Indians, may be urged as precedents for allowing the claims of the unauthorized militia of Georgia. In his mind, however, very distinguishing circumstances are presented, sufficient to take from these cases any authority as precedents, and any applicability to the Georgia claims.

The colonial connexion of the Southwestern Territory with the United States, at the period the services under General Sevier and Major Ore were alleged to be performed, forms an essential feature of distinction. At that time the Southwestern Territory possessed no independent abstract authority, such as is reserved expressly or impliedly to the several States by the constitution. The Governor and Secretary of that Territory were appointed by the President of the United States, and therefore every thing done by the command or authority of the Governor or Secretary of that Territory, who thus derived their powers and appointments, might justly be deemed as done under the authority of the United States, although in fact some things might be commanded contrary to the President's instructions, with which the militia of the Territory could not be supposed to be conversant, or to be the proper interpreters of, even if they knew them.

Upon looking into the debates and proceedings of the House of Representatives on the claim of compensation to those employed on General Sevier's expedition, determined on the petition of Hugh Lawson White, the Secretary finds that the claim was supported on the necessity of the expedition only, and was opposed merely on the ground that this necessity did not appear from the report of the Secretary of War, to whom the petition had been previously referred; that the constitutional question was but incidentally touched upon when it was said that the House should proceed cautiously, as it was about to establish an *important precedent*; that the discussion ended in a reference both of the petition and report, in order to a further state of facts, to a special committee, who reported an additional set of documents, collected from the correspondence of the War Department, in possession of the House, and recommended a resolution for an appropriation in favor of the claim, which was agreed to without a word of opposition. The question, therefore, seems to have been decided entirely on the ground of the expediency and necessity of the expedition, and, as it is conceived, without reference to the constitutional principle. The idea of the colonial situation of Tennessee at that time was not at all adverted to, which, as has been observed, strikes as a very important consideration, distinguishing both this case and that of Major Ore from that of an actual or intended expedition, under the authority of a State. The only authority exercised in the Southwestern Territory at the time of either expedition, was the authority of the United States. The inhabitants knew no other sovereignty: there was, indeed, a local administration, but that administration derived its authority from the United States only.

Major Ore's expedition was ordered by General Robertson, who commanded in the Mero district, and held his commission from the President, and therefore the authority of the United States over the militia of that Territory was presumed to be exercised through him. In this case, however, the appropriation seems to have passed without opposition.

It is also believed, that in the determination of neither of these cases was any reference had to the second article of compact between the original States and the people and States in the said Territory, made unalterable, unless by common consent, and inserted in the ordinance for the government of the Territory of the United States northwest of the river Ohio, which is deemed to be equally obligatory upon the people of the Southwestern Territory, and contains these words: "The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars, *authorized by Congress*." This is mentioned to show that Congress probably acted from motives of expediency solely in their proceedings upon the cases mentioned.

Another consideration applies to General Sevier's expedition. The President at that time had actually authorized a levy of militia for the defence of the Territory, leaving the numbers, and the command, and the disposition of the force, to the Governor, interdicting only any irruption into the Indian country. There was therefore no question that the militia were lawfully *called into service* by the authority of the United States, and were, when assembled under this call, in the *actual service of the United States*, and therefore entitled to be paid. When in the field, under a regular authority, they certainly could not be held individually accountable for the direction their commanding officer gave to the force under his command, or for the conformity of his proceedings to his instructions. The objection reported to Congress by the Secretary of War was grounded on the direction of the force being contrary to the President's inhibition; but circumstances sufficient appeared to Congress to excuse the deviation from the letter of the President's orders, and beneficial results were strongly urged to justify the grant of compensation.

As the preceding cases, from their difference in essential features, and the relative situation of the parties, and the omission in their determination to investigate any constitutional question, are supposed to afford no precedent in the cases from Georgia, so neither does the Secretary suppose they can derive any support from the allegation that rations were issued to the men by the continental commissaries, unless it can be shown that orders were given for the purpose with the consent, knowledge, and approbation of the President. The payment of interest upon certificates irregularly issued by an executive officer, without the sanction of any order or resolution of Congress, has been decided not to confer validity upon a claim originally destitute of it, any more than like payments of interest by the mistake of public officers upon counterfeit and forged certificates could give validity to those of the latter description. And between individuals, the payment of interest by an agent upon the *presumed*, but not *real*, obligation of his principal, has never been held to give validity to such an obligation. "The same rules of right which govern cases between individuals must appear to be the proper guides in cases between the public and individuals."

The Secretary has delayed his report on the subject of these claims, in the expectation of being able to give an extended and correct view of their *whole* magnitude by the receipt of muster-rolls, stated by Major Freeman to be not yet forwarded; he has been disappointed. The exhibition he has presented of the principles conceived

to be involved in the subject, he believes to be enjoined by duty. And, whatever may be the present determination of Congress, he presumes to suggest the propriety, and even indispensable necessity, of a legislative provision, that whenever in future any State, under the powers reserved to it by the constitution, calls its own militia into service, the troops thus called into service shall be paid directly by the State; and that the United States, if the exercise of the reserved power was regular and proper, shall reimburse the State all lawful expenditure on this account. Such a legislative provision would give to future questions of this kind very different aspects; but there is certainly great difficulty in resisting a demand for the pay of an individual in the present state of the law on this subject.

The House of Representatives on the 11th, and the Senate of the United States on the 12th of February inst., referred also a new petition from Jonas Fauché, in behalf of himself and the officers and soldiers of a troop of militia dragoons formerly under his command, praying for compensation for services from the 23d of April, 1793, until the 10th of May, 1794, a period short of that for which compensation is prayed by the former petition. These petitions the Secretary takes the liberty to apply to the foregoing report, which is intended to comprehend all the unauthorized services of the militia of Georgia from 1792 to the year 1796, inclusive.

All which is most respectfully submitted.

JAMES McHENRY, *Secretary of War.*

Sir:

PHILADELPHIA, *February 13, 1799.*

In compliance with the request contained in your letter of the 19th of last month, I make the following statement of facts relative to the militia claims of the State of Georgia, which have been heretofore denominated unauthorized.

The alarming situation of the frontiers in 1793 induced the President of the United States to authorize the Governor of Georgia to call into service, at the expense of the Union, one hundred horse and one hundred foot; and scouts or spies in proportion of two to every ten miles of the extent of the frontier. (1) Several detachments of militia dragoons had been called into service in 1792, and paid by the United States. (2) It was, however, supposed the force now contemplated would be equal to the protection required; and the Governor was directed to avoid offensive operations against the Creek Indians. The equipments for the dragoons, and arms and ammunition for the militia, were sent to Georgia, subject to the orders of the Governor. (3)

Mr. Telfair, who then presided in that State, did not think proper to call into service the troops authorized by the President, but had drawn out the militia for the protection of the frontiers. On my arrival in Augusta, (September, 1793,) I found him seriously occupied in making preparations for an expedition into the Creek country, which he supposed himself authorized to do upon some expressions in a letter to him from the Secretary of War, dated the 10th of June, 1793; but another letter which I handed to him, written in July, put a stop to this business. (4) I was afterwards directed by the Secretary not to concur in any arrangements, at the expense of the United States, which the Governor might choose to make for the purpose of invading the Creeks. (5)

About six hundred militia were calculated to be in service this year, but I could never ascertain the numbers accurately, as I neither received returns nor muster-rolls, although I had furnished the Governor with the necessary forms; (6) and Colonel Gaither, the commanding officer in that State, did not suppose he should be justified in directing an officer under his command to muster the militia, unless he should be first informed upon what authority they had been called into service, and should receive instructions from the War Office for the purpose. (7) The militia, therefore, were not mustered.

The force was continued on the frontiers; and it was not until the 8th May, 1794, that I received any correct information on this subject. Governor Matthews then wrote me that the troop commanded by Captain Armstrong were to be considered as the hundred horse, and certain militia posts on the upper frontier as the hundred foot. These have been, in part, paid, agreeably to the estimates transmitted to your office. (8) I was ignorant of what might have been the total number of militia in service. It was said that, at one period, twelve hundred drew rations of provisions from the United States. It is certain the number greatly exceeded what had been contemplated by the President. (9)

In answer to the several communications I had made to the Secretary of War relative to militia affairs, I received orders to transmit to the War Office the muster and pay-rolls for those who had been in service, in order that they might be submitted to Congress. (10) In consequence thereof, I directed the paymaster of the militia not to receive or examine any rolls for services performed after the 31st of March, 1794, as I supposed the Governor had received, about that time, his letter from the War Office of the 22d February. The periods were afterwards extended to the 10th of May for the upper, and to the 1st of June for the lower counties. (11) It is therefore to be understood that all the militia services performed in Georgia in the year 1793, and to the periods before mentioned in 1794, except the hundred horse, hundred foot, and the spies, for which appropriations have not already been made, are termed *unauthorized*, because they exceeded the numbers limited in the letter of the Secretary of War to the Governor, of the 30th May, 1793.

On the 7th of November, 1794, I transmitted to your office the estimate No. 1, accompanied with one set of the muster and pay-rolls. I refer you to my letters to the Secretary of War and to your predecessor of that date, for the fullest information upon this subject. The receipt of these rolls was acknowledged by the accountant, on the 10th of December, 1794.

As the estimate No. 1 did not comprehend all the militia claims, other muster and pay-rolls for similar services were received by the paymaster. On the 27th February, 1796, the estimate No. 2 was transmitted to your office, and the receipt thereof acknowledged on the 8th April, 10th and 17th of June.

I now submit to you two other estimates, Nos. 2 and 3. These four contain all the claims for unauthorized services which have been received, either by the paymaster of the militia or myself, to the 12th September, 1798, except some rolls which have been returned to be corrected, particularly for services performed in Washington county, under the command of Captains Shepherd and Hampton. There are also some to be expected from the counties of Chatham, Effingham, Burke, Columbia, and Elbert.

(1) Letter of the Secretary of War to the Governor, 30th May, 1793.

(2) Commanded by Captains Fauché, Barnett, Phinzy, Charles Williamson, and Melton.

(3) Letters of the Secretary of War to Major Forsyth, the 29th April, and to the Governor, 30th May, 1793.

(4) My letters to the Secretary of War, of the 4th and 11th September, 1793.

(5) The Secretary's letter to me, 5th September, 1793.

(6) My letters to the Secretary of War, 4th, 11th, and 25th September, 21st of October, and 31st December, 1793.

(7) My letters to the Secretary of War, 21st October and 31st December, 1793.

(8) 16th August and 27th December, 1794, and 2d January, 1795.

(9) Letters of the Secretary of War to the Governor and John Habersham, Esq., 22d February, 1794.

(10) Letters of the Secretary of War to the Governor and myself, 22d February, 1794.

(11) My letter to the Secretary of War, 7th November, 1794.

The accountant informed me that the estimate No. 1 had been submitted to the Secretary of War, and he required explanations relative to the services which had been performed. (12) He further requested me to obtain from the Governor a certificate that the militia were called into service for *defensive* operations. (13) These inquiries are fully answered in the Governor's letter to me of the 8th of May, a copy of which I transmitted to the Secretary of War on the 23d June, 1795. It does not, however, appear that General Knox made any report to Congress upon this estimate. Probably the information required from the Governor could not be obtained before he resigned the office of Secretary of War.

You also informed me that you had reported on these claims, and submitted them to the Secretary of War, and that a decision might be soon expected. (14) The Secretary, in his letter to me of the 6th August, 1795, writes that "the large estimate for services, about which my predecessor doubted, I have looked into, and will immediately further examine. From the complexion of the claims connected with the Governor's certificate, in his letter of the 8th of May last to you, and which I received enclosed in my letter of the 23d of June, I am inclined to think they must be at least generally admitted." "Whatever is to be done about militia arrears shall be in a few days determined." Unfortunately, the peculiar situation of the Government about that period engrossed the whole time and attention of the Secretary, who left the Department of War before any decision could be made.

Nothing further has been done, to my knowledge, relative to this business, excepting that on the 8th March, 1797, I accompanied Mr. Baldwin, member of Congress for Georgia, on a visit to the Secretary of War, to whom I explained the nature of the claims. It is probable that had not the Secretary been engaged in more weighty concerns, he would have reported thereon to Congress. Independent of the press of business, another cause has operated to retard a decision: since the estimates were transmitted, two Secretaries have left the War Department.

It is proper to observe that the citizens of Georgia never thought the force authorized by the President adequate to the protection of the frontiers, as may be seen in the representations made from the Governors of that State to the Secretary of War. And the General Government have, from time to time, made appropriations for extra bodies of troops for this service.

The periods within which these unauthorized claims are made are particularly marked in the history of that State for misunderstandings between the Creeks and the frontier settlers. There were faults on both sides. The Indians were continually stealing horses, murdering and doing other injuries to the inhabitants, who, in retaliation, made incursions into their country. Such were the Oakmulgee expedition under General Twiggs, in June, 1793, (15) which consisted of about seven hundred and fifty horse and foot; the destruction of Oakfuskee village by Colonel Melton, in September, who had under his command about eighty-eight officers and men; (16) the detachment of one hundred and twenty-five men who marched under the orders of Major Brenton against the Little Cheshaw village, on Flint river, (17) and several of less note, which were made by volunteer parties of militia. It has been supposed that these expeditions have operated as objections to admitting the militia claims. (18) Although these might have been irregular, it is certain that some of the detachments which were then in service afforded great security to the peaceable inhabitants on the frontiers. (19)

The militia have been induced to believe they should be paid, because the Executive of Georgia conceived himself authorized to call them into service. The seeming acquiescence of the President to the measure, expressed in the letter of the Secretary of War to the Governor of the 10th of June, 1793, and the opinion of the head of the War Department on their claims, in his letter to me of the 6th August, 1795, have confirmed them in this belief. They have also been encouraged to expect something would be done in their favor by their delegation in Congress. But it has been so long since their claims have been submitted, that many have sold them to individuals, who have purchased them upon speculation.

However, there were several officers who, in the fullest confidence of being paid, became responsible to merchants in Savannah and Augusta for clothing, and other necessaries, which they furnished to their men. (20) If these claims should be rejected, these gentlemen will be greatly embarrassed, as they will be compelled to pay the debts for which they have given security.

It is to be understood that the service performed by a troop of militia dragoons, some time in 1793, under the command of Captain Charles Williamson, is not to be classed with the unauthorized claims. He had been called into service under the same authority, as Captains Fauché, Phinizy, and others, who were paid by me in 1793. His rolls have not been transmitted to your office, owing to some difficulty between him and Colonel Gaither.

I have endeavored, sir, fully and impartially to answer your letter from the documents in my possession. It is probable that further information may be obtained from the communications of the Governors of Georgia to the Secretaries of War, and their answers thereto.

I am, with great respect, sir, your obedient and humble servant,

CONST. FREEMAN, A. W. D.

WILLIAM SIMMONS, *Esq.*, A. D. W.

(12) The Secretary of War's letter to me, 10th December, 1794.

(13) His letter to me, 12th March, 1795.

(14) Your letters to me, 31st December, 1795, and 8th January, 1796.

(15) The Governor's letter to me, 8th May, 1795.

(16) My letters to the Secretary of War, 2d and 21st October, 1793.

(17) My letter to the Secretary of War, 5th November, 1793.

(18) Letter of the accountant to me, 12th March, 1795.

(19) See the accountant's letter to me of the 27th August, relative to a claim of Captain Randolph, and my answers of the 15th October, and 7th November, 1794.

(20) The petitions of Captain Fauché and others, now before Congress.

6th CONGRESS.]

No. 113.

[1st SESSION.]

ARREARS OF PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 25, 1800.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Seth Nelson, attorney for Samuel Brown, made the following report:

That the said Samuel Brown was a soldier in the 4th Massachusetts regiment, on the continental establishment, in the revolutionary war, at the close of which he was regularly discharged.

That the certificates for the wages due him from the United States for his services were, in pursuance of the acts of Congress, deposited in the hands of Africa Hamlin, the regimental agent appointed to receive such certificates from the commissioner of army accounts. That the said Africa Hamlin, having been defrauded of a large sum of those certificates, did fail to pay and deliver the same to a number of the non-commissioned officers and soldiers of the said regiment who were entitled, and has never since been able to make compensation to the individuals for whom he received them.

The object of this petition is to obtain compensation from the United States for Samuel Brown, one of the individuals who suffered in this manner.

The following extract from a report heretofore submitted to the consideration of the House contains a statement of the grounds on which applications of this nature have been made to Congress, and a view of the reasons which influenced the committee who made that report to recommend that provision should be made by law to afford relief:

“By the establishment for the army, made by Congress, on the 27th of May, 1778, it was directed, ‘that the paymaster of a regiment be chosen by the officers of the regiment, out of the captains or subalterns, and that the officers should risk their pay in their hands.’ Every officer being thus interested in the ability and integrity of the agent, as well on his own account as on account of the soldiers, was an inspector of the conduct of the paymaster. The choice was generally good; there were but few well-grounded complaints against the persons appointed, and for those, prompt and probably judicious remedies were administered by courts-martial.

“At the end of the war, it became expedient to disband the army, whom the United States could not then pay, without even delivering to the individuals the evidences of the debts respectively due to them for their services. Accordingly, on the third of November, 1783, Congress resolved, ‘That the paymaster-general deposite in the hands of regimental agents the certificates for the arrears of pay due to the officers and soldiers of their respective lines, to be by them delivered to the individuals to whom they belonged, or deposited for their benefit, as the Supreme Executive of the State to which the respective agents belonged should direct.’

“The last-mentioned resolution is silent as to the mode of electing regimental agents. In pursuance of a general order, the agents were appointed by a majority of the officers of each regiment, as in the case of the regimental paymasters. They were therefore to be considered as the legal representatives of the commissioned officers; but the non-commissioned officers and privates neither voted nor were they consulted in the choice; they could not, of course, equitably be made answerable for the fidelity of the said agents. Some of those agents proved unfaithful to their trusts, and some of the non-commissioned officers and privates have thereby been prevented from receiving their just dues.

“The question now results, whether the public are not, upon the principles of equity and justice, under obligations to make good to the non-commissioned officers and privates, who have suffered by the defaults of the said regimental agents, the arrears of their wages, &c., to which they are entitled?

“From the nature of the contract between the United States and the soldiers who engaged in service; from the circumstance of the election of the paymasters having, by act of Congress, been vested exclusively in the officers; and from the express declaration that the officers should risk their pay in the hands of the paymasters; and from the circumstance of the same mode having been observed, in the election of the agents, whose deficiencies are complained of, it seems but reasonable to infer, that the soldiery, who were excluded from any participation in the election of either the paymaster or agent, were not considered as liable to be affected by their delinquencies.”

The resolutions, conformable to the said report, therewith submitted, were disagreed to by the House on the 19th of March, 1798.

The only important circumstance distinguishing the case of the present petitioner from the general class of claims of this nature is, that the books and papers of the said Africa Hamlin are within the control of the Government, and might be placed in the hands of such person as Congress should direct: by which means, in case relief was to be granted, it would be more easy to guard against imposition and fraud than in those instances where the books and papers of the regimental agents could not be found. But this circumstance, in the opinion of the committee, does not offer a sufficient reason why provision should be made for relief in this case. The committee therefore report that the petitioner should have leave to withdraw his petition.

6th CONGRESS.]

No. 114.

[1st SESSION.]

INDEMNITY FOR LOSSES SUSTAINED BY THE INSURGENTS IN 1794.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 2, 1800.

TREASURY DEPARTMENT, April 1, 1800.

The SECRETARY OF THE TREASURY, to whom were referred, by resolutions of the House of Representatives passed on the 1st and 24th of March, 1800, the petition of Benjamin Wells, and also a counter-petition, signed by sundry inhabitants of Fayette county, in the State of Pennsylvania, respectfully submits the following report:

In pursuance of an act of Congress passed on the 27th of February, 1795, the President of the United States appointed commissioners to ascertain the losses suffered by officers and other citizens in consequence of the

insurrection in the western counties of Pennsylvania, in the year 1794. A copy of the return of the proceedings of said commissioners is herewith transmitted.

It appears from this document, which was formed by respectable characters, while the transactions to which it refers were recent, that the losses of property suffered by Benjamin Wells were estimated at \$1,237 50, on account of which there has been advanced the sum of \$827 50, for which he is held accountable, according to the terms of the act of Congress.

The Secretary is of opinion that the report of the commissioners ought to be received as conclusive evidence of the value of the property destroyed, and that no proceedings are necessary or expedient in consequence of the petition of the inhabitants of Fayette county.

Although the Secretary entertains the highest respect for the opinions of the committee of the House of Representatives to whose consideration the claims of Benjamin Wells appear to have been heretofore referred, yet, by a course of reflections not embraced by the principles upon which their report was founded, his mind has been led to form different conclusions.

It is doubtless true, as a general principle, that the Government is not responsible for damages occasioned by rioters or insurgents; yet it is believed that the circumstances which attended the insurrection in 1794 constitute an exempt case, which requires the interposition of the Legislature for the relief of individuals.

It is well known that the officers of the revenue and a few private citizens, at great personal hazard, distinguished themselves by persevering exertions to carry the laws into effect; and that the losses which they sustained proceeded solely from their zeal in support of the public authority. As the destruction of property was committed by persons in disguise, or from whom nothing could be recovered, a reference of the sufferers to their private remedies at law would be the same thing, in effect, as to declare that they shall never be compensated.

It moreover deserves to be recollected that, with the view of appeasing the discontents in the western country, by manifesting the lenity of Government, and thereby rendering the future execution of the laws more certain, all demands for duties or penalties prior to a certain period were renounced. The legal claims of the public being thus compromised, it was natural for individuals to avoid increasing the popular odium against themselves by a rigorous pursuit of their private rights; indeed, it may be questioned whether, considering the circumstances above mentioned, and the opinion declared by the late President of the United States, that the indemnification ought to be made by the public, a course of conduct different from that actually pursued by the individual sufferers would have been consistent with the policy upon which the act of amnesty was founded.

With reference, therefore, to the peculiar circumstances which attended the insurrection in the year 1794, the Secretary respectfully submits it as his opinion, that it is expedient to exonerate the individuals to whom moneys were advanced in pursuance of the act of February 27, 1795, from future responsibility; and also to provide for the payment of the balances remaining due to the individuals mentioned in the report of the commissioners herewith transmitted, for property actually destroyed; but that no circumstances attend the claim of Benjamin Wells which require that a discrimination be made in his favor.

All which is most respectfully submitted.

OLIVER WOLCOTT, *Secretary of the Treasury.*

A list of property belonging to John Nevill, Esq., destroyed at Bower Hill by the insurgents, on the 17th July, 1794, with an estimate of its value.

| | | | |
|--|----------------------|--|-----------------------|
| One large two story frame dwelling-house, 40 feet long by 20 feet wide, neatly finished, painting and papering complete, done in the best manner, with the best materials, - - - - - | \$2,400 00 | Tanned leather, - - - - - | \$53 33 $\frac{1}{2}$ |
| Five new feather beds, with bedsteads and furniture, - - - - - | 320 00 | Four saddles, two elegantly mounted and two common, - - - - - | 74 00 |
| Carpeting over the whole house—rooms, passage, and stairs, - - - - - | 60 00 | One saddle belonging to Presley Nevill, - - - - - | 12 00 |
| Two and a half dozen prints or pictures, with gilt frames, - - - - - | 40 00 | Mrs. Nevill's saddle and bridle, - - - - - | 20 00 |
| Maps—the world, the different quarters, Howell's large and small, - - - - - | 20 66 $\frac{2}{3}$ | Two bridles, with plated bits, - - - - - | 12 00 |
| A long spy-glass of the best kind, - - - - - | 4 66 $\frac{2}{3}$ | Scythes, sickles, and eight new rakes, - - - - - | 10 00 |
| A silver medal, - - - - - | 4 66 $\frac{2}{3}$ | Tubs for salting meat and pickling cabbage, - - - - - | 13 33 $\frac{1}{2}$ |
| One and a half dozen Windsor chairs, - - - - - | 36 00 | One cwt. of tallow and candles, - - - - - | 16 00 |
| A set common do. - - - - - | 6 00 | Fifty gallons soap, - - - - - | 8 00 |
| Do. kind something different, - - - - - | 8 00 | A barrel and keg of whiskey, - - - - - | 16 00 |
| A settee, - - - - - | 8 00 | A quarter-cask with wine, - - - - - | 30 66 $\frac{2}{3}$ |
| Four looking-glasses, - - - - - | 40 00 | Empty vessels, flour-barrels, &c. - - - - - | 4 00 |
| An eight-day clock, best mahogany case, - - - - - | 85 33 $\frac{1}{2}$ | A Franklin stove, andirons, tongs, and shovel, - - - - - | 40 00 |
| A desk, neatly finished, with best mounting, - - - - - | 30 00 | Half a dozen silver table-spoons, - - - - - | 24 00 |
| Two large dining-tables, - - - - - | 18 00 | One dozen silver tea-spoons, best quality, - - - - - | 6 66 $\frac{2}{3}$ |
| Three smaller dining-tables, - - - - - | 15 00 | Table-linen, napkins, sheets, and pillow-cases, - - - - - | 60 00 |
| Four good trunks and one chest, - - - - - | 20 00 | Five bushels salt, - - - - - | 20 00 |
| One gold locket and some old silver, - - - - - | 15 33 $\frac{1}{2}$ | Sundry books, of different kinds, - - - - - | 80 00 |
| One pair of elegant blunderbuss pistols, with bayonets, - - - - - | 26 66 $\frac{2}{3}$ | Seven new bags, - - - - - | 7 00 |
| One pair of common do. - - - - - | 20 00 | Bacon destroyed, carried away, and concealed in the woods till spoiled, - - - - - | 33 33 $\frac{1}{2}$ |
| One handsome small-sword, - - - - - | 20 00 | A quantity of China tea-ware, queen's-ware, as plates, dishes, tureens, &c. glass-ware, decanters, wine-glasses, &c. - - - - - | 33 33 $\frac{1}{2}$ |
| Three elegant fuseses or fowling-pieces, - - - - - | 60 00 | Knives, forks, candlesticks, and snufflers, - - - - - | 6 66 $\frac{2}{3}$ |
| One elegant fusee of superior quality, (a cocker,) - - - - - | 13 33 $\frac{1}{2}$ | Groceries on hand for family use, viz: sugar, tea, coffee, - - - - - | 26 66 $\frac{2}{3}$ |
| All the wearing apparel of Mrs. Nevill, two granddaughters, and myself, - - - - - | 266 66 $\frac{2}{3}$ | A case with twelve square bottles, - - - - - | 6 00 |
| Sixty-nine yards new linen, cost 2s. 8d. per yard, - - - - - | 24 66 $\frac{2}{3}$ | The wool of twenty-six sheep, lately shorn, - - - - - | 20 00 |
| Two steelyards, - - - - - | 7 00 | Two cases razors, a lady's pocket-book, and a hydrometer, - - - - - | 11 00 |
| | | A large square log kitchen, with single roof and stone chimney, two rooms on a floor, - - - - - | 200 00 |
| | | Kitchen furniture, with cooking utensils of every kind, - - - - - | 66 66 $\frac{2}{3}$ |

| | |
|---|----------|
| Bedding and clothing of every kind for fourteen negroes, - - - - | \$80 00 |
| Cash, - - - - - | 18 00 |
| A large frame barn, just finished, with first story of stone, 80 feet by 30, calculated for fifty head of cattle below, - - | 1,200 00 |
| A quantity of old hay, and a year's crop of rye, threshed in the barn, but not cleaned, - - - - | 133 33½ |
| Three common bridles, - - - - | 4 00 |
| A large framed granary and corn-house, two stories high, with garner complete, to hold one thousand bushels grain, - - | 200 00 |
| Four hundred bushels clean wheat lying in said granary, and some corn and oats, - - | 333 33½ |
| A new wagon, with gears complete, for four horses, bear-skin covers, - - - - | 80 00 |
| Ox-yokes, cradles, sundry swingle-trees, pack-saddles, &c. - - - - | 13 33½ |
| Two jack or wagon screws, - - - - | 12 00 |
| One steel plate cross-cut saw, - - - - | 8 00 |
| Two steel plate hand-saws, - - - - | 9 33½ |
| Carpenters' tools, - - - - | 26 66½ |
| A blacksmith's shop, and all the tools which could be destroyed by fire, - - - - | 80 00 |
| A small barn with thatched roof, with a good stable and threshing-floor, - - - - | 106 66½ |
| A large poultry-house with a shingle roof, in which were a number of ducks, turkeys, dunghill-fowls, and some fat shoats, - - | 26 66½ |

| | |
|--|------------|
| A small stable, with plank floors, racks, and mangers, - - - - - | \$33 33½ |
| A small house, where lived a family of negroes, - - - - - | 26 66½ |
| The crop, then standing in the shock, and not cut, - - - - - | 400 00 |
| One cow, and breeding sow, shot wantonly, - - | 20 00 |
| The flour of twenty bushels wheat, - - - - | 12 00 |
| | <hr/> |
| | \$7,303 60 |

| | |
|---|-------------|
| The loss in not putting in a full crop, owing to the destruction of farming utensils, the negroes being hunted off the plantation, and myself banished, - - - - | \$266 66 |
| My actual expenses when driven away, - - - - | 400 00 |
| Books, bonds, notes, and accounts, - - - - | 4,666 66½ |
| | <hr/> |
| | \$5,333 32½ |

CR.

By cash paid General John Nevill, by the commissioners, out of money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 1, - - - -

\$5,640 43½

An account of tools burnt in General Nevill's house, the property of Charles Reno.

| | |
|---|----------|
| One picking-axe, - - - - - | \$2 00 |
| One drawing, - - - - - | 1 00 |
| One adze, - - - - - | 1 00 |
| Three bench-planes, plough, and groove, - - | 5 33½ |
| Three augers, four chisels, and gouge, - - | 4 03½ |
| One iron square and compass, - - - - - | 86½ |
| | <hr/> |
| | \$14 23½ |

By cash paid Charles Reno, by the commissioners, out of the money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 2, - - - -

\$14 23½

An account of the losses sustained by George Fowler, at the destruction of General Nevill's property.

| | |
|--|-----------|
| One silver-mounted saddle, plated stirrups, girth, and surcingle, burnt, - - - - | \$20 00 |
| One grey horse, shot, - - - - - | 133 33½ |
| One bridle, - - - - - | 3 00 |
| One lady's pillion, made in the best manner, - | 19 50 |
| | <hr/> |
| | \$175 83½ |

By cash paid George Fowler, by the commissioners, out of the money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 3, - - - -

\$175 83½

An account of the actual damages sustained by Philip Regan, an officer of the revenue department, in the county of Westmoreland, State of Pennsylvania, by the insurgents in the four western counties of Pennsylvania, in the month of June, 1794.

| | |
|---|-----------|
| Burning a new barn, with a quantity of hay therein, - - - - - | \$80 00 |
| A quantity of clothing carried away, or otherwise destroyed, by the insurgents, - - | 10 33½ |
| One hundred bushels of oats destroyed, at 33½ cents per bushel, - - - - - | 36 33½ |
| One hundred bushels wheat, at 54 cents, - - | 51 33½ |
| Eighty bushels rye, at 50 cents, - - - - | 40 00 |
| One hundred and twenty bushels of Indian corn, at 33½ cents, - - - - - | 40 00 |
| The hay of fifteen acres of good timothy meadow, &c. - - - - - | 80 00 |
| One washing-tub, - - - - - | 1 00 |
| One and a quarter acres potatoes destroyed, computed 120 bushels, at 2s. - - - - | 32 00 |
| A quantity of corn fodder destroyed, - - - | 10 66½ |
| One and three quarter acres flax destroyed, the loss computed at - - - - - | 16 00 |
| One barrel, - - - - - | 80 |
| | <hr/> |
| | \$398 46½ |

| | |
|---|----------|
| To travelling expenses, from the 25th July, 1794, to 15th October, 1794, inclusive, when actually driven away by the insurgents - - - - - | \$123 00 |
| To the hire of a horse the above time, at 50 cents, - - - - - | 41 00 |
| | <hr/> |
| | \$164 00 |

CR.

By cash paid Philip Regan, by the commissioners, out of the money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 4, - - - -

\$100 00

The losses and damages sustained by Benjamin Wells, collector of the revenue in the counties of Westmoreland and Fayette, part of the fourth survey, in the district of Pennsylvania.

| | | | |
|--|-----------------------------------|--|--------------------------------|
| A dwelling-house, kitchen, and stable, the property of Hannah Crawford, - - - | \$120 00 | Six yards of cloth, - - - | \$12 00 |
| Three feather-beds and furniture, - - - | 190 00 | One set razors and shaving-box, - - - | 1 50 |
| Three bedsteads and cords, - - - | 9 00 | Corn, fodder, hay, and oats, destroyed, - - - | 80 00 |
| Two chaff-beds and bed-clothes, - - - | 30 00 | One coffee-mill, - - - | 1 00 |
| Household goods and kitchen furniture, - - - | 150 00 | One washing-tub, - - - | 66 ² / ₃ |
| Two saddles and three bridles, - - - | 30 00 | Four barrels, - - - | 2 00 |
| Wearing apparel, - - - | 255 00 | One ten-gallon keg, and whiskey, - - - | 3 00 |
| Two hundred and fifty pounds coffee, at 33 ¹ / ₂ , - - - | 83 33 ¹ / ₂ | One smooth bow gun, - - - | 4 00 |
| One pair scales, - - - | 4 00 | Three pairs cotton and wool cards, - - - | 2 50 |
| Flour, meat, and one and a half bushels salt, - - - | 30 00 | | <u>\$1,237 50</u> |
| Indian meal, corn, and oats, - - - | 20 00 | To my expenses, when driven away by the insurgents, from the 29th July, 1794, to the 15th September following, - - - | \$92 00 |
| One hundred weight wool, - - - | 33 33 ¹ / ₂ | To the hire of a horse from the 29th July to the 15th of September following, at 3s. 9d. per day, - - - | 24 00 |
| Seven looking-glasses, - - - | 7 00 | To the damage sustained by my being driven away, from the 29th July, 1794, to November 26th following, in fourteen acres of corn, six acres of oats, and twenty-five acres of meadow; the loss computed at - - - | 150 00 |
| One wagon-body and cover, - - - | 25 00 | Accounts and account books, - - - | 50 00 |
| One pair steelyards, - - - | 4 00 | | <u>\$316 00</u> |
| Five three-bushel bags, - - - | 5 00 | | |
| Wheels and rods, - - - | 5 00 | | |
| Seven sickles, - - - | 3 50 | | |
| Three pairs saddlebags and three pairs spurs, - - - | 18 00 | | |
| Two pairs boots, - - - | 12 00 | | |
| Six pairs shoes and buckles, - - - | 10 00 | | |
| Bound books, - - - | 10 00 | | |
| Carpenters' and shoemakers' tools, - - - | 12 00 | | |
| Tallow and soap, - - - | 9 00 | | |
| Apothecaries' drugs, - - - | 9 00 | | |
| Hempen and flax thread, - - - | 8 00 | | |
| Fourteen yards linen, - - - | 4 66 ¹ / ₃ | | |
| One set curtains, - - - | 6 00 | | |
| Three pack-saddles, - - - | 6 00 | | |
| One horse-collar and wagon-whip, - - - | 2 00 | | |
| One hatchet, - - - | 2 00 | | |
| One pistol, - - - | 2 00 | | |
| Two tables, - - - | 8 00 | | |
| Twelve chairs, - - - | 5 00 | | |
| One chest, - - - | 3 00 | | |

Cr.

By cash paid Benjamin Wells, by the commissioners, out of the money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 5, - - -

\$727 50

An account of losses sustained by Bezl. Howe, of the legion of the United States, on the 16th July, 1794, at the destruction of General Nevill's house and property by the insurgents in the four western counties of Pennsylvania.

| | |
|---|---------|
| One broadcloth uniform surtout coat, valued at what one of an inferior quality cost in Pittsburg, - - - | \$32 00 |
|---|---------|

By cash paid Bezl. Howe, by the commissioners, out of the money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 6, - - -

\$32 00

An account of the actual damages sustained by William Cochran, of Allegany county, State of Pennsylvania, for his complying with the excise law, by the insurgents in the four western counties of Pennsylvania, the 19th and 28th days of June, 1794.

| | |
|--|----------------|
| To breaking and destroying his large still, containing 120 gallons, - - - | \$60 00 |
| Destroying his superfine bolting-cloth, - - - | 24 00 |
| Sundry small irons, carried away from his saw-mill, - - - | 3 00 |
| Damages for stopping him from distilling for one month, by breaking his still, for which he paid the excise, - - - | 10 00 |
| | <u>\$97 00</u> |

By cash paid William Cochran, by the commissioners, out of the money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents, as per receipt No. 7, - - -

\$97 00

Amount of money appropriated by an act of Congress for the relief of the citizens and officers of Government in the four western counties of Pennsylvania, whose property was destroyed by the insurgents.

| | |
|---|--|
| To the amount of the appropriation made by the commissioners, as per foregoing statement: | |
| John Nevill, - - - | \$5,640 43 ¹ / ₃ |
| Charles Reno, - - - | 14 23 ¹ / ₃ |
| George Fowler, - - - | 175 83 ¹ / ₃ |
| Philip Regan, - - - | 100 00 |
| Benjamin Wells, - - - | 727 50 |
| Bezl. Howe, - - - | 32 00 |
| William Cochran, - - - | 97 00 |
| | <u>\$6,787 00</u> |
| Balance remaining in the hands of General John Nevill, subject to the order of the commissioners, - - - | 1,713 00 |
| Whole amount appropriated, - - - | <u>\$8,500 00</u> |

PITTSBURG, *December 10, 1795.*

We, the commissioners appointed to ascertain and liquidate the damages sustained by the citizens and officers of Government in the four western counties of Pennsylvania, by the insurgents, certify that we have made the above statement. The sums carried out are those on which we have made the appropriation; the sums stated in red ink we submit to a further decision of Government.

THOMAS BUTLER,
GEORGE WALLACE.

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 31, 1800.*

I do hereby certify that the foregoing is a true copy from the records of this office; and that, on a second dividend, the following additional allowances, amounting to the balance of \$1,713, were made, viz:

| | | | | | | |
|--|---|---|---|---|---|------------|
| To John Nevill, | - | - | - | - | - | \$532 45½ |
| To Philip Regan, | - | - | - | - | - | 50 00 |
| To Benjamin Wells, | - | - | - | - | - | 100 00 |
| To Mary Ann Kirkpatrick, for her husband, Abraham Kirkpatrick, | - | - | - | - | - | 1,030 54½ |
| | | | | | | \$1,713 00 |

JOSEPH NOURSE, *Register.*

6th CONGRESS.]

No. 115.

[1st SESSION.]

DIPLOMATIC SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 9, 1800.

Mr. MARSHALL, from the committee to whom was referred the petition of William Tazewell, secretary of Elbridge Gerry, Esq., one of the late envoys from the United States of America to the French republic, made the following report:

That when Mr. Gerry was about to embark to the United States, he requested Mr. Tazewell to remain in Paris, for the purpose of superintending the publication of some letters from Mr. Gerry to the Minister of Exterior Relations of the French republic; and employed Mr. Tazewell, after that service should have been performed, to carry despatches to Mr. Murray and Mr. King, the ministers of the United States at the Hague and at London, informing them of his departure from Paris, and of the existing state of the relations between the United States and France. In consequence of this extra service, Mr. Tazewell was prevented from embarking with Mr. Gerry on board the United States' brig *Sophia*, and, while on his return to America, was captured by a French privateer and sent into Corunna, in Spain, from whence he travelled by land to Lisbon, at which place he embarked for the United States. Mr. Tazewell claims a continuance of compensation until his arrival in the United States, and a reimbursement of the expenses incurred while on his journey to the Hague and to London, and afterwards until his arrival in America. Two letters from Mr. Gerry to Mr. Tazewell, and one from Mr. Tazewell to the Secretary of State, which accompany this report, show the nature of Mr. Tazewell's engagement with Mr. Gerry, and of his claim on the United States, with the causes of his situation.

A letter from the Secretary of State to the chairman of this committee, and which also accompanies this report, shows the allowance he is willing to make Mr. Tazewell, and states his view of the claim.

Your committee are of opinion, that the principles adopted by the Secretary of State, for the settlement of the compensation to be received by Mr. Tazewell, for his services, are reasonable; but that, in the settlement of his accounts, his claim for necessary expenses incurred by a capture to which he was subjected by being employed in the service of the United States, ought to be admitted. Your committee, therefore, propose the following resolution:

Resolved, That in settling the accounts of William Tazewell, secretary of Elbridge Gerry, Esq., one of the late envoys from the United States of America to the French republic, the Secretary of State be authorized to allow the expenses incurred by him in consequence of his being captured on his return to his country.

DEAR SIR:

MIGNON, *July 27, 1798.*

The despatches for Mr. King are to be delivered to him by yourself. In the interim, you will be pleased not to let them be put out of your possession, or to be communicated to any one.

As soon as my letter of the 27th of July can be translated, publish it, preceded by my note of the 25th of July; both being to the French Minister of Foreign Affairs. Be very careful to correct the proofs, and to have every part of the letter truly corrected, otherwise there will be gross misrepresentations. Say nothing to any one before the publication, except to the person who may assist you in the translation.

Wishing you a pleasant journey to Holland, and safe return to the United States,

I remain, dear sir, your friend and humble servant,

ELBRIDGE GERRY.

Doctor TAZEWELL.

DEAR SIR:

CAMBRIDGE, *May 6, 1798.*

You will probably find a receipt in your files, signed "Bossinger Foster, junior," for \$787½, and will please to deliver it to Mr. Pickering. I have written to the Secretary on the subject of your allowance, and conceive, that your salary, as my secretary, will terminate with my own, on the 26th of July, the day of my leaving Paris;

and that you will be afterwards allowed for your extra services and expenses, until your arrival at Philadelphia. There is a general rule, without doubt, which will apply to the case; but I am not informed of it. I delivered the book you lent me to Mr. Humphreys;

And remain your friend and humble servant,

Doctor TAZEWELL.

E. GERRY.

DEAR SIR:

PHILADELPHIA, April 5, 1799.

I have thought proper to accompany the enclosed account, as well with a few lines of explanation as such other papers as may be necessary to your own justification in their settlement.

You will observe in Mr. Gerry's letter, that he expected me to charge for services as his secretary up to the 26th July; but as I remained in Paris, by his instruction, to publish a letter to the French minister, I have charged to the 7th August, the day of my departure from that city.

My detention in England was occasioned by the following circumstance: waiting the convoy which was appointed to sail for America in ten days after my arrival in London, viz. the first of September. I engaged my passage in the Pacific, for Charleston, and was obliged (for such is the custom) to pay half the passage money, 20 guineas, in advance, or should have embarked at Liverpool, which I afterwards found would have been a more expeditious route. The sailing of the convoy alluded to was deferred from week to week, till the 20th November, when I embarked at Portsmouth. [On the 10th of December, the Pacific was captured by a French privateer, and sent into Corunna. Plundered in part of my clothes and all the money I had with me, I was landed at Vigo (Spain) on the 14th of the same month, and thence did not reach Lisbon, the nearest port from whence a passage could be procured to America, till the 10th of January.

From Lisbon the first opportunity it was thought safe to embrace, was by the brig Angelica, for Philadelphia, where I arrived the 30th March.

It now only remains for me to hope my conduct will meet your full approbation; and that, should my services at any time be worth calling for, they may be commanded without reserve.

With the highest esteem and respect, I have the honor to be, your obedient servant,

W. TAZEWELL.

TIMOTHY PICKERING, Esq.

SIR:

DEPARTMENT OF STATE, April 1, 1800.

Agreeably to your request, I present to you such facts and observations as appear to me proper to elucidate the claim of Doctor William Tazewell, for services and expenses performed and incurred in the employment of secretary to Elbridge Gerry, Esq., one of the envoys of the United States to France.

In general, it is supposed, that an American minister and his secretary go from their home in the United States on the appointed mission; and when a minister is recalled, it has been the invariable practice, to allow him one quarter's salary, and no more, after the day on which he receives his letter of recall, to compensate for the probable time and expense of his return. If his passage be short, and the voyage be performed in one month, the salary of the other two months are his gain. If a long passage or other accidents procrastinate his return to any period after the lapse of the quarter it is his loss. On an average, three months' time and pay may be considered fully adequate to the return of a minister. As to the secretaries of ministers, although I did not find the like established usage, yet, the reason being the same, I have constantly made them the same allowance of one quarter's salary for their return, when the ministers they attended have resigned or been recalled.

If any exception to this rule were to be made, Dr. Tazewell presents an instance. He did not leave home to attend one of our ministers to Europe; he was in Paris attending the lectures, to qualify himself for the medical profession. In this situation, and when it is understood that, having finished his medical education, Dr. Tazewell was about returning to Virginia, Mr. Gerry wanting a secretary to replace the one who had resigned, engaged Dr. Tazewell. This, as appears by a letter from Mr. Gerry, was on the 30th of March, 1798.

On the 12th of May following, Mr. Gerry received my letter of the 23d of March, 1798; and as he had no authority to negotiate alone, and as none of the circumstances existed, which, according to the tenor of that letter, if all the envoys had remained in Paris, would have justified a continuance of negotiations, it was consequently a letter of recall; and from three months after that day, I have considered that Mr. Gerry's salary ought to cease; and of course, in ordinary cases, the salary of the secretary would also cease. But viewing the secretary as not responsible for the misconduct or erroneous judgment of a minister, I consented to extend Dr. Tazewell's salary to July 26th, when Mr. Gerry quitted Paris; thence to August 7th, while the doctor remained there, pursuant to Mr. Gerry's orders, to get translated and printed his last letter and note to Mr. Talleyrand; and from August 17th to the 23d, while he was travelling from Paris to the Hague, and thence to London, to communicate to Mr. Murray and Mr. King the state of things at the conclusion of Mr. Gerry's negotiation with Mr. Talleyrand; and reckoning from the 23d of August, as you may recollect, during our conversation last autumn, I proposed to allow Dr. Tazewell one quarter's salary for his return. I continue to think, that, with a settlement on these principles, he ought to be well satisfied.

The doctor says that his detention in England, and his subsequent capture and detention in Spain and Portugal, are to be ascribed to his executing Mr. Gerry's orders at Paris, the Hague, and London, and that otherwise he should have come home in the United States' brigantine Sophia, with Mr. Gerry, and thus have lost no time, nor incurred any expenses. To which I answer, that, though sometimes done, it is not usual for the United States to provide vessels to convey their ministers to and from European courts, but they generally provide and pay for their passages themselves; and Doctor Tazewell cannot found a *right* on what is *sometimes* a public *gratuity*. Further, I remark, agreeably to what has been stated as a general rule, that Doctor Tazewell cannot, with any sort of propriety, insist that the United States should insure him against contingencies which might occasion his loss, while they were excluded from any benefit of his gain. Decency even required that he should be content, and not persist in urging the violation of a general rule, because its operation chanced in his particular case to be unfavorable. Perhaps an adjustment not chargeable with rigor might be made, which should exclude Doctor Tazewell from the quarter's salary for his return. The United States did not send him abroad for their service, and I do not know that they were bound to bring him home.

I am, with great respect, sir, your obedient servant,

TIMOTHY PICKERING.

JOHN MARSHALL, Esq., Chairman of the Committee on Doctor Tazewell's claim.

[6th CONGRESS.]

No. 116.

[1st SESSION.]

LOST CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 22, 1800.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom were referred the petition of Benjamin Bird; a bill from the Senate entitled "An act for the relief of the legal representatives of Samuel Lapsley, deceased," which is accompanied by a memorial from Margaret Lapsley, whereon the said bill was founded; a petition from Emory Sudley, Jun., and Elizabeth, his wife, executrix of the last will and testament of William Wright, deceased; the petition of Alexander Roxburgh; the petition of Griffith Jones; the petition of David Jones; the petition of Philip Bush, and the petition of Thomas Leiper, made the following report:

That the objects of these several applicants appear to be to obtain compensation for sundry loan office and final settlement certificates, as described in their several petitions, which they allege have been either accidentally lost or destroyed.

Applications of this nature were frequently made to Congress previous to the adoption of the present Government. By the act of Congress of the 10th of May, 1780, provision was made "that loan office certificates destroyed through accident be renewed at the offices where they first issued, and be delivered to the persons who should appear to be the holders of them at the time they were destroyed," on the conditions specified in the said act; on the 10th of July of the same year, the last-mentioned act was extended to loan office certificates which had been or should be thrown overboard of any vessel, to avoid capture by the enemy.

After the adoption of the present Government, many applications were made for a further extension of the provisions in cases of this nature. On the 21st of April, 1794, an act was passed "limiting the time for presenting claims for destroyed certificates of certain descriptions;" by this act other regulations were made for establishing claims of this nature; and it was thereby provided that all claims for the renewal of loan office certificates or final settlements which might have been accidentally destroyed, should be presented at the Treasury on or before the 1st day of June, 1795, or be forever barred and precluded from settlement or allowance. After the passing of the last-mentioned act, a number of petitions, among which were some of those on which the present report is founded, were presented, praying for a further extension of the principles upon which such certificates might be renewed.

The subject was referred generally to the consideration of a committee, who, on the 15th of January, 1795, made their report, which was considered by the House on the 22d day of that month, when it was resolved that any alteration in the above-mentioned act would be improper.

This subject was afterwards, at the second session of the fourth Congress, again brought under consideration; and a proposed resolution that "provision ought to be made, by law, under specific restrictions, for the renewal of destroyed certificates of certain descriptions" was referred to a select committee, who, on the 6th of February, 1797, made a report, the conclusion whereof was in the following words, to wit:

"That most of the cases where certificates of the public debt are said to have been destroyed, took place long before the passing of the said act of the 21st of April, 1794, and probably a great proportion of them before the passing of the said resolution of the 10th of May, 1780; from which circumstance, as well as the nature of the subject, it would be extremely difficult, if not impossible, at this time, to guard against fraud and imposition, should further provision be made for renewing them. And the committee cannot find stronger reasons in favor of keeping in force the statutes of limitations, in relation to any class of claims, than to that contemplated in the resolution referred to them; they are, therefore, of opinion that the House ought not to agree to the same."

That report was considered, and, after a full discussion, agreed to by the House. All claims for renewal of certificates now are, and during the term of nearly six years past have been, barred. Since the last-mentioned decision was made, as well as before that time, a large number of petitions have been separately presented to the House praying for the renewal or payment of many certificates said to have been lost or destroyed; but in no instance hitherto do the committee find that there has been a deviation from the established rule. On the contrary, the House have hitherto determined that it was not expedient to suspend the acts of limitation for the admission of any one of this kind of claims, and the applications have been uniformly rejected.

If relief should be afforded in one case, the committee are of opinion that it should extend to all those which rest on similar grounds. Legislating on particular or individual cases should be avoided as much as may be. A deviation in favor of any one applicant singly would form an inconvenient precedent, and such a one as it would be difficult to resist.

By the act of Congress of the 3d March, 1795, all certificates commonly called loan-office certificates, final settlements, and indents of interest, outstanding at the time of passing the said act, which should not be presented at the office of the Auditor of the Treasury on or before the 1st day of January, 1797, were declared to be forever after barred or precluded from settlement or allowance.

This provision was afterwards suspended for the term of one year from the 12th day of June, 1798. All claims of this nature are now barred; and, at the present session of Congress, the House have deliberately resolved that it is not expedient further to extend the time for receiving said certificates, even where the original certificates have been presented; so that the law on this subject now seems to be fully settled.

Should provision now be made for payment of lost certificates, it would seem very extraordinary that it should not extend to those which are in being, and can be, in fact, presented at the Treasury, and there cancelled.

If those which are said to have been lost or destroyed shall constitute admissible claims against the public, there will be strong inducements hereafter to obtain evidence that those which are now in being have been also either destroyed or lost.

The several applications which are the subjects of this report rest on similar grounds, and no better than divers others which have been heretofore before the House, referred, reported upon, considered, and rejected.

Among many others, those of Joseph Brevard, Augustine Biddle, Henry Bower, Samuel B. Beale, Demsey Burgess, Thomas Donnellon, Barnt de Klyn, Mary Fowke, Elisha Gardner, John Higby, Jacob Hollingsworth, Mary S. Jones, Archibald Johnson, Elizabeth Marx, Francis Nash, James Powell, Elizabeth Stewart, David Scott, Peter Witner, and John Ward, were, severally, for the renewal or payment of certificates said to have been lost or destroyed. On most of these petitions, if not upon all, explicit decisions have been made by the House.

If provision be made for relief in any cases of this nature, the committee are of opinion it should be by a law establishing a forum competent to examine and settle all claims resting on the same principles, and that no provision should be made in favor of one individual to the exclusion of others.

They therefore respectfully submit, as their opinion, that the several petitions of Benjamin Bird, Emory Sudler, Jun. and wife, Alexander Roxburgh, Griffith Jones, David Jones, Thomas Leiper, and Philip Bush, ought not to be granted; and that the bill from the Senate, entitled "An act for the relief of the legal representatives of Samuel Lapsley, deceased," ought not to pass.

[6th CONGRESS.]

No. 117.

[1st SESSION.]

CLAIMS OF MAJOR GENERAL GREENE AND HIS ASSISTANTS, FOR THEIR SERVICES
IN THE QUARTERMASTER GENERAL'S DEPARTMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 29, 1800.

Mr. DWIGHT FOSTER made the following report:

The Committee of Claims, to whom were referred the petition of Charles Pettit, and the report of the Secretary of the Treasury thereon, respectfully submit as their opinion that the reasoning of the Secretary is well founded and conclusive, and that it would be proper for Congress to agree to the said report.

TREASURY DEPARTMENT, *March 26, 1800.*

The Secretary of the Treasury, to whom was referred, by order of the House of Representatives, on the 8th day of January, 1796, the memorial of Charles Pettit, surviving partner of Major General Greene and John Cox, in the late office of quartermaster general, respectfully submits the following report:

The memorialist, after having fully stated the grounds of his application to Congress, requests—

1st. That the proper officers may be directed to add to the credit of the account of General Greene, as quartermaster general, a commission of one per centum on such further sums as shall appear to be just and reasonable, on the best estimate that can reasonably be formed of disbursements in the Quartermaster's Department, yet unascertained.

2d. That the balance thus found in favor of the department be paid to the memorialist, who alleges himself to be duly authorized to receive it, by contracts and agreements formed in the lifetime of his late colleagues, and still remaining in force: and,

3d. That thereupon the account of the said late quartermaster general and his assistants be finally settled and discharged.

The following prefatory statement appears necessary to a right understanding and just decision on the claim under consideration:

On the 2d of March, 1778, Congress adopted the following resolutions, viz:

"A letter of February 25th, from the committee at camp was read, proposing a new arrangement of the Quartermaster General's Department, and recommending persons to execute the business of the said department.

"Congress, taking into consideration the arrangement proposed by the committee,

"*Resolved*, That the same be adopted instead of that agreed to on the 5th of February, and that there be one quartermaster general and two assistant quartermasters general.

"That these three be allowed for their trouble and expense one per cent. upon the moneys issued in the department, to be divided as they shall agree, and including an addition to the pay of the wagonmaster general and his deputy.

"That Major General Greene be appointed quartermaster general.

"That John Cox and Charles Pettit, Esquires, be appointed assistant quartermasters general.

"That the foragemasters, wagonmasters, and other officers in the department, be in the appointment of the quartermaster general, who is to be responsible for their conduct."

As the memorialist has founded his claim principally upon the stipulations of the committee of Congress mentioned in the preceding resolutions, the Secretary has judged it important to obtain a copy of the letter therein referred to, dated February 25, 1778. No record of this letter exists in any of the public offices; a document without signature or date has, however, been found in the office of the Secretary of State, which is believed to be the rough draught of the letter to the President of Congress; a copy of which (marked A) will accompany this report.

As evidence of the estimate formed by the committee of the amount of the proposed compensation of one per centum on the expenditures, the memorialist has exhibited a certificate signed by G. Morris and J. Reed, two of the members of said committee, in the following words:

"We, the subscribers, certify that in adjusting with General Greene and Colonel Cox the terms on which the Quartermaster General's Department was to be undertaken, and which was afterwards adjusted at one per cent. on the expenditures, those expenditures were estimated to be about four millions of dollars annually, by the committee.

"G. MORRIS,
"J. REED."

On the 17th of November, 1778, Congress adopted the following resolution:

"*Resolved*, That the President of the State of South Carolina be informed that the resolution of Congress, of September 16, 1776, relative to appointments, extends only to the appointment of regimental officers, and not to officers on the general staff."

"Congress proceeded to the election of a deputy adjutant general and deputy quartermaster general for the troops in the Southern department; and the ballots being taken,

"Captain Edmund Hayne was elected deputy adjutant general, and Stephen Drayton was elected deputy quartermaster general in the Southern department; they having been previously nominated by the delegates of South Carolina."

From the above-recited resolution of Congress, appointing a deputy quartermaster general, it may be inferred that the country south of Virginia was intended to form a distinct department, to which the arrangements of the 2d of March, 1778, were not to extend; especially as it appears, in corroboration of this inference, that the officers of the Quartermaster Department in the Southern district were generally appointed by the commander of the army, or by the Executive authority of the States by whom they were furnished with supplies of money.

The arrangements of March^{2d}, 1778, continued in force until July 15, 1780, when a new system for regulating the Quartermaster Department was established by Congress. On the 26th of July, 1780, General Greene resigned the office of quartermaster general, and on the 5th of August following his successor was appointed. The period of service for which compensation is claimed by the memorialist is two years and five months.

It being true, as alleged by the memorialist, that, during the years 1779 and 1780, a considerable proportion of the expenses of the Quartermaster's Department were liquidated by issuing certificates, it is necessary to review the regulations of Congress on that subject.

On the 5th of March, 1779, the quartermaster general and his deputies were authorized to pay all certificates for quartermaster's supplies, issued by officers of the army, of the authenticity whereof they should be satisfied; and it was at the same time declared that no certificate which had then been issued should be valid, unless the same should be presented within six months from the date of the resolution; and that certificates thereafter to be issued should not be valid, unless presented within three months from the date thereof. Further regulations were at the same time established, which were calculated to subject all the disbursements of the department to the control of the quartermaster general.

On the 26th of May, 1780, Congress authorized the Legislatures of the several States to empower the collectors of the continental taxes to receive the notes or certificates issued in the Quartermaster's Department in payment of any requisitions prior to the 1st of March, 1780: at the same time provision was made for holding the persons issuing certificates responsible therefor, by directing returns to be made to the quartermaster general.

On the 26th of August, 1780, Congress resolved, that Major General Greene, late quartermaster general, should render an account to the Board of Treasury of the amount of moneys due on certificates or otherwise, on public account, specifying the sum due in each State, in order that warrants might issue in his favor on the treasurers of such States for payment of the same, out of the moneys to be collected for the United States. It was at the same time recommended to the States to provide that the said certificates of the quartermaster general, and those who purchased under him, should be received in payment of taxes, to the amount of the warrants issued, under proper regulations for preventing fraud.

It is inferred from the before-mentioned regulations, that although the labor of the officers of the Quartermaster's Department was increased by the issuing of certificates, in consequence of the wants of the public Treasury, yet, that the said regulations were well calculated to enable the principal officers of the department to ascertain the amount of the disbursements; and that if any uncertainty remains respecting the sum upon which their commissions ought to be computed, such uncertainty can only be attributed to a defective execution of the system established by Congress.

The memorialist claims that he is entitled to a commission of one per centum on all the disbursements of the Quartermaster's Department during the time General Greene was quartermaster general, whether liquidated in money or certificates, or by persons appointed by and accountable to the quartermaster general, or otherwise; that he and his late colleagues were encouraged to expect a commission on the sum of four millions of dollars, annually; and that the sums expended in the Southern department, added to the expenditures by States, and by individuals of whom no accounts have been obtained, would, with the sums already ascertained, equal that amount.

On the ground, however, of the trouble and uncertainty which would attend an attempt to ascertain the precise amount of all these expenditures, the memorialist has suggested the estimate of the committee of Congress as affording a reasonable rule of computation, which, at the rate of \$40,000 per annum, or one per centum upon an annual expenditure of \$4,000,000, computed for the period of two years and five months, would amount to \$96,666 66.

The Secretary finds that the business of the department was conducted and the accounts kept in the name of the quartermaster general; that the accounts of the quartermaster general were rendered to and adjusted by Jonathan Burrall, Esq., late commissioner for the Quartermaster's Department; that the accounts of the greater part of the deputies have also been adjusted; that others are still depending in the office of the Auditor of the Treasury; and that, in some instances, though to no considerable amount, advances have been made for which no accounts have been rendered.

The following credits have been allowed on account of the compensation of the quartermaster general and his assistants:

| | |
|---|--------------------|
| Commissions, at one per centum, on the specie value of \$85,608,573 $\frac{7}{10}$; in old emissions, received and issued by the quartermaster general, ascertained at, | \$61,612 00 |
| Commissions on the value of \$8,141,777 $\frac{6}{10}$, received by deputy quartermasters of the States of Massachusetts, Connecticut, and Virginia, and accounted for by said deputies, | 1,083 56 |
| Commissions on certificates issued by deputies in lieu of money; ascertained from their returns and accounts as settled, | 2,652 63 |
| Commissions on certificates issued by deputies whose accounts had not been settled in 1789, founded in part on their returns, and on the returns of the commissioners appointed to liquidate such certificates, | 7,602 04 |
| Commissions on expenditures in specie and bills of the new emissions, | 25 81 |
| Amounting, in the whole, to | <u>\$72,976 24</u> |

It appears that the quartermaster general and his assistants retained of the public moneys, which passed through their hands, the sum of \$1,697,601 $\frac{7}{10}$, which was charged to them on account of their compensation, the value of which, computed at various dates by the commissioner, was found equal in specie to, \$64,454 05
And that the memorialist retained in his hands a balance in specie arising from bills of exchange sold by him, on account of the United States, the sum of 8,612 24

Amounting, in the whole, to \$73,066 29

A balance of expenditures in specie was, however, credited by the commissioner, amounting to \$2,800 $\frac{1}{10}$, leaving, on the whole account, a balance due to the quartermaster general and his assistants of \$2,710 $\frac{6}{10}$.

The whole of the accounts of the quartermaster general were stated by the commissioner, and entered in the books of his office as having been finally settled, except the credit above mentioned, for \$7,602 $\frac{4}{10}$, which was founded partly on estimate, the accounts of the deputies not having been in all instances rendered; and except the debit of \$8,612 $\frac{24}{100}$, for the proceeds of certain bills of exchange. As this sum was a voluntary credit exhibited by the memorialist, the omission of the commissioner to hold him accountable, by a charge in the public books, may be attributed to a doubt which then existed respecting the legality of the appropriation.

The Secretary has deduced the following inferences from the facts before stated, which are respectfully submitted to the consideration of the House of Representatives:

1st. That neither the resolutions of Congress passed on the 2d of March, 1778, nor the paper exhibited as a copy of the letter of the committee of Congress, dated February 25, 1778, nor the certificate hereinbefore recited, signed by G. Morris and J. Reed, Esquires, two of the members of said committee, support the claim of the memorialist for a commission on sums expended by States, or by individuals not appointed by and accountable to General Greene, late quartermaster general.

2d. That the regulations adopted by Congress subsequent to the 2d of March, 1778, were well calculated to subject the expenditures of the Quartermaster Department to the control of the quartermaster general, and that nothing contained in the original contract for compensation, or in the said regulations, can justly render the United States responsible for a commission on sums expended or certified by deputy quartermasters, and not included in their accounts as rendered to the late quartermaster general.

3d. That a sum of old emissions, exceeding one per centum upon all expenditures in old emissions, was retained by the late quartermaster general and his assistants, on account of their compensation; and that the value of this sum, with an amount retained in specie, was equal to one per centum on the value of all expenditures which had been ascertained at the time of settlement: And,

4th. That it is therefore inexpedient for the Legislature to pass a law directing the mode of settlement, as requested by the memorialist.

As the claim is for a sum of considerable importance, the Secretary deems it proper to transmit, herewith, two papers, marked B and C, containing the arguments by which the memorialist supports his demand, with the view that Congress may thereby be better enabled to decide as justice shall appear to require.

All which is most respectfully submitted by

OLIVER WOLCOTT, *Secretary of the Treasury.*

A.

Sir:

Agreeable to a promise made in our letter of yesterday, we have, in concert with the general, completed the arrangement of the Quartermaster General's Department, which now only waits for the fiat of Congress. By your resolutions of the 5th instant we find that it is the intention of Congress to divide the Quartermaster's Department into four capital branches.

The quartermaster (properly so called) the commissary of forage, the commissary of horses, &c., and the agent of purchases, &c. Permit us to represent that so many independent officers, without a controlling chief, must necessarily involve interference with each other, infinite confusion, and a variety of controversies, which must be terminated by the commander-in-chief; or, in other words, that the general must be, what he has been during the last campaign, the quartermaster general of the army. Besides this, we have to observe further, that each of these officers must necessarily be empowered to draw for public money, and, of consequence, that the chance of frauds and amount of expenditures will be greatly increased by so many separate departments. Add to this, that when any abuses, and more particularly when any deficiencies shall be felt, it will be easy for these gentlemen to shift the blame from one to the other, rendering it impracticable to detect either ignorance, indolence, or iniquity. Many additional reasons might be adduced to show how dangerous such an experiment may prove; but the wisdom of Congress will doubtless supply them, and, upon reconsidering this business in all its connexions and dependencies, see a propriety in placing this very executive department under one controlling superintending power, whose activity and influence may regulate, pervade, and animate the whole system.

Let us now, sir, cast one glance upon the administration of affairs heretofore: we mean not to censure or commend, but it is our duty to inform. We hesitate not to say that the abuses which have crept in are such that no finances could support a system like the present. Men without morals, without character, and without property, have been and are intrusted with the disposition of public money and of private property. The number of deputies and deputies' assistants is sufficient almost to form an army, and does form a kind of army, not indeed to act against the enemies, but against the friends of America, to sour the minds of the people, and exhaust the resources of the country; and not only is the expense almost infinite, the neglect is as great, perhaps, as fatal. This may appear to be the language of exaggeration; but whatever ideas arise, from a view of the general complexion, they fall much short, when we examine some particular features. We are told, sir, that in some capital purchases the enormous commission of five per cent. hath been allowed. We know that the public pay two and a half per cent. upon every ounce of forage consumed by their army. We fear the public teams have been employed at the public expense to transport private property from distant States; public property has there lain neglected, while our army has been left to suffer for want of the usual camp transportation. It need not be again repeated that, at this moment, not a horse, wagon, tent, or intrenching tool, is purchased for the next campaign; and every gentleman who rides through the country will see it strewn with public stores perishing from neglect.

Such being the melancholy situation to which we have been reduced, it hath become indispensably necessary to call forth characters of known and approved abilities, to introduce a thorough reform, and make the necessary provision for the ensuing campaign. General Schuyler appeared to your committee best adapted to those purposes; but lest he should not be approved, we have cast our eyes upon other persons. It might well have been supposed that, on this occasion, we were not inattentive to the merit which it is said Baron de Steuben possesses. If it were practicable to divide this department, without great injury to the public cause, and if that gentleman really possesses the necessary qualifications, we cannot but think there would be a manifest impropriety in trusting a foreigner, for whose attachment we have at best but a very slender security, with a power to accelerate, impede, or obstruct at his pleasure every movement of the army, and to dispose of large sums of money in such manner, and for such purposes, as he may think proper; (for large sums he must have the disposal of, though it be only to defray what are called *petty expenses* of an army; such expenses amounting annually to a very considerable expenditure under the name of *contingencies*.) Young men, sir, fired with a love of glory, may, indeed, seek honor at the hazard of life, in our American wildernesses; but men who make a trade of war are seldom animated by or act upon these enthusiastic principles; neither can their education, their profession, or the form of govern-

ment they have lived under inspire such veneration for the rights of mankind as will lead to a conduct purely disinterested. With respect to these gentlemen, therefore, it must be evident that they are either *sent* hither for the particular purposes of those by whom they are *sent*, or they *come* hither for particular purposes of their *own*. If the former of these be the real motive, it is unwise to trust them too far; because it is not always possible to discover the sender, or even then what are *his* intentions. If, on the contrary, they come from the latter motive, they come to make a fortune, and they will make a fortune at the expense of their employers; and, having made it, they will, at an enormous exchange, send their money to Europe, or at an enormous price make purchases of land here; and, in either case, go hence and wait with indifference the close of the contest. Instances of this kind may now be found.

We proceed now to state the arrangement which we propose to make, premising that it is upon the characters of men principally, and not upon paper systems, that our success must depend. We propose, sir, to have a quartermaster general and two assistant quartermasters general appointed by Congress, and that these three be allowed for their trouble and expense one per cent. upon the moneys issued in the department, to be divided as they shall agree, and including an addition to the salaries of the wagonmaster general and his deputy, which is absolutely necessary. The gentlemen we have in view are General Greene, Colonel Cox, and Charles Pettit, Esquire; the two former of which consent to undertake the department upon those terms, and upon those only. The latter, we have reason to believe, will not object. The arrangement among them is as follows: that General Greene, as quartermaster general, shall perform the military duty, attend to all the issues, and direct the purchases; that Colonel Cox (who, we will venture to say, is perhaps the best qualified for that purpose of any other man,) shall make all purchases, examine all stores and the like, which his knowledge of the country and of business will enable him to do with advantage to the public; and that Mr. Pettit shall attend to the keeping of accounts, and of cash, which is not, as heretofore, to be intrusted to any deputy. A perfect harmony and good understanding among these gentlemen will, we apprehend, render it unnecessary by any resolutions to mark out the bounds of their several departments, which at best would be attended with no good effects, and, in all human probability, would leave something to be done, which it would be nobody's business to do. Foragemasters, wagonmasters, &c. must of necessity be in the appointment of the quartermaster general, who is, or at least ought to be, responsible for their conduct as forming a part of the general system. Great abuses have already prevailed from the multiplying such offices, of which we shall say no more at present, it being a task at once tedious and disagreeable.

We have had great difficulty in prevailing with these gentlemen to undertake the business. They object to the advanced season, the confusion of the department, the depreciation of our money, and exhausted state of our resources, as rendering it almost impracticable to do that essential service which they conceive their duty to require of them; besides which, each has private reasons of his own. General Greene was very unwilling to enter into this large field of business, which, though it will not, and, indeed, ought not to exclude him from his rank in the line, will, of necessity, prevent him from doing the active duty of a general officer. Colonel Cox, whose private business is known to be very lucrative, was unwilling to quit it and break off engagements which he hath largely entered into for the manufacturing of salt, iron, and the like, and to accept a compensation much short of it, for doing public business, to a much larger amount, and with increased labor. Mr. Pettit, now Secretary to the State of New Jersey, an office which will make genteel as well as permanent provision for his family, cannot be expected to quit it without adequate compensation. In short, sir, we are confident that nothing but a thorough conviction of the absolute necessity of straining every nerve in the service could have brought these gentlemen into office upon *any* terms.

To give a commission upon public moneys is doubtless a temptation to the officer to speculate, and should in general be avoided. In the present instance, however, the general position we believe admits of exception. Every man has his price in a good sense; that is to say, no man will undertake great labor without the prospect of some proportionate gain; and whatever fair promises people may make, every one will have his price at which he estimates his labors, either by right or by wrong. To pay such price in a round sum as a salary to the office, would in one point of view be preferable, but would produce most dangerous effects in the army. Upon raising the salary of one officer, every other will expect a similar increase; and, when once this mode is begun no one can tell where it will end, unless, indeed, in public bankruptcy. It is true that a commission is a temptation to enhance the price of articles purchased, and it is possible enough that this temptation will have its effect: let us then suppose a quartermaster general inclined to defraud the public of a thousand dollars; would he do it by giving two hundred thousand for that which might be purchased for one, thereby giving an alarm; or would he charge the public with the loss of articles in his department to that amount or the like, for which a thousand opportunities would daily present themselves without the possibility of detection?

The fact is, that, in this particular department, if those at the head of it are not honest and vigilant, the public may, nay, must be, defrauded of immense sums, by an infinity of ways, in spite of every check which the ingenuity of man can devise; and of all the means of defrauding, the swelling of commissions by greater expenditures is the most liable to detection, and produces the worst consequences to the offending party himself. There is therefore no possibility of obviating speculation but by drawing forth men of property, morals, and character. These are the only solid bases of security; and if such men watch each other, which would be the case according to our proposed system, we shall have all the precautions which the nature of the office will admit. The commission of two and a half per cent., now paid upon forage alone, will, we believe, exceed the whole allowance of this new establishment. There will be a saving, then, even here; but that from which we hope most, is the sagacity and knowledge of business which these gentlemen possess, and which will provide that we are not destroyed by the insects of the office.

Upon the whole, we must submit this business to Congress, who are alone competent to a final determination. If they conceive our plan, and the persons we have named to be proper, they will confirm it; if not, we have to entreat that they will lose no time in adopting such men and measures as shall appear more adequate to the objects we have in view.

The delays of the committee have arisen from the necessity of consulting the gentlemen, prevailing upon them to accept, and knowing their terms. To trouble you, sir, with the whole of this detail would be tedious and useless; but we beg leave to assure you that not a moment hath been spent unnecessarily. As we are under the necessity to look through the widest circle of acquaintance and character to find some of those very few men who are capable of filling such important offices, it is with pleasure we add that, in the opinion of your committee, their researches have not been made in vain.

Nothing further remains but to express to Congress our anxious wishes that their resolution may be speedy. Every other preparation for a vigorous and decisive campaign will be ineffectual and vain, if this great department remains much longer unfilled by suitable characters; and we hope to be favored with their determination by an immediate express.

We have the honor, &c.

P. S. We had almost forgotten to add the necessity of immediately calling for a state of the preparations for the next campaign in the quartermaster's department, specifying what articles are in readiness, when engaged, where deposited, and in what quantities. Let the arrangement be what it may, such a return is indispensably necessary to enable the gentlemen mentioned above, or any others who may be appointed, to proceed without further loss of time.

While the above despatch was preparing, the enemy, with their whole horse and a large body of foot, came out; the latter halted about ten miles from the city, on the other side the Schuylkill, while their horse proceeded fifteen miles further up, passing several wagons with pork on their way to the camp, of which they took no notice, but pressed on to a drove of cattle on their way from Connecticut, which they have carried into town with them, together with about thirty-one militiamen, whose times were out, and who were returning home without arms. The nakedness of the troops, and difficulties of subsisting them on the east side of the Schuylkill, together with the reduced condition of our cavalry, prevents the army from covering that country as could be wished, and is a subject of serious concern to every one who duly reflects upon the advantageous consequences of it to the enemy in every point of view.

We understand that _____* have, without any permission from head-quarters, passed this on their way to Winchester; we beg leave to submit to Congress how far such freedoms ought to pass unnoticed, and whether it will not be advisable to prevent their returning. We have been much surprised lately to find that the resolution of Congress, passed last October, empowering a court-martial to try persons other than of the army who shall be found carrying on an intercourse with the enemy, will not reach those villains, who come out to kidnap and deliver to the enemy the active friends of their country. There are a number of those offenders now in custody, who must either escape with impunity, (the court-martial having declined passing on them,) or they must be executed by the special authority of the general—an authority which he will not exercise but in cases of the last necessity. We submit to Congress, whether it is not necessary to revive the above resolution, and also to give some direction about these criminals, whose discharge will greatly dishearten our friends, and give just cause of alarm and discontent to the faithful adherents of these States. Besides the great encouragement to these practices, if no punishment can be devised for those now in our hands, we fear it will bring any further resolution of Congress on this subject into contempt, and in a great degree countenance the dangerous intercourse carried on between the city and the disaffected of the country.

DEPARTMENT OF STATE, ss:

I, Timothy Pickering, Secretary for the Department of State of the United States of America, hereby certify, that the preceding writing is faithfully copied from a document found on file in the office of the said Department of State, among the papers of the Congress of the United States, under the late form of Government, in a bundle endorsed "*Reports of Committees on Quartermaster General's Department;*" that the said document is without signature or date, and contains several erasures and interlineations, being apparently a rough draught of a letter to the President of Congress; that I have caused diligent search to be made for another copy of the same document of a more authentic form, but none has been found.

[L. s.] In witness whereof, I have hereto set my hand and official seal, at Philadelphia, this seventeenth day of December, A. D. 1798, and in the twenty-third year of the independence of the said States.

TIMOTHY PICKERING.

B.

Heads of observations respectfully submitted.

Those who were conversant in the business of the American revolution in the early stages of it, will recollect that the great degree of unsuspecting confidence which possessed the minds of the people who were favorers of it respecting the measures of Congress, was the principal source of the energy of public measures. The strict rules of legal precision in forming contracts between the public and individuals were overshadowed by the enthusiasm of patriotism and zeal to establish in Congress the power of performing, at a future period, what they could then only promise or suggest as proper concerning compensations and rewards for public services. The mere recommendations of Congress were regarded as laws of primary obligation, and no doubt was admitted of the equitable and liberal fulfillments of all the engagements they made, and of the expectations they gave, on the final success of the revolution.

Under a considerable degree of this zeal and confidence, the memorialist and his colleagues undertook the exercise of the office of quartermaster general. The verbal assurance of a committee of Congress was relied upon instead of a more formal contract; and when confirmed by the approbation of Congress, further formality was not deemed necessary. It was not doubted but that the terms of the contract were reported to Congress, and would be preserved among their records or documents.

The resolutions recorded on the occasion refer to such a report; but, as that report is not now found, the memorialist begs leave to offer very briefly a few observations tending to show at least a high degree of probability that it contained a statement of the terms agreeing in substance with the contract set forth in the memorial of the 21st of December, 1795.

1st. "Congress taking into consideration the arrangement proposed by the committee;" and, as the arrangement had been matter of negotiation and contract, it is highly probable that the terms agreed upon were stated.

2d. "*Resolved*, That the same be adopted, instead of that agreed to on the 5th of February." "That there be one quartermaster general, and two assistant quartermasters general. That these three be allowed for their trouble *and expense* one per cent. upon the moneys issued in the department, to be divided as they shall agree," &c.

That this resolution must have been intended to have as broad a signification as is contended for in the memorial, seems evident from many circumstances. The following may be sufficient for demonstration:

1st. The smallness of the commission *pro rata*, far below the usual rate for either public or private business, accompanied with either trouble or risk beyond the merely receiving and paying of money in large sums.

2d. To be divided amongst three persons, bearing their own expenses, whose whole time and services were deemed necessary to the business; who were selected, not from the lowest walks in life, but called from profitable establishments, and placed in an ostensible situation, which necessarily subjected them to more than ordinary expenses in their public capacity; each of them having, besides, a separate family, accustomed to decent appearances, to maintain and educate; and precluded, by the public duties required of them, from all private business for separate

* The names here inserted were erased by Oliver Wolcott.

emolument, and also, in a great measure, from attention to the economy of their families, and partaking of their comforts and their cares.

3d. The certificate of the committee of Congress that the terms were adjusted on an estimate that commissions would be drawn on about four millions of dollars annually. This certificate was cotemporary with the formation of the contract, or within a few days of it. The estimate had been recently made by the committee, in conjunction or concert with the commander-in-chief. That the sum was understood and intended to mean specie value, seems perfectly clear. The experience of the first year agreed more nearly than is usual in such cases with the amount of the estimate in specie value; and, though paper money appreciated, rather than depreciated, for some time after the estimate, more than double the nominal amount in paper was issued to the department, by order of Congress, in the first few months, and before the average rate of depreciation had exceeded the rate at which it stood when the estimate was formed. Surely this would not have been done, if the estimate of four millions for the whole year had not been understood to mean specie value.

Whatever may have been the expectations of some people concerning the decline in value and final explosion of the old emission money, the state of the war in the Southern States, and many other distressing circumstances which, in 1779 and 1780, perplexed the affairs of the United States, deranged the Departments, and impelled much of the business belonging to those Departments into irregular and improper channels, could not have been foreseen nor contemplated; nor can it be imagined (without involving an idea too injurious to the honor of Congress to be admitted) that Congress could ever have contemplated, or would have admitted, the infraction of a contract with any of the public servants to be founded on, or to arise from, any of these fortuitous circumstances.

If the quartermaster general and assistants were to be confined to this small commission on the moneys issued directly from the Treasury to them, the emolument after the first year would have fallen short of their actual expenses for the time; and that of the third year, taken separately, would not equal the concurrent expense of a single family.

The idea of considering this as an *old claim*, according to the common acceptation of the phrase, appears to the memorialist so inapplicable to the circumstances of the case, that prudence forbids him to say all that his feelings would suggest on the intimation it implies, which, as applied to him, he conceives to be not only unjust, but cruel. It has given him more real pain than he can suppose could have been intended. His accounts of the administration of the department were prepared and tendered for examination at an early period; but, as new matter continued to arise, to be added to them, from a variety of applications to him concerning unfinished business, as well as from the examination of the accounts and returns of the deputies and agents of the department, which, for a long time after a successor was appointed, he continued to collect, arrange, and examine, as far as his powers and abilities enabled him, and kept an office open for that purpose; and as the commissioner with whom he was to account had much other business before him which he thought it expedient previously to examine, the closing of the general account of the department was delayed by the commissioner's desire, under a promise on his part that he would give notice when he should be ready to take it up. In the mean time, all such abstracts and documents as were required from time to time were promptly furnished. The business was put forward as early as leave was given, which was not till the year 1789, when the commissioner closed the account, as far as it was capable of being closed, from the materials then within his reach; and certified, at the foot of it, his opinion that more credits were still to be added, though he could not then ascertain them. No information in the power of the memorialist was, however, wanting, nor at any time withheld; nor is he aware of any further debits to be added to the account. The moneys drawn out by the quartermaster general and his assistants, for their expenses and other separate use, were not left to be charged, at the close of the business, as a resulting balance or deficiency in the cash account, when the depreciation had rendered it of little value, (except a part, arising chiefly from errors in clerkship and counting large nominal sums in detail, which was so far a loss to the accountant,) but entered regularly when drawn, and accounted for as of the value at those periods, and so calculated by the commissioner.

The principles on which the claim is founded seem to have been admitted by the commissioner, and acted upon by him as far as the materials came within his reach; but he could not go further. At that time it was expected that an addition, such as is now asked, would be obtained from the State accounts which were expected to be collected; and the subject of such addition was then mentioned by the memorialist to the commissioner, and conversed upon between them.

The rest of the delay is accounted for in the memorial, in a manner which the memorialist flattered himself would have saved him from the imputation of stirring up an old claim scarcely worthy of being rescued from oblivion.

On the whole, however, the following reasons strongly incline the memorialist to prefer the liquidation of the claim by taking the certificate of the committee of Congress as the rule, rather than resort to the other mode:

1st. The difficulty and delay that would unavoidably attend the selection of the articles to form the just amount from the numerous and voluminous papers and documents in which they are dispersed, and the doubt of such a selection being now practicable with any kind of certainty.

2d. Though he firmly believes that such selection, if practicable, would produce a larger sum than the other, yet as that excess, or part of it, has probably arisen from extraordinary circumstances which could not have been contemplated in forming the contract, and though these extraordinary circumstances and the irregularities thereby occasioned increased his labors and difficulties, he believes that taking the estimate as the rule would come nearer to the intention of both parties at the time of forming the contract, and perhaps nearer to the true line of equity and justice, as well as afford more facility in arriving at a final settlement, which is a matter of very high consideration to the memorialist, who has already suffered so much by the delay, that the common adage (though he avoids repeating it) frequently presents itself to his mind.

On this principle the calculation would probably be as follows:

From the date of the appointment, the 2d of March, 1778, to the appointment of a successor in August, 1780, may be something more than two years and five months, though the greater part of the business of three years took place within that time, and from the ordinary circumstances of the times involved the memorialist in labors and attentions consequent upon it for some years afterwards. But say, for three persons as before mentioned, supporting their own expenses:

| | | | | | |
|---|---|----------|----|--------|--|
| Two years and five months, at \$40,000 per annum. | - | - | - | - | \$96,666 ⁶⁰ / ₉₀ |
| Deduct the credits stated by the commissioners, viz: Commissions at one per cent. on moneys actually received from the Treasury and distributed, reduced to specie value, | - | \$61,612 | 00 | | |
| On some moneys received from the States, and accounted for, | - | - | - | 1,083 | 56 |
| On certificates issued by deputies in lieu of money, so far as the commissioner could collect from documents then in his possession, as accounted for by the deputies, | - | - | - | 10,254 | 67 |
| On \$750, new emissions, | - | - | - | - | 7 45 |
| On \$1,840 ⁶¹ / ₉₀ , disbursed by C. P. in specie, | - | - | - | - | 18 36 |
| | | | | | 72,796 24 |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|----------|-----------------|
| The balance will be | - | - | - | - | - | - | - | - | - | 23,690 | 36 |
| To this add the balance stated by the commissioner, | - | - | - | - | - | - | - | - | - | 2,710 | 76 |
| Sum due in August 1780, | - | - | - | - | - | - | - | - | - | \$26,401 | $\frac{22}{90}$ |
| Interest per calculation. | | | | | | | | | | | |

C.

Arrangement of facts relative to the subject of the memorial of Charles Pettit, surviving partner of General Greene and his associates in the office of quartermaster general, which are considered as established by the documents and circumstances therein referred to as evidence, already in possession of the Secretary of the Treasury.

In the appointment of the said quartermaster general and his assistants, reference is made to a report of February 25, from a committee of Congress then at camp on the business of making arrangements for the army.

That this report was founded on a previous negotiation and agreement made between the said committee on the one part, and General Greene and his associates on the other part: and by way of inducement to the proposed quartermaster general and his associates to accede to the said agreement, it was stated by the said committee that the commissions to be allowed to the said quartermaster general and his associates, as a compensation for their services and expenses, would amount to forty thousand dollars annually.

That this agreement, or the substance of it, was known to Congress, and adopted and confirmed by them, is evident, as well from the particular manner in which the report of the committee is referred to and relied upon, as from the insertion of the condition that an additional pay to the wagonmaster general and his deputy was included in the commissions allowed to the quartermaster general and his associates; which would not have been placed in the resolution if it had not been stated by the committee as part of the agreement.

That the estimate of the committee concerning the amount of the commissions was just, is verified by so much of the experience of the first year as appears in the statement made by the commissioner, in which the depreciation is calculated monthly, in order to ascertain the specie amount on which he was to credit a commission.

The subsequent years of this account were not less expensive to the public, nor less burdensome and laborious to the quartermaster general and his associates; though from causes too well known to require particular proof, a large proportion of the disbursements relating to this department passed through other channels, whereby a great part of the stipulated commission which became due thereon yet remains to be accounted for to the said quartermaster general and his associates.

That the said quartermaster general and his associates accounted for all the moneys issued to them, to the satisfaction of the commissioner appointed to examine and settle their accounts; and that although a further allowance of commissions remained to be placed to their credit, the balance, as the account then stood, appeared to be in their favor.

From the foregoing facts the following inferences seem to result:

1st. That the appointment of General Greene and his associates to the office of quartermaster general, was founded on a contract previously made with them by the committee of Congress.

2d. That this contract was adjusted and formed on mutual stipulations of duties to be undertaken on the one part, and of a valuable consideration by way of compensation for such undertaking on the other part.

3d. That this compensation was to arise from an allowance of commissions to be drawn on certain designated expenditures, at the rate of one per cent.

4th. That in order to ascertain to the proposed quartermaster general and his associates that this rate of commission would produce an adequate compensation to induce them to relinquish other pursuits, and to undertake the performance of the duties proposed to them, it was stated by the said committee that the said rate of commissions was estimated to produce to them forty thousand dollars annually or thereabout.

5th. That confiding in the fidelity of the said statement, and in the honor of the committee, the contract was agreed to by the said quartermaster general and his associates, and the performance on their part undertaken and pursued with alacrity and perseverance.

6th. That although from the circumstances of the Treasury, and from the course of depreciation, the moneys issued to the department began early in 1779 to fall short of the sums necessarily required to be issued through that channel, and continued to diminish more and more till the supplies fell to a very small proportion of either the requisite or the stipulated amount, yet the quartermaster general and his associates, confiding in the faith of the contract, and that a fair and honorable settlement would ultimately be made with them, did not withdraw from the service, nor abate their endeavours to face and obviate difficulties, however laborious and unpleasant under such circumstances, till Congress thought proper, by a new arrangement, to change the system of organization of the department.

INDEMNITY FOR LOSS IN THE VALUE OF A HORSE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 2, 1800.

Mr. DWIGHT FOSTER, from the Committee of Claims, to whom was referred the petition of Stephen G. Simmons, made the following report:

That he prays for an allowance in consideration of a loss sustained in the reduced value of a horse, used in public service. The committee are of opinion, that to admit of this principle, which must be admitted in case any allowance in this case should be made, would form a very inconvenient and improper precedent; and that the petition ought not to be granted.

6th CONGRESS.]

No. 119.

[2d SESSION.]

INDEMNITY FOR LOSSES OCCASIONED BY THE BURNING OF THE WAR DEPARTMENT,
IN THE YEAR 1800.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 19, 1801.

Mr. MACON, from the Committee of Claims, to whom had been referred the petition of William Markward, made the following report:

That he states he is messenger to the Department of War; and that, when the office was burnt, he lost the whole of his property, consisting of his clothes, furniture, and money, amounting, in value, to about the sum of eight hundred dollars. The United States ought not, in the opinion of the committee, undertake to pay those who may happen to be in their service for property which may have been destroyed by fire or other accident; they must, like other citizens, bear their losses. The committee report, as their opinion, that the prayer of the petition ought not to be granted.

7th CONGRESS.]

No. 120.

[1st SESSION.]

COMMUTATION OF A PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1801.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of John Hoxie, made the following report:

That the petitioner, a wounded seaman, and who has been allowed by Government a pension of half-pay for life, viz. eight dollars and fifty cents monthly, prays that his "pension may be commuted for a sum in gross, proportioned to its just value," in order that he may be enabled to form a capital to be employed in trade. Justice to the petitioner himself compels your committee to believe that, to exchange a moderate, but certain support, for the remote prospect of mercantile gain, would for him be altogether inexpedient and unsafe; nor can it be deemed either wise or creditable in the National Government to convert what was intended as an exercise of charity towards one of its unfortunate citizens into a fund for speculation. Your committee are of opinion that the prayer of the petition ought not to be granted.

7th CONGRESS.]

No. 121.

[1st SESSION.]

MASTS FOR THE NAVY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 30, 1801.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Hugh White and Richard Martin, made the following report:

That the object of the petitioners is to prevail on the Government to accept a quantity of timber intended for masts, which they had contracted with William Cooper, Esq., to furnish for the use of the United States; but which, by unforeseen occurrences, they found it impossible to deliver at the time and place stipulated in their contract. They profess to hope, that at least so much of the timber will now be accepted as shall amount in value to the sum of fifteen hundred dollars, being the sum by them received in advance. By the report of the Secretary of the Treasury, it appears "that a pretty general usage seems to have prevailed to dispense with punctuality, as to *time*, in contracts with the public, when due diligence has been used, and the article contracted for might be received on account of the public without great inconvenience; that he has inquired, but does not find there is any public use to which the timber before mentioned can now be applied; that the case is a hard one, but it does not appear to him the petitioners can claim any thing as a matter of right."

Your committee entirely concur in opinion with the Secretary, that nothing is due to the petitioners from the justice of Government. On what principles, then, can the relief prayed for be afforded, unless, indeed, it be, that the public treasury is to stand chargeable with all the private losses of individuals, and that the Government will indemnify every citizen whose speculations in the prosecution of a hazardous enterprise have not been realized? As your committee are not prepared to recommend a *general* provision of this kind, they are of opinion the prayer of the petition ought not to be granted.

7th CONGRESS.]

No. 122.

[1st Session.]

INDEMNITY FOR THE EXPENSES OF DEFENDING A SUIT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1802.

Mr. GRISWOLD, from the committee to whom was referred a letter from Samuel Dexter, late Secretary of War, made the following report:

That Mr. Dexter, when Secretary of War, in the year 1800, hired, for the accommodation of the Department of War, a house of Joseph Hodgson, in the city of Washington; and in behalf of the United States, as Secretary for that Department, entered into the covenants expressed in his letter to the honorable the Speaker of this House; that after the house had been taken, and before the lease had expired, it was consumed by fire, as was explained by a report of a committee of the House of Representatives made at the last session of Congress; to which report the committee take the liberty of referring the House.

The committee likewise report, that a suit has been commenced by the said Joseph Hodgson against Mr. Dexter, on the covenants of the lease, and is now depending in the circuit court for the District of Columbia, and Mr. Dexter has been compelled, at his own expense, to defend the same.

The committee believe that as Mr. Dexter hired the house for the public, it is improper that he should be left to defend against the suit which has been brought against him, at his own expense; at the same time, the committee are of opinion, that the defence will probably be better conducted under the immediate direction of Mr. Dexter, than in any other form; they therefore recommend to the House to authorize the Treasury to discharge the costs of defending the suit brought by Joseph Hodgson against Mr. Dexter, and submit to the House the following resolution:

Resolved, That the accounting officers of the Treasury be authorized to adjust the account of Samuel Dexter, Esq., for expense which has arisen, or which may arise, in defending against the suit of Joseph Hodgson, brought on the covenants in the lease of a house improved for a War Office, and that the same be paid from the Treasury of the United States.

7th CONGRESS.]

No. 123.

[1st Session.]

NEW EMISSION BILLS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1802.

TREASURY DEPARTMENT, *January 22, 1802.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of Joseph Ward, who applies for the payment of certain bills of credit, commonly called "new emission bills," respectfully reports:

That those bills were emitted by virtue of a resolution of Congress of the 18th day of March, 1780, by which it was, amongst other things, enacted,

"That those bills should be redeemable in specie, and bear an interest at the rate of five per centum per annum, to be paid in specie at the redemption of the bills, or, at the election of the holder, annually, in bills of exchange, drawn by the United States on their commissioners in Europe.

"That the said bills should issue on the funds of individual States, and that the faith of the United States be also pledged for the payment of the said bills, in case any State on whose funds they shall be emitted should, by the events of the war, be rendered incapable to redeem them.

"That, as the said bills should be signed and completed, the States respectively on whose funds they issue should receive six-tenths of them; and that the remainder be subject to the orders of the United States, and credited to the States on whose funds they issued."

It has been held, that the United States being pledged for the payment of interest only in case it should be demanded annually, which demand was not made, and for the payment of the principal only in case of *incapacity* of any State, by the events of the war, which contingency has not taken place, they were absolved from their conditional engagements, inasmuch as they had become guarantees of the capacity, and not of the disposition to pay, on the part of the several States.

Without pretending to discuss the correctness of that position, it seems sufficient to state that it has prevailed; that those bills never have been considered as a part of the debt of the United States; and that a contrary determination at this time would be inconsistent with the principles and provisions of the several laws by which the public debt has been recognised and funded. Six-tenths of those bills were received by the individual States, and whatever part of the remainder may have been received by the United States has been credited to the several States respectively. The whole amount became, therefore, a proper debt of the individual States, and has accordingly been almost universally redeemed by them, and by several at par. For the United States to redeem at present any part of those bills which may be still outstanding would be paying twice the same debt, since they have already paid to the States the portion they had received for their own use, and cannot now obtain credit for any payment they should make, the accounts of the individual States being definitively settled.

It appears, therefore, that the arguments adduced by the petitioner, if they have any weight, should have been urged against the provisions of the funding act, and are no longer admissible against the United States; and that his only recourse at present must be against the States on whose credit the bills he now holds were emitted.

All which is respectfully submitted by

ALBERT GALLATIN.

7th CONGRESS.]

No. 124.

[1st SESSION.

INDEMNITY FOR LOSSES SUSTAINED BY THE ALLEGED MISCONDUCT OF THE REVENUE OFFICERS, IN RELATION TO TWO PRIZES AND THEIR CARGOES BROUGHT INTO THE PORT OF WILMINGTON, N. C., BY A FRENCH PRIVATEER, IN 1796.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1802.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Paul Coulon, a French citizen, made the following report:

That the petitioner claims of the United States indemnification for losses he has sustained by reason of the unjustifiable conduct of the collector of the port of Wilmington, North Carolina, and of the Treasury Department, in relation to two prizes, viz: the ship Betty Cathcart and brig Aaron, brought into said port by the French privateer La Bellone, in July, 1796.

He states that he was agent for the captors in both cases, as well as sole owner of the ship Betty Cathcart, and her cargo; that by the delays he experienced in obtaining permission to unlade the cargoes, and to make sale of the goods, even for the purpose of repairing the vessels, which were in a suffering condition; and, after an order to this effect was with difficulty obtained, by its being countermanded before the object could be accomplished, and, finally, by a peremptory refusal to permit a re-exportation of the goods to France, in American or neutral bottoms, the petitioner was compelled to abandon, and did, in fact, on the 5th June, 1798, make a formal abandonment of the said ship, and the residue of her cargo, to the Government of the United States; that, in consequence, the Government made sale of the property, and, after deducting duties, charges, and commissions, placed the nett proceeds in the Treasury, amounting to thirty-four thousand and thirty-five dollars and forty-eight cents; which sum the petitioner acknowledges to have received from the Treasury in August last. But he represents that it was inequitable to exact duties and commissions in a case so circumstanced, and especially was it unjust that the Betty Cathcart and cargo, which were exclusively his property, should be made chargeable for the duties arising from the cargo of the brig Aaron, which was not his property, and which duties, amounting to six thousand two hundred and forty-one dollars and forty-four cents, were actually retained by the Government from the proceeds of the sales made as aforesaid. He alleges that the United States should not only refund the whole of the duties and commissions before mentioned, but also indemnify him for the injury occasioned by the detention of his property in this country, and his consequent disappointment in not being able to avail himself of the high prices then prevailing in the market at Bordeaux, the place to which the cargoes were destined. The whole of these losses he calculates at one hundred and ninety-five thousand and ten dollars and eight cents: or, if the property were to be estimated for what it would fetch at that time, in Philadelphia, even then the difference between such estimate and the proceeds of said sales could not be less than eighty-three thousand two hundred and fifty-nine dollars and forty-six cents.

A clear and correct statement of the facts in this case, with observations thereon, will be found in the annexed letter from the Secretary of the Treasury, to which your committee beg leave to refer, and pray the same may be considered as part of their report.

As the result of an attentive examination of the subject, your committee respectfully offer to the House the following resolution:

Resolved, That the prayer of the petition of Paul Coulon ought not to be granted.

SIR: TREASURY DEPARTMENT, *January 22, 1802.*

In conformity to the request of the Committee of Claims, I have the honor to enclose a statement of facts and observations in relation to P. Coulon's petition, together with copies of the most material papers on that subject, which are on the files of the offices in this Department.

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

ALBERT GALLATIN.

The Hon. J. C. SMITH, *Chairman of the Committee of Claims.*

TREASURY DEPARTMENT, *January 22, 1802.*

On or about the 14th day of July, 1796, the French privateer "Bellona" brought into Wilmington, North Carolina, two prizes, the "Betty Cathcart," about four hundred tons, and the brig "Aaron," about one hundred and fifty tons burden, both from Jamaica, and laden with sugar, coffee, rum, and logwood. The British treaty being then in force, the collector of that port would not permit them to make entry of their cargo, or to land the same, as this might have enabled them to make sales, which he considered as forbidden by the treaty. On its being represented, however, that the prizes were "in distress," and wanted repairs, permission was granted, by the direction of the Secretary of the Treasury, to unload and to sell as much as would defray the expenses and pay the repairs, provided that the cargoes were placed in public stores, and under double keys, in the custody of the collector, and of the captors respectively.

On the 26th day of November, 1796, a circular letter (a copy whereof is hereunto annexed, marked A) was written by the Treasury to the collectors, fixing rules, generally, for regulating their conduct respecting prizes to French privateers; the object of which was "to protect the revenue from loss, to preserve the property of prizes from destruction, and to secure their departure from our ports, subject to the risk of recapture." By those instructions, cargoes of prizes, unfit for sea, may be exported in other vessels; such cargoes being described in the manifests, clearances, and bills of lading, as "French property."

The conduct of the collector was guided by those particular and general directions. By a survey had on the two prizes on the 10th January, 1797, the repairs of the brig Aaron were estimated at six hundred dollars, and those of the "Betty Cathcart" at eight thousand five hundred dollars. Yet, so liberal was the Government to the captors, that, upon an estimate presented by them, and which included debts said to have been contracted by the crew of the privateer, repairs of the "Bellona," and other items, which did not pertain to the expenses absolutely

necessary for refitting the prizes themselves, permission was given by the Secretary of the Treasury to the collector to suffer sales of the cargoes of the prizes to the amount of thirty-two thousand dollars, if he thought it necessary.

Under that authority sales were made to the amount of twenty-two thousand three hundred and fifty-nine dollars and eighteen cents. But when it was found that the captors had no other object but that of selling as much as they could, without applying the proceeds to the repairs of the vessels; that, for that purpose, they had effected private sales, at a nominal price, below what they were actually to receive from the purchasers; that the brig "Aaron," the repairs of which had been estimated at only six hundred dollars, was not repaired till December, 1796: nor, although she obtained permission to reload her cargo at that time, was not laden till March, 1797; and after her cargo was on board, had not yet sailed in June following; and that, after sales exceeding twenty-two thousand dollars had taken place, the repairs of the ship "Betty Cathcart" had hardly been commenced, and were afterwards given up; the collector did not think himself at liberty to permit sales to a greater amount; and he particularly observes, in his letter of June 7, 1797, (a copy whereof, marked B, is hereunto annexed,) that "if the agents of the captors were permitted to proceed in the manner they would wish, that is, continue to sell without repairing the ship, less than the whole of the cargo would not answer their purpose."

When the agents of the captors found that they could not obtain any further sales, under color of repairing the ship "Betty Cathcart," they applied for a new survey of the vessel. The report of the persons appointed for that purpose, and bearing date 2d August, 1797, states that the repairs would cost, including the \$8,500 previously estimated, \$10,000; and that the vessel, when thus repaired, would not be worth the money thus expended. On that ground, although it appears, by one of the documents now exhibited by the petitioner, that, even six months after, viz: in February, 1798, he was offered six thousand dollars for the ship, the agents of the captors, considering her as unfit for sea, applied for leave to re-export the cargo in American or other vessels. This could not be allowed, except under the restrictions above mentioned, viz: that the cargo should be described in the manifests and bills of lading as "French property;" and to this it should seem that the agents of the captors, from that time to the time when they abandoned the vessel and cargo to Government, never ceased to object.—(See extract of I. Coulon's letter, of the 24th of April, 1798, to the Secretary, marked C, and hereunto annexed.)

Before the last survey of the "Betty Cathcart" had taken place, viz: on the 7th July, 1797, the other prize, "brig Aaron," which still lingered in Cape Fear river, was suspected of illicit conduct, refused being searched, and sailed on the 9th, having cleared for St. Augustine; instead of which, she arrived in Newburyport, and thence in Portsmouth, N. H., under forged name and papers, and having no trace of her cargo left, but empty hogsheads and staves. She was there seized and condemned. A quantity of sugar, imported as rice from Wilmington to Boston, as well as a small parcel found in rice casks, in Wilmington, were likewise condemned; but the greater part of the cargo, which had probably been smuggled whilst lying in Cape Fear river, escaped discovery.

Under those circumstances, it is not improbable that the collector thought it his duty to act with greater caution, and that he may have hesitated whether he would permit the re-exportation of the cargo. The only paper in support of that supposition is his letter of the 10th January, 1798, marked D, and hereunto annexed; in which he asks the Secretary whether he shall permit the re-exportation, in conformity to preceding instructions. It does not appear that either that letter, or that of I. Coulon, dated 24th April, 1798, or a subsequent one, written on the 17th of May ensuing, was answered. And, on or about the 1st day of June following, the agent for the captors abandoned the vessel and cargo to Government, as has been stated by the petitioner.

By instructions from the comptroller, dated 29th June, 1798, a copy whereof, marked E, accompanies this, the collector was directed to sell the ship and cargo. The gross amount of sales was \$57,432 41, from which deducting \$23,396 93, duties and charges, left, as will appear by account of sales, marked F, a nett sum of \$34,035 48, which was received in the Treasury as "unclaimed merchandise," and as such was, after having taken the opinion of the Attorney General, and with consent of the President, repaid in ——— last, on his application, to P. Coulon, the petitioner, as agent for the captors.

The merit of the claims preferred by the petitioner for the sums charged to the account of sales, for storage and commission, for the supposed wastage, and loss on the price at which the ship and cargo were sold, and for his own expenses, rests on a supposition that the vessel and cargo were wrongfully detained and sold by Government. How far this assertion can be supported by facts will appear by a recurrence to the preceding statement, and does not seem to require any further illustration.

Nor, it is believed, is it necessary to adduce any arguments to prove that the amount of duties retained by the Treasury on the sales of the Betty Cathcart and her cargo were as justly due as those on any other merchandise imported into the United States.

The only claim which seems to require any examination is that of \$6,241 44, being the amount of duties on the estimated value of the cargo of the brigantine Aaron, which has been deducted from the nett proceeds of sales of the Betty Cathcart and cargo, and paid into the Treasury as part of the public revenue. The reasons why that sum was thus deducted, and has not been repaid to the captors, are detailed in the letter of the comptroller (E) above mentioned. They may be reduced to this, that the captors, who owned both prizes, were justly indebted to the United States, at least for the amount of duties accruing on the cargo of the brig, the same having been illegally introduced, and of course consumed, in the United States.

The principal plea alleged by the petitioner is, that he was, in fact, the sole owner of the Betty Cathcart and cargo, and had no concern in the brig Aaron, nor in the illegal proceedings practised by the owners of this vessel; and that it is, therefore, unjust to charge him with the amount of any duties or other demand due by the owners of the brig; and the facts here asserted by him are believed to be truly stated.

Without discussing the question whether a plea grounded on an avowed infraction of the regulations of Government, namely, the purchase of a prize when the sale of prizes was forbidden, can with any degree of propriety be urged against Government by a merchant at the time residing in the United States, it is sufficient to observe that that purchase was, at the time, and until after the abandonment of the Betty Cathcart and cargo, concealed from Government; that every act on the part of the owners of that property was done in the name and as agents of the captors; that both prizes were uniformly stated to Government as being still the property of those captors; and that this concealment and that assumed character being the voluntary act of the true owner of the Betty Cathcart, he must abide by the consequences resulting from that fallacious representation made by him to Government.

The only objection which it seems can be made to the procedures on that point is, that, although Government had an equitable claim for the amount of those duties, yet it has not been confirmed in any of the modes provided by law; but that property of those who were justly indebted for the same having, by the temporary abandonment of the parties, fallen in its hands, a sum equal to the duties has been retained by the Treasury, without the judgment of any court of justice having authorized that proceeding; in other words, Government have, in this instance, paid themselves out of moneys incidentally within their power. It does not, however, appear to the Secretary that any

irregularity which may be supposed to have taken place in securing to the United States the amount of that just debt can, under all the circumstances of the case, be adduced as a sufficient reason why it should be refunded to the debtor.

Respectfully submitted by

ALBERT GALLATIN.

A.

Circular to the collectors of the customs.

SIR:

TREASURY DEPARTMENT, November 26, 1796.

For regulating the conduct of the officers of the customs respecting prizes to French privateers commissioned against the subjects of Great Britain, I am directed to communicate the following instructions;

1st. The privilege of unloading the said prize vessels, when they are so damaged as to be totally incapable of reparation, is to be permitted; but in such cases the unloading and storing of the cargoes must be done with the permission and under the inspection of the proper officers of the United States.

2d. The cargoes of prize vessels found to be totally incapable of reparation may be permitted to be exported in American or other vessels; but such cargoes so exported must be described in the *manifests, clearances, bills of lading*, and other documents of vessels, as *French property*.

3d. A prize vessel, being damaged, and reported to be in a situation capable of and requiring reparation, may be unloaded, and her cargo stored as above mentioned, and so much of her cargo may be permitted to be sold as shall be *bona fide* requisite to defray the expenses of *necessary* reparations. Upon the quantities sold duties are to be collected as in other cases. Of the quantities and amount in value to be sold for the purpose of making necessary reparations, the collectors are to be the sole judges, except that, in doubtful cases, special references may be made to this Department.

4th. The surveys in cases of alleged damage are to be invariably made by men of reputation, to be designated by the collectors, who are to report the condition of the prize vessels, whether they be irreparable or not, and, if reparable, their opinion of the expenditures which such reparations will require.

5th. All goods or merchandise unladen from prize vessels are to be deposited in stores secured with two locks, one key of which is to remain with the collector, and the other with the agent of the prize. All expenses of unloading and storage, other than the compensations of inspectors and other officers of the customs; are to be defrayed by the agents of the prizes.

6th. The proceedings relative to the unloading, storage, and sale of any part of the cargoes of prize vessels, are to be governed as nearly as may be practicable by the rules established by the thirty-eighth section of the collection law for vessels arriving in distress.

7th. During the continuance of prize vessels in the ports of the United States, they are to be subject to constant inspection, at the expense of the United States; and, in case goods or merchandise shall be unladen without permission, they are to be seized.

8th. Reports are to be made to this Department of all prizes to French vessels arriving in the ports of the United States, specifying their condition as requiring reparation or otherwise; of the articles composing their cargoes; of all goods unladen and stored, conformably to the foregoing regulations; of all sales of any part of the said cargoes, for the purpose of defraying the expense of necessary reparations; and of all shipments, in neutral or other vessels, permitted in consequence of condemnations of prize vessels.

It being the object of the foregoing regulations to protect the revenue from loss, to preserve the property of prizes from destruction, and to secure their departure from our ports, subject to the risk of recapture, the strict and impartial attention of the collectors is specially requested.

I am, with consideration, sir, your most obedient servant,

OLIVER WOLCOTT.

B.

SIR:

COLLECTOR'S OFFICE, WILMINGTON, N. C., June 7, 1797.

Your letter of the 13th of May I received last post, and also the enclosures. Until I received your letter of the 13th of May, I never heard the most distant hint that the ship Betty Cathcart, prize to the French privateer Bellona, was irreparable; and, as a proof that I have acted agreeably to your instructions, I enclose you a copy of my letter, of January 7th, to John Blakely, Esq., Captain John Livingston, and Mr. William Keddie, the persons I requested to make a survey on the said ship, and on the brigantine Aaron; and also copies of their reports on the said survey. Your instructions of November 26th, section fourth, run thus: "The surveys in the case of alleged damage are to be invariably made by men of reputation, to be designated by the collectors, who are to report the condition of the prize vessels, whether they be irreparable or not, and, if reparable, their opinion of the expenditures which such reparations will require."

With respect to the persons who were on the aforesaid survey, it is unnecessary for me to say more than this: that they are men of respectability and unexceptionable character. With respect to the sales being made either at public or private sale, I expressly told the agents that they had their choice; but that, if any thing collusive appeared, I should regulate the quantity by the market price. They said they preferred a public sale; but it was not a fair public sale; the property was disposed of at private sale before it was set up by the vendue master, who, I am informed, said if the money was not paid within fifteen minutes, he would set up the property again, and the purchaser should pay the loss. The large quantity of rum and sugar put up in a lot, and there not being sufficient time allowed even to count the money, people who were interested in the private purchase would not bid. This was certainly a collusive sale, and I would not recognise it. I told the agents that I would calculate the price by the market; or, if the private purchasers would declare to me what they were to give, I would calculate by that. They preferred the calculation at the market. The sales of the cargoes of the prizes that have already been made amount to \$22,359 18.

The debts have not all been paid. The repairs that have been made upon the ship are trifling, and none going forward now. The brig that required (by report on the survey) only six hundred dollars to put her in a safe condition to proceed on her voyage, has been loaded since the latter part of March, and lies down the river, without any appearance of sailing, and has an inspector constantly on board, whose expense is paid by the United States.

You will now be convinced, I hope, sir, that I have done every thing in my power, consistent with my duty, to forward the repairs of the prize vessels, and enable the agents to pay the debts; but if they were permitted to proceed in the manner they would wish, that is, continue to sell without repairing the ships, less than the whole of the cargo would not answer their purpose.

Since I began this letter, I have received a letter from a Mr. Benjamin Booth, of Charleston, requesting me to receive no instructions from any person but him respecting the ship and her cargo; a copy of which I enclose.

With great respect, I am, sir, your obedient servant,

JAMES READ.

The Hon. OLIVER WOLCOTT, *Secretary of the Treasury, Philadelphia.*

C.

Extract of a letter addressed to "the Honorable Oliver Wolcott, Esq., late Secretary of the Treasury," and signed "Coulon, Agent," and dated

PHILADELPHIA, April 24, 1798.

Under these circumstances, sir, I have been directed by my employers to lay this candid state of facts before you, and to make to you, in their names, the following respectful request:

1st. That the collector be directed to permit the sales to be completed to the amount originally granted, to wit, \$32,000.

2d. That the vessel be allowed to be sold at public sale as unworthy of repair, and as a perishable and expensive article.

3d. That the agents may be permitted to export the remainder of the goods on board of an American or other neutral vessel, whenever they may think it proper and safe.

On this last point I have to observe, that it seems to be Mr. Read's opinion that the goods cannot be exported, unless particular words are inserted in the clearance, so as to point out the property to British cruisers and vessels of war as a fit object of capture; I dare hope, sir, that you entertain a more just and liberal opinion, and that if you think proper at all to confirm to the agents the privilege of exporting their goods, you will not think it necessary to annex to it such a mode of execution as would render it illusive or nugatory.

D.

SIR: COLLECTOR'S OFFICE, WILMINGTON, (N. C.), January 10, 1798.

Herewith you will receive the copy of a letter from Henry Emonet, the present agent of the ship Betty Cathcart and her cargo, prize to the French privateer Bellona, setting forth that the ship had received great damage since the first survey, and requesting me to appoint a new survey on the said ship; and, you will also find a copy of my letter to Amaziah Jocelin, Charles Jordan, and John Telfair, requesting them to make a survey on said ship; and also a copy of their report on said survey. I am very sorry to be obliged to give you so much trouble about this business, but I find it necessary I should be extremely cautious how I act; I therefore request the favor of you to inform me if I am to permit the agent of the said prize to export the cargo to any foreign country in neutral vessels, agreeably to your instructions of November 26, 1796, and the 13th May, 1797.

I am, respectfully, your obedient servant,

JAMES READ, *Collector.*

The Hon. OLIVER WOLCOTT, *Secretary of the Treasury, Philadelphia.*

E.

SIR: TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, June 29, 1798.

You will herewith receive an English translation of a paper presented to the Treasury by Jacques Nicholas Boute, of the city of Philadelphia, acting in the capacity of agent for the owners and crew of the French privateer schooner Bellona, Louis Guerin, master; the object of which is to abandon to the disposition of the Government the prize ship Betty Cathcart, now lying at Wilmington, and the whole of the merchandise of every description remaining in the stores of the custom-house, in consequence of the cargoes of the said ship and the brigantine Aaron having been unladen in the year 1796. This abandonment renders it necessary that steps should be taken to preserve the property from destruction, and, at the same time, to ascertain the charges to which it is justly liable. To this end the President has been pleased to direct—

1st. That the collector of Wilmington cause an accurate inventory to be made of all the furniture, rigging, guns, if any, and every other article on board or belonging to the ship Betty Cathcart, not usually denominated merchandise, subject to duty.

2d. That an inventory be likewise made of all the merchandise originally brought into that port, and unladen under permission of the custom-house, as well from on board the said ship Betty Cathcart as the other prize vessel, the brigantine Aaron. This may be done, it is presumed, from written documents furnished at the time of entry, or prepared by the officers of the customs at the time of unloading the vessels for the purpose of reparation.

3d. The two inventories being prepared in proper form, they are to be subscribed by the collector in his official capacity, and attested by at least two impartial and respectable inhabitants, who will either certify that they are of their own knowledge accurate, or that, from a comparison of them with documents in possession of the custom-house, they believe them to be so. The object is to avoid difficulties which may occur at a future day, in fixing the amount and value of these cargoes, and to prevent any well-grounded complaint from being alleged against the fairness and openness of the proceedings.

4th. The property abandoned to the Government being thus ascertained, and the inventories attested as above directed, the whole will be exposed to sale at public auction, after due notice in the Wilmington, Charleston, Fayetteville, Halifax, and Newbern Gazettes, to the best bidder for cash. The charges for advertising, storing, and all other incidental expenses which may be reasonably incurred, (inspectors' wages excepted,) are to be defrayed by the collector, and an account, regularly and minutely vouched, transmitted with the sales and inventories to the Treasury for examination and adjustment.

5th. In addition to other charges, it is to be understood, that *as the whole* of the merchandise originally imported on board these two prize vessels, will now go into use in the United States, the duties *on the whole*, after

deducting the ordinary allowance for wastage, should be computed by the collector, and brought into view as a charge upon the proceeds of the sales. As the vessels arrived and were surveyed in the first instance, under circumstances of alleged distress, the tonnage duty is not to be demanded, and all the articles included in the first inventory as ship's furniture, rigging, apparel, guns, &c. are, of course, to be exempted from duty. This is one reason for having the property of the captors arranged and divided into two distinct classes.

6th. The persons who attest the inventory of merchandise subject to duty may, also, at the time of doing so, subjoin a certificate stating the supposed wastage, according to the best estimate in their power to make, the amount of which, with the sales heretofore permitted under the license of the custom-house, and upon which duties were received, will be regarded as deductions from the aggregate of merchandise originally imported, and of course duties will be cast and accounted for on the remainder. It has been clearly ascertained that a considerable proportion of these cargoes, and particularly the merchandise reladen on board the brigantine Aaron, in the beginning of the year 1797, for exportation to St. Augustine, was afterwards clandestinely and illegally introduced into the United States. This, among other considerations, renders it proper to estimate the duties *upon the whole*, with an abatement only for wastage. If there should be any good reasons, however, in favor of a different rule, which are not at present known to the Treasury, the collector is left at full liberty to judge and act in this respect according to the dictates of his discretion.

7th. It may, perhaps, be urged by persons who have taken a partial or interested view of this subject, that the merchandise seized at Wilmington, Boston, and Portsmouth, having already been condemned and sold on public account, ought not now to be made subject to duty. Such arguments are unsupported by law, and it will be in your power to show that they are without any reasonable or equitable foundation. If a merchant enters goods which had previously paid duty for exportation under title to drawback, and afterwards illegally lands them within the United States, they are forfeited, and may be seized. If a merchant imports and regularly enters merchandise, pays the duty thereon, and afterwards transports them coastwise, without attending to the forms prescribed by law, they may, under certain circumstances, be seized and condemned; and if this is the constant and uniform practice of the custom-house, there can be no just reason for applying a different rule to the present case.

If the captors, or their agents, instead of abandoning this property to the disposition of the Government had thought fit to comply with the rules laid down in the circular letter of the Secretary of the Treasury of the 26th November, 1796, the necessity of this instruction would doubtless have been superseded; but, under present circumstances, when there is indeed no alternative, it is confidently expected that the sales will be made, under your superintendance, with so strict a regard to the interests of all concerned, as to obviate even the appearance of reasonable complaint. When the nett amount of sales is ascertained, it will be paid into the Treasury, to be held subject to the future disposition of Government.

I am, sir, very respectfully, your obedient servant,

JOHN STEELE.

GRIFFITH JOHN McREE, Esq.

7th CONGRESS.]

No. 125.

[1st SESSION.]

LOST VOUCHERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1802.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom had been referred two memorials of Hugh Hughes, made the following report:

That the petitioner seeks compensation for services as commissary of military stores, and deputy quartermaster general in the American army, during the late revolutionary war, and also a particular provision for the settlement of his accounts, his books and vouchers having been, as he alleges, unfortunately consumed by fire.

If claims of this nature were not barred by the statute of limitations, your committee know of no principle on which relief could be afforded to the petitioner; he has undoubtedly rendered many and essential services to his country. As a patriot he is entitled to much praise; but that he is a creditor of the United States no proof whatever now exists, nor are your committee able to devise any mode by which this entire want of evidence can be supplied, so that his accounts with the United States may be satisfactorily settled.

To grant money from the national treasury on mere conjecture, and to one who on the books of the Treasury stands debited to a large amount, cannot, in the opinion of the committee, be reconciled to the principles either of economy, of justice, or of fidelity to the public.

They, therefore, are of opinion that the petitioner have leave to withdraw his petition.

7th CONGRESS.]

No. 126.

[1st SESSION.]

RANSOM OF AMERICAN CITIZENS FROM INDIAN CAPTIVITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1802.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Francis Duchouquet, made the following report:

That the petitioner asks the reimbursement of moneys by him advanced for the ransom of certain American citizens from captivity amongst the Shawanees Indians. From the evidence before the committee it appears that the petitioner has resided for many years amongst the western tribes of Indians in character of a trader; several persons, citizens of the United States, passing down the river Ohio in May, 1790, were captured by the Shawanees. One of the captives was actually put to death by the most cruel tortures; and the others would, in all probability, have shared the same fate had not the benevolent and seasonable aid of the petitioner been interposed; he generously paid the price of their enlargement.

Those of the redeemed captives, who were of sufficient ability, amply reimbursed him the sums advanced on their behalf; the remainder, to the number of five, being in low and poor circumstances, have never made the petitioner any pecuniary restitution. The sum paid on their account, including ten dollars expended for certain articles of necessary clothing, amounts to one hundred and seventy-one dollars and thirty-three cents.

Your committee, from a view of the circumstances of this case, and *on the ground of the inability of the persons so ransomed by the petitioner to make him compensation*, are of opinion he is entitled to relief, and that he ought to receive from the United States the aforesaid sum, together with interest at six *per centum* from the time it was advanced, amounting, in the whole, to the sum of \$291 84; they, therefore, respectfully offer to the House the following resolution:

Resolved, That there be paid to Francis Duchouquet, out of any moneys in the Treasury not otherwise appropriated, the sum of \$291 84 in full compensation for moneys by him advanced to redeem certain American citizens captured by the Indians.

7th CONGRESS.]

No. 127.

[1st SESSION.]

LOST CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 16, 1802.

Mr. JOHN COTTON SMITH, from the Committee of Claims, who were instructed to "inquire into the expediency of making provision by law, for the payment of such Loan Office and final settlement certificates, as may have been lost, and for the payment or renewal of which application was made prior to the 12th June, 1799," made the following report:

By the resolve of Congress of the 10th May, 1780, provision was made, that Loan Office certificates destroyed through accident be renewed at the offices where they first issued, and delivered to the persons who should appear to have been the holders of them at the time they were destroyed, on certain conditions therein specified. On the 10th July, of the same year, the provision was extended to Loan Office certificates which had been or should be thrown overboard of any vessel to avoid capture by the enemy.

An act was passed the 21st of April, 1794, "limiting the time for presenting claims for destroyed certificates of certain descriptions;" by which it was provided that all claims for the renewal of Loan Office certificates or final settlements, which might have been accidentally destroyed, should be presented at the Treasury on or before the first day of June, 1795, or be forever barred and precluded from settlement or allowance.

By the act of the third of March, 1795, all certificates commonly called Loan Office certificates, final settlements, and indents of interest, outstanding at the time of passing the said act, which should not be presented at the office of the Auditor of the Treasury on or before the first day of January, 1797, were declared to be forever barred and precluded from settlement or allowance. This limitation was afterwards extended to the 12th June, 1799. It appears from a statement made by the Register of the Treasury accompanying this report, that of the several descriptions of public paper referred to in the act last mentioned, there is now outstanding the sum of \$226,432 $\frac{47}{100}$.

By the operation of the act, no reasonable doubt can be entertained, but that every species of certificates therein named, whether destroyed or in existence, must be considered "*as precluded from settlement or allowance*." The only question seems to be, whether provision ought to be made by law for those persons, who, by the destruction of the evidences of their claims, had it not in their power to present them within the time limited by the act, notwithstanding the uncertainty that the certificates would have been presented, if they had not been destroyed?

What amount of destroyed certificates have been paid or renewed at the Treasury the committee have not ascertained; but by the annexed representation from the Auditor of the Treasury it appears, that of the claims presented at the Treasury previous to the 12th June, 1799, for the renewal of destroyed Loan Office and final settlement certificates, there have been rejected about seventy thousand dollars nominal amount of the former, and about eleven hundred dollars specie amount of the latter, on the ground, principally, that the claimants had not conformed to the requirements of the law, in establishing their claims; and in some instances, from an apprehension that the cases did not come within the contemplation of the law of the 21st April, 1794. No class of claims against the Government, it is believed, are in their nature less susceptible of satisfactory proof than those founded on a destruction of the legal evidences of the public debt. The temptation to fraud, the liability to mistake, are equally

apparent. Many instances of both have occurred, and might be readily adduced. Much evil, it is true, may be avoided by the restrictions proposed in the resolution under consideration; because a few favored cases only will be provided for. But it may be seriously asked, why this preference? Why shall the creditor, who has lost, be placed in a better situation than the creditor who has preserved, the original and proper evidence of his demand? And why is it proposed to limit the provision for destroyed certificates to cases which may have arisen prior to the 12th of June, 1799? A measure of this kind, whilst it might cast on the Government the imputation of countenancing a system of favoritism, would, of itself, be an admission of the justice and policy of the statutes of limitation. Of the propriety of continuing in force those statutes, the committee are fully persuaded. Nor do they know any description of claims less entitled to an exemption from their operation than those contained in the proposition referred to them. They therefore respectfully offer to the House the following resolution:

Resolved, That it is not expedient to make provision, by law, for the payment of such Loan Office and final settlement certificates as may have been lost, and for the payment or renewal of which application was made, prior to the 12th June, 1799.

Statement of the Loan Office and final settlement certificates and interest indents, which were outstanding on the 12th of June, 1799.

| Species of certificate. | By whom issued. | Amount. | Species of certificate. | By whom issued. | Amount. |
|---|--------------------------|---------------|-------------------------|----------------------|---------------|
| | | Dolls. 90ths. | | | Dolls. 90ths. |
| Loan office, | Nicholas Gilman, - | 2,864 21 | Final settlem't, | Stephen Gorham, - | 39 81 |
| Ditto. | Nathaniel Appleton, - | 11,167 07 | Ditto. | Inlay & Flint, - | 2,077 61 |
| Ditto. | Joseph Clark, - | 948 00 | Ditto. | Edward Chinn, - | 3,158 22 |
| Ditto. | John Lawrence, - | 4,689 82 | Ditto. | William Thompson, - | 482 68 |
| Ditto. | Yeates & Ten Broeck, - | 5,765 74 | Ditto. | William Barber, - | 1,935 17 |
| Ditto. | Joseph Bordon, - | 1,668 11 | Ditto. | Benjamin Thompson, - | 2,636 05 |
| Ditto. | Thomas Smith, - | 20,839 55 | Ditto. | Benjamin Stelle, - | 7,831 53 |
| Ditto. | Samuel Patterson, - | 103 43 | Ditto. | William Winder, - | 667 75 |
| Ditto. | Thomas Harwood, - | 64,01 60 | Ditto. | Nourse & White, - | 616 02 |
| Ditto. | William Armstead, - | 8,110 83 | Ditto. | Turner & Dunscomb, - | 802 00 |
| Ditto. | James Green, - | 4,663 77 | Ditto. | Aerston, - | 8 67 |
| Ditto. | Gibbs, Parker & Blake, - | 8,933 29 | Ditto. | Jonathan Burrall, - | 1,226 69 |
| Ditto. | O'Bryan & Wade, - | 11,239 49 | Ditto. | William Denning, - | 743 35 |
| Final settlem't, | John Pierce, - | 46,468 88 | Ditto. | Joseph Pennell, - | 677 32 |
| | | | Ditto. | Benjamin Walker, - | 1,657 47 |
| Specie certificates issued in lieu of depreciated Loan Office certificates, | | | | | 3,415 86 |
| Interest indents, | | | | | 64,590 88 |
| | | | Total, | | 226,432 47 |

I do certify the foregoing to be a true copy from the records in this office.

JOSEPH NOURSE, *Register*.

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 6, 1802.*

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 8, 1802.*

Upon an examination of the records of this office, it appears that the following Loan Office certificates, included in the foregoing list of claims, have been taken up and discharged at the Treasury of the United States, viz:

Number 3,400, dated 29th of October, 1778, issued at the Loan Office in Georgia, for \$600, included with others presented the 25th of May, 1795, by Robert How, for Barnt de Klyn.

| | |
|--|---|
| No. 740, dated February 25, 1779, for \$ 500 | } Issued at the Loan Office in Virginia, included with others presented the 28th January, 1795, by Colonel J. Parker, for Thomas Pollard. |
| No. 521, March 6, 1779, 600 | |
| No. 1308, April 10, 1779, 1,000 | |
| No. 1309, April 10, 1779, 1,000 | |
| No. 9924, April 10, 1779, 400 | |

All the other certificates appear to remain outstanding, except a Loan Office certificate, referred to by James Watson, the number and amount of which not being stated by him, it could not be ascertained whether outstanding or otherwise.

JOSEPH NOURSE, *Register*.

A list of claims presented at the Office of the Auditor of the Treasury, for the renewal of Loan Office and final settlement certificates, under the act passed the 21st of April, 1794, and which have not been allowed by him.

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| When presented. | By whom presented. | For whom presented. | DESCRIPTION OF CERTIFICATES. | | | Loan office certificates, nom'l am't. | Final settlements, specie am't. | Remarks and objections. |
|-----------------|--------------------------------|--------------------------------------|--|---------------|---------------|---------------------------------------|---------------------------------|--|
| | | | No. | Date. | Where issued. | | | |
| May 25, 1795 | Samuel Emmerly, T. Peyrinnant, | H. Bass & A. Martin Est. P. Decamps, | 1636 & 1637 | Mar. 13, '78, | New York, | \$600 each, | \$1,200 | (See note 1.) Destroyed with others, for which payment was made per report No. 5761; but no allowance deemed proper for these, the claimant having neglected the measures prescribed by law. |
| March 3, 1794. | | | 55, 56, & 63 | Apr. 14, '77, | N. Hamp. | 400 ea 2,800 | 3,100 | |
| October 7, | T. Fitzsimmons, | John Holker, | a 67, 44 | July 2, 1777, | Mass. | 300 | 300 | |
| | | | 2203 | | | | | |
| | | | 3487 | Jan. 1, 1778, | Ditto, | 300 | | |
| | | | 3571 | | | | | |
| | | | 1512 a 1513 | } Aug. 11, | Ditto, | 1000 ea 7000 | | |
| | | | 1518 a 1520 | | | | | |
| | | | 1519 & 1537 | | | | | |
| | | | 209 | May 21, | N. Hamp. | 300 | | |
| | 8592 | July 25, | R. Island, | 200 | | | | |
| | 6011 a 6012 | - | Ditto, | 300 ea 600 | | | | |
| | 1636 a 1637 | March 13, | New York, | 600 ea 1200 | | | | |
| | 922 a 923 | October 23, | Georgia, | 1000 ea 2000 | | | | |
| | 5016 a 5018 | November 1, | Ditto, | 500 ea 1500 | | | | |
| | 5021 a 5022 | - | Ditto, | 1000 | | | | |
| | 5027 a 5030 | - | Ditto, | 2000 | | | | |
| | 5039 a 5048 | - | Ditto, | 5000 | | | | |
| 1795. | Col. J. Parker, | Thomas Pollard, | 740 a 741 | Feb. 25, '79, | Virginia, | 500 ea 1000 | } 5,200 | Stated to have been destroyed on board the schooner Gacey, at Norfolk, in the month of May, 1779. Some of them afterwards appeared and were taken up, which proves that they were not destroyed, and that they do not therefore come within the provisions of the act. |
| January 28, | | | 520 a 522 | March 6, | Ditto, | 600 ea 1800 | | |
| | | | 1308 a 1309 | April 10, | Ditto, | 1000 ea 2000 | | |
| | | | 9924 | - | Ditto, | 400 | | |
| May 29, | Samuel Emmerly, Robert F. How, | William Arnold, Barnt De Klyn, | 1267 | Oct. 25, '77, | Mass. | 600 | } - | The destruction appears to have taken place on 27th of December, but was not advertised until the month of October, 1790; which was too late to entitle the claimant to the benefit of the act. |
| May 27, | | | 150 | July 6, 1779, | New York, | 4000 | | |
| | | | 6133 | - | Ditto, | 600 | | |
| | | | 9306 | - | Ditto, | 400 | | |
| | | | 158 | May 7, | Penn. | 400 | | |
| | | | 1346 a 1347 | January 12, | Ditto, | 1000 ea 2000 | | |
| | | | 2439 a 2490 | Feb. 12, '80, | N. Jersey, | 400 ea 800 | | |
| | 3399 a 3400 | Oct. 29, '78, | Georgia, | 600 ea 1200 | | | | |
| February 4, | Hon. Mr. Williams | Andrew Bass, | 209 a 214 | Feb. 19, '79, | N. Carolina, | 600 ea 3600 | } 4,000 | Said to be taken (not destroyed) by the British in February, 1779. The resolutions of 10th of May, 1780, not complied with. Inadmissible. |
| — 9, | | | 353 | - | Ditto, | 400 | | |
| | Samuel Emmerly, | Benjamin Bird, | 2014 a 2016 | Apr. 1, 1778, | Mass. | 600 ea 1800 | } 3,400 | Said to be lost by the claimant with his pocket-book—time not stated—his own depositions the only evidence. Inadmissible. |
| | | | 4128 a 4130 | - | Ditto, | 400 ea 1200 | | |
| | | | 5681 a 5682 | - | Ditto, | 200 ea 400 | | |
| | | | 1202 a 1206 | May 20, '79, | Maryland, | 600 ea 3000 | | |
| | | | 1437 | - | Ditto, | 300 ea 300 | | |
| May 20, | M. Clayland, | Est. of W. Wright, | 1825 a 1842 | - | Ditto, | 500 ea 9000 | } 19,300 | Stated to have been stolen in the month of April, 1780. Not provided for by the act. |
| | | | 2475 a 2481 | - | Ditto, | 1000 ea 7000 | | |
| | | | 675 | Mar. 31, '84, | B. Thomps'n | 30.60 | | |
| | 755 | April 10, | Ditto, | 86 | | | | |
| February 10, | Samuel Ward & James Watson, | Samuel Ward & James Watson, | 281 | Oct. 23, '86, | B. Walker, | - | } 1,047 52 | Said to have been lost in a letter by post. No evidence but the claimant's own statement. Not provided for by the act. |
| June 1, | | | A loan office certificate and due bills, said to am't to | 5,473 1/2 | - | - | | |

CLAIMS.

(NOTE 1.)—No proof of destruction, nor were they advertised as required by the resolution of the 10th of May, 1780; also claimed by John Holker. Inadmissible. (NOTE 2.)—Said to be burnt in the claimant's house on 10th of October, 1782—no proof—the certificates not described, nor were the resolutions of the 10th of May, 1780, complied with. Inadmissible.

[No. 127.

7th CONGRESS.]

No. 128.

[1st SESSION.

INDEMNITY FOR A BARN BURNT BY THE CARELESSNESS OF PERSONS IN THE EMPLOYMENT OF GOVERNMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 24, 1802.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Robert Sanders, made the following report:

That the petitioner seeks reparation for the loss of a barn which he alleges was consumed by fire through the carelessness of certain public agents, who were employed in branding cattle on his plantation for the use of the army.

The allegations of the petitioner are not satisfactorily proved, and if they were, the committee are by no means prepared to admit that the Government can be held responsible in a case so circumstanced. The committee are of opinion the prayer of the petition ought not to be granted.

7th CONGRESS.]

No. 129.

[1st SESSION.

DEFALCATION OF AN ARMY CONTRACTOR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 25, 1802.

Mr. ELMENDORF, from the committee to whom was referred the petition of Theodosius Fowler, made the following report:

That the petitioner made a contract with the Secretary of the Treasury, dated the 28th day of October, 1790, to supply and issue as many rations of bread or flour, beef or pork, salt, vinegar, soap and candles, at certain fixed prices per ration, as should be required for the army of the United States on the frontiers, from the 1st day of January, 1791, to the 1st of January, 1792.

He states that he was only the nominal contractor with the Treasury, for and on account of William Duer, and that it was so understood at the Treasury when he made the contract; that he was in no way personally interested in the agency or profits; that he never has furnished any supplies, nor drawn any moneys from the Treasury in consequence thereof: but, on the contrary, that William Duer supplied the army, and drew all the advances made by the Treasury, and negotiated the whole of that concern exclusively and independently of him, and that he knows nothing in relation thereto, except what information he has lately obtained of those transactions from the public accounts and documents. That William Duer, in or about the year 1793, was much embarrassed in his circumstances, imprisoned in the jail of the city of New York at the suit of his creditors, and remained in prison until his death, in the spring of the year 1800. That afterwards, on the 5th of September, 1800, a bill in chancery was filed against the petitioner in the circuit court of the district of New York, for a supposed balance claimed by the Treasury of the United States from him of \$10,799 29, under the before-mentioned contract.

He states that that balance was not struck between the contracting parties, but stated *ex parte* by the Treasury, upon the credit and vouchers returned to the Treasury; for supplies delivered on the one hand, and the Treasury charges for advances on account of that contract on the other hand; that, if admitted to a re-examination of that account, he can demonstrate that more credit is due to the contractor, and that the contract is not justly chargeable for all the moneys with which it is debited.

That the vouchers and regular evidences of the contractor, for supplies furnished between the 1st day of October and the defeat of St. Clair's army by the Indians, which happened on the 4th day of November, fell into the hands of the enemy; and concluding with a prayer to be discharged from further prosecution, and from the demand which he conceives an unjust claim against him, or, that at least improper charges may be rectified, and just credits, upon satisfactory proofs, may be allowed to him.

Your committee have satisfactory evidence, from the concurrent statement of both parties, that such contract was entered into as before stated, accompanied with a bond with two sureties, for the due performance on the part of the contractor; copies of which accompany their report. The originals are stated to have been long since taken or lost out of the Treasury.

In the contract will be found the following clauses, which, in the view your committee have taken of the subject, are the most material: "That all losses sustained by the depredations of the enemy, or by means of the troops of the United States, shall be paid for, at the component prices of the articles captured or destroyed, on the depositions of two or more creditable characters and the certificate of a commissioned officer, ascertaining the circumstances of the loss, and the amount of the articles for which compensation is claimed."

That upon the requisite security entered into, "there shall be immediately advanced and paid by the United States to the said Theodosius Fowler, his executors or administrators, \$10,000, on account of the rations to be furnished; that on the —— day of January next, there shall also be advanced and paid by the United States to the said Theodosius Fowler, his executors or administrators, the further sum of \$10,000, on the account aforesaid; and that if any balance shall, on any settlement of the accounts of the said Theodosius Fowler, his executors or administrators, be found due to him or them, for or by reason of the rations which shall be supplied pursuant to this agreement, the same shall be immediately paid; and that no unnecessary or unreasonable delay on the part of the officers of the United States shall be given to the settlement of the accounts of the said Theodosius Fowler, his executors or administrators."

Your committee report, that no balance has been struck, or settlement of accounts taken place by the mutual act of the contracting parties; but that the auditor of the Treasury, on the 20th November, 1794, reported partly

upon the accounts and vouchers, or other evidences then in the Treasury, and partly upon estimates of his own calculation, where regular vouchers were wanting. A balance appeared to be due to the United States, on account of the said contract, to the amount of \$12,440 94; which, on the 20th November, was re-examined by the Comptroller of the Treasury, who reported an additional credit of \$1,641 65 to be due to the contractor, and reduced the public claim to the before-mentioned sum of \$10,799 29; a copy of which account accompanies this report.

That it is true, as stated, that William Duer was imprisoned by his creditors for large demands, about the year 1793, which imprisonment continued until his death in the spring of 1800; that no legal measures have been taken by the Treasury to bring the contracting party to an account, or to recover the before stated demand, until the 5th of September, 1800, when a chancery suit was commenced against Theodosius Fowler, in the circuit court of the district of New York, which is now pending undetermined.

Your committee are ignorant of the reasons which have induced the lapse of nine years to intervene, before any effectual measures were taken to claim this demand from Theodosius Fowler, if he was really deemed to be the responsible contractor for all the advances charged to this contract, as contained in the annexed amount.

At common law no interest accrues upon an unsettled account, and by the laws of Pennsylvania and New York six years' lapse is a positive bar to a recovery of any unsettled balance. The established rules at the Treasury require annual settlements of internal accounts; and common justice to Theodosius Fowler would have demanded, under the circumstances which are peculiar to his case, that no delay should have taken place in the prosecution of this demand beyond what was stipulated in the contract, which required a settlement at least every six months.

From the evidence which will hereafter be detailed, your committee have just cause to consider Theodosius Fowler as a bare nominal contractor in this case, without any interest or agency in the transactions; and as a just inference of the before detailed facts, they believe that the petitioner, until called upon to pay, was altogether ignorant of the transactions under this contract, or that he was either deemed or held to be accountable to the Treasury. As the Treasury account itself furnishes the evidence that the contractor's papers and vouchers, between the 1st day of October, 1791, and the defeat of the army, fell into the hands of the enemy, your committee are of opinion, if he is to be deemed responsible, that, under the before recited clause of the contract, he is fairly and equitably, if not of right, entitled to a settlement of the accounts, and to such further credit as he can satisfactorily prove to be due to him.

Without giving an express opinion, whether the petitioner was only a nominal contractor for William Duer, or the person alone recognised at the Treasury as the contractor, your committee deem it sufficient to state the evidence for the House to decide, if thought material.

From the Treasury account it appears, that no moneys are charged to have ever been applied for or drawn by Theodosius Fowler, but by William Duer, or persons acting as his attorneys.

By the reports of a select committee of the House of Representatives, appointed on the 9th day of March, 1792, "to inquire into the causes of the failure of the expedition under General St. Clair," made to the House of Representatives, "upon an examination of all the papers furnished by the Executive Department relative thereto of sundry papers and accounts furnished by the Treasury and War Departments, with explanations of the same by the heads of those Departments in person, upon the testimony of witnesses upon oath, and written remarks by General St. Clair; and as the result of their inquiries," they detail, in relation to this contract, the following important facts: "That on the 3d January, 1791, the contract entered into by Theodosius Fowler was wholly transferred from the said Fowler to William Duer; that a copy of the transfer was lodged in the office of the Secretary of the Treasury; that by letter from the Secretary at War, addressed to William Duer, bearing date the 25th of February, 1791, it appears, he was considered as the contractor; that no correspondence appears, subsequently to that time, to have taken place between Theodosius Fowler and either the Treasury or War Departments; that the Secretary of War, who alone appears to have been the agent on the part of the United States, in all things relating to the contract, has always corresponded with William Duer as the contractor, and his correspondence commences at a date prior to that of the copy of the assignment of the contract, lodged at the Treasury. That upon this assignment having taken place, the Secretary of the Treasury agreed by letter to make the advances required by William Duer, as agent of Theodosius Fowler; and that all warrants issued from the Treasury, for the purposes of this contract, were issued to him.

In the view which that committee formed of this case from the evidence, there can be no doubt but that they considered all the public responsibility to attach to William Duer, and that Theodosius Fowler was in no way implicated. That report was under consideration of the House of Representatives during that session, and again brought before the House at the next session, until the 26th February, 1793, when the Committee of the Whole was dismissed from the further consideration of it. In regard to the principles on which the advances of money were made to William Duer, your committee also refer to the letter of the Secretary of the Treasury, of the 7th April, 1791, addressed to William Duer, which accompanies this report.

In addition to this your committee observe, that Theodosius Fowler, in his answer, taken upon oath, to the bill filed against him in the suit of the United States on this subject, states, "that the terms of the contract were adjusted by William Duer; that he was not to have any interest or agency in it, although the principal mentioned in it, and believes it was well understood by the officers of the Treasury, or at least those who were principals, and that he had personally no interest in the contract."

It is also to be remembered in relation to this, that the then Secretary of the Treasury went out of office about the year 1795, without having taken any legal measures whatever in this case, and that the present suit was commenced about three months before his successor went out of office. In the next place, in relation to the inquiry whether the contractor (upon the supposition that he is to be considered responsible), is chargeable with all the moneys debited to his account, your committee would observe—

That from the before detailed facts it appears his assignment was so construed at the Treasury, as having reserved no power or control over the credits or advances which the Treasury might deem it expedient to make to his assignee on the one hand, or to be consulted by his assignee on the other hand, as to the conduct and management to be observed on his part. Upon this your committee would observe, that if the terms of the contract are not to govern as to the extent of the discretion allowed to the Treasury in the advances which might implicate his personal responsibility and liability for the acts of his assignee under the contract, there are no bounds to the extent for which he might be thus personally involved between the Treasury and his assignee. By the before-mentioned extract out of the contract, it appears the Treasury had only contracted to advance on that contract and on the security entered into, to the amount of \$10,000 immediately, and a further sum of \$10,000 in January then ensuing. In this case the sureties of the contractor could neither in law nor equity be held responsible to the Government for advances not accounted for by the contractor, with which the Treasury might deem it expedient to furnish the contractor beyond the sums expressly stipulated; but, on the contrary, such advances would be deemed to have been made not under the contract, but to the personal responsibility of the contractor. Your committee are also impressed with the opinion that the same principles will equally apply to exonerate the contractor, after the assignment of

the contract to a person so fully recognised as the assignee in fact and in interest, which, from the evidence, and the copy of the assignment accompanying this report, appears in this case, William Duer is proven to have been considered; and that therefore the advances made to William Duer, so far as they were not stipulated nor pledged by the terms of the contract, must necessarily be deemed and considered to have been made by the Treasury upon the personal responsibility of William Duer, at whose sole instance they were obtained, as further appears by a letter of the Secretary of the Treasury accompanying this report; and that so far as these principles apply to the case of the petitioner, he ought to be relieved. In this view, it would be unnecessary to be more particular than to state that it appears, from the Treasury account, \$83,708 32 have issued to William Duer, and are charged to this contract, and that the contract is credited with supplies furnished by William Duer to the amount of \$70,255 03. If, then, it is considered that no advances, by virtue of the contract and the assignment of it to William Duer, could ever exceed \$20,000, and that it only provides after that advance to pay the moneys actually due to the contractor for supplies furnished and previously settled at the Treasury, it thus appears that a sum which exceeds the liability of the contractor under his contract, by an amount of \$50,255 03, has been improperly charged to Theodosius Fowler, and that whatever balance is due to the Treasury was not advanced under the contract, but solely on the credit and personal responsibility of William Duer.

Should, however, this view of the subject be deemed incorrect, and that accountability still attaches to Theodosius Fowler for the whole amount of the demand, your committee conceive it must, nevertheless, on all hands, be admitted, that the liability of the original contractor in this case must cease with the expiration of the contract, and that he ought not to be chargeable for advances which were made by the Government subsequent to that period. It appears, from the face of the account, that the whole of the moneys which form the balance claimed by Government in this case were for bills of exchange drawn by an agent of William Duer on him, protested by him, and paid by the War Department subsequent to the expiration of Fowler's contract. If the charge in this view can possibly be just or proper against Theodosius Fowler, the Government would be still authorized to pay any account which may have been contracted by William Duer or his agents, or any bills which these agents may have signed and drawn upon Duer, whether in relation to the contract of Fowler or not, and continue to charge them to his account, and recover them of him. And in regard to these bills of exchange, it is to be further observed that they do not at all upon the face of them bear any evidence of relationship to this contract; and that, although if it be admitted that moneys advanced to these agents, in order to purchase supplies, by the assignee or agent of the assignee, are justly chargeable to the responsibility of the original contractor, still this principle would not go to charge the original contractor with the debts of the assignee or his agent, for supplies purchased on credit, and after the expiration of the contract taken up and paid by Government, and charged to the original contractor's account, without his express assent and permission. In the opinion of your committee, the whole of the before-mentioned constructions, as applicable in this particular, which, under the circumstances of the case, are too extravagant to be either just or legal, need only to be stated to be rejected upon principles of common sense. In this view of the subject, your committee are ignorant of a single argument in favor of a limitation to right, (drawn from inconvenience, inducement to fraud, imposition, or endless responsibility, used daily with such irresistible effect in favor of the Government, even to the extinguishment of settled balances appearing due on its books,) which loses any of its applicability when urged against the Government in favor of the present petitioner. And will it be said that it is irrelevant, merely because he possesses not the same power to enforce it?

Other circumstances important to the true development of the petitioner's case impel the committee further to report, that the aggregate amount of charges for advances to William Duer in the annexed account is \$83,708 32, and of credits as before stated at \$72,909 03, leaving a balance due to the Treasury of \$10,799 29. Among his credits appears an item of \$15,776 40 for the supplies furnished between the 1st of October and the 4th of November, the day of the defeat, calculated from an estimate without any vouchers, and stating that the vouchers of the contractor for that period, upon the defeat of the army, were lost. There appears another item of \$4,323, also credited on estimate for supplies, which on the defeat of the army fell into the hands of the enemy. In order to prove that these credits are not equal to the actual supplies which were lost, and which, according to the contract, exclusively fall upon the United States, your committee have had recourse to the evidence filed in the Treasury; by the affidavits of Matthew Earnest, the superintendent of transportation and issues of provisions then with the army, and of Abijah Hunt, the assistant superintendent of transportations and issues; the former taken on the 3d May, 1792, before Hilary Baker, Esq., one of the aldermen of the city of Philadelphia, and the latter taken on the 8th December, 1791, before William McMullen, Esq., a magistrate of Hamilton county, in the Territory northwest of the river Ohio; agreeing in a statement of the actual supplies which had been received by them at the army, from the contractor, between the 14th August and the 20th November, and stating, at the same time, that the abstracts for the issues in the month of October, together with a considerable quantity of provisions not ascertainable, together with the receipts and other papers belonging to the contractors, fell into the hands of the enemy, and that provisions were issued promiscuously to the soldiery on the retreat, and that upwards of 20,000 rations of provisions remained at Fort Washington at the expiration of William Duer's contract; stating, also, that no other method can be fallen upon to do justice to the contractor, than to take the whole amount of provisions forwarded from Fort Washington, allowing for wastage and issuing.

Your committee do not know by whom these affidavits have been procured and deposited in the office of the Register of the Treasury; they believe them to be the best and most satisfactory evidence which perhaps at that time existed, or could now be obtained. Admitting the contractor entitled to the credit thus established, it will be found, from the statement annexed, which comprehends all the supplies furnished in the gross from the 14th of August by the contractor, and which has reduced those supplies into rations, and ascertains the amount in dollars, according to the terms of the contract, which statement your committee believe to be accurate, it proves, as the result, that the contractor is thus entitled to a credit, from the 14th August until the 31st December, to the amount of \$49,693 57, when by the Treasury account he is only credited for the same period the sum of \$38,706 35, making a deficit of credit of \$10,987 22, which is \$187 93 more than the balance as stated and claimed by the Treasury. Admitting this credit, therefore, to the contractor, which seems reasonable and just, it would appear that the Treasury, instead of having a claim of \$10,799 29, are thus in arrear to the contractor \$187 93.

Your committee have also found it important to investigate the accuracy of the charges which have been placed to the account of the contract entered into by Theodosius Fowler, into which they were necessarily drawn from the face of it. They find him made debtor to Joseph Howell, acting paymaster general, for the amount of \$13,453 29, advanced on account of his contract, *being for bills of exchange drawn by I. Ludlow, agent to William Duer, on the said Duer, and discharged on warrants of the Secretary of War.*

All of these bills, except the first, which is dated the 5th December, 1791, are drawn in the year 1792. The contract expired on the 31st December, 1791.

In the report of the committee before alluded to, your committee find it stated, "that on the 6th March, 1791, William Duer entered into a contract with the Secretary of War, for supplying the troops with provisions, until

their arrival at Fort Pitt; that a bond was at the same time entered into by him for the due execution of the said contract, in the penalty of \$4,000, without any security whatsoever." "And that under this contract, on the 23d March, \$15,000 were advanced to him." In having recourse to the account of William Duer under this contract, with the Secretary of War, it is found that William Duer there stands charged for advances to the amount of \$18,900 38; that he is credited to the amount of only \$5,447 09; and that on the 12th August, 1793, an *ex parte* balance was stated by the War Department against William Duer of \$13,453 29, opposite to which is the following entry: "The residue hereof, being \$13,453 29, is to be carried to the credit of Theodosius Fowler, on account of his contract with the Secretary of the Treasury of the 28th of October, 1790, for draughts of I. Ludlow, agent of William Duer, assignee of said T. Fowler;" a copy of which account accompanies this report; which entry explains the principles on which the transfer was made. To which your committee would observe, that had Theodosius Fowler himself made a settlement with the Treasury before the said 12th August, 1793, he would, on the very face of his account as stated by the Treasury, have been a creditor to the amount of \$2,454, instead of a debtor, by means of the transfer of the said balance, to the amount of \$10,799 29: in relation to which your committee must further observe, that had not William Duer been considered by the agents of the Government as the actual contractor responsible for the advances under both contracts, such transfer of a balance from an account of one contract made with the War Department could not with any propriety or justice have been placed to another account, under a contract of T. Fowler with the Secretary of the Treasury; it being an absurdity too gross and palpable to be attached to the conduct of the accounting officers of the Government, who made this transposition, under any other circumstances.

Your committee find it stated in the before-mentioned report, as a further elucidation of this transaction, that a warrant for \$15,000 was issued by the Secretary of War in favor of Joseph Howell, acting paymaster general, which sum was by him advanced to William Duer, or his agents, on account of the War Department, generally.

In William Duer's account with the Secretary of War, under his own contract on the books of the War Department, we find the first three items to be for moneys advanced him for provisions and supplies, to be furnished in the quartermaster's department; and the residue of the charges are bills of exchange drawn by Israel Ludlow, as an agent of William Duer, in favor of Joseph Howell, protested by William Duer.

These last-mentioned charges are those which are transferred from the War contract of Duer to the Treasury contract of Fowler. In the before-mentioned report it is stated on this subject, that the commander-in-chief directed Israel Ludlow, as agent of the contractor, to purchase six or seven hundred packhorses for the use of the army on their march, and to draw bills on Mr. Duer, the acting contractor, for payment; which bills were endorsed by the commander-in-chief, to the amount of about \$17,000, were protested by the contractor, and paid at the Treasury. By the testimony of Israel Ludlow, which the petitioner has obtained under a commission issued out of and returned to the circuit court, a copy whereof accompanies this report, it appears that he had purchased seven hundred and twenty horses, on account of William Duer, at the request of General St. Clair, with this stipulation, (on the part of the general,) that should there be any difficulty in the execution of the purchase, he would pledge the public for the fulfilment of any engagements said Ludlow might enter into on account of the contractor; that he believes about forty horses were found after the expedition under General St. Clair, and sold for and on account of the contractor; the residue of the horses lie understood, and believes, were lost by the fatigues of the service, and the capture of the Indians. From this testimony, the amount of the expenditure in the purchase of those horses, at \$50 a head, would be \$36,000, which exceeds the balance which the contractor was found in arrear on the War contract, being \$13,453 29, and the amount of protested bills together, being also \$13,453 29, and composing an aggregate of about \$27,000, in an amount not less than \$9,906 58, as a balance due from the War Department to William Duer, instead of a balance of \$13,453 29, due from William Duer to the War Department. That the price of those horses falls upon the Government, from their being lost in the service, and captured by the enemy, if justly chargeable to the account of Theodosius Fowler, is apparent from the contract. But your committee, from the evidence, deem it unquestionable that these horses were purchased for the quartermaster's department, and all moneys advanced by the Secretary of War were advanced to William Duer on his personal responsibility and accountability; and if a balance was due from William Duer, that balance could not be chargeable to Theodosius Fowler; and that, as before stated, there is probable ground for a belief, that if the accounts with the Secretary of War were fairly settled, according to the evidence which is afforded by the testimony of Israel Ludlow, the result would be the ascertainment of a balance of about \$10,000 due to William Duer on that contract, instead of a balance of \$13,453 29 against him, and which sum is charged against the said Theodosius Fowler as aforesaid, and which inquiry your committee do not deem it important to pursue; so that, in every view which this subject has presented itself to your committee, they are constrained to be of opinion that no responsibility for any claim, set up by the Government on account of his said contract, attaches to him; that he ought to be exonerated, and the suit against him withdrawn.

In forming this conclusion, they wish it to be understood, that, so far from implicating the conduct of the accounting officers of the Government in having decided in this case upon general principles, the correctness of which they have no occasion to doubt, and who have not a latitude of discretion in dispensing with them, according to circumstances which may be peculiar to any particular case, the whole of their reasoning and deductions are peculiarly applicable to the claim of the petitioner, which make it an exception out of those general principles, and render it proper for legislative interference. In conformity with which opinion, they submit the following resolutions:

Resolved, by the Senate and House of Representatives of the United States, in Congress assembled, That the claim of the United States against Theodosius Fowler for moneys advanced or paid on account of his contract with the Secretary of the Treasury, dated the 28th day of October, 1790, be, and is hereby, extinguished.

Resolved, That the suit commenced by the United States against the said Theodosius Fowler, in the circuit court of the district of New York, for a claim on account of the said contract, ought to be no further prosecuted; and that the Comptroller of the Treasury be, and is hereby, authorized and required to cause the same to be withdrawn.

7th CONGRESS.]

No. 130.

[1st SESSION.

IMPRISONMENT OF A WITNESS IN DEFAULT OF SECURITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 31, 1802.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Eleanor Haggerty, made the following report:

The petitioner states, that the circuit court for the District of Columbia, in August last, ordered her to be recognised with sureties for her appearance as a witness in the prosecution of a certain Daniel Hennigsey, then accused and since convicted of felony; that not being able to find security for her appearance, she was committed to jail, and there remained from the 14th August to the 8th October, 1801; that the court has allowed her the customary fees for the time she actually attended as a witness, but for the period of her confinement she has received no compensation whatever. She asks Congress to afford her relief.

The committee are sensible that cases of this kind may and do frequently arise in all Governments, however well regulated; but as they too often proceed from causes of a nature not calculated to excite the merited compassion either of individuals, or the public, it would seem inexpedient to make a general provision on the subject; and as the committee are not informed of any circumstances which call for a special interference in this case, they are of opinion that the petitioner should have leave to withdraw her petition.

7th CONGRESS.]

No. 131.

[1st SESSION.

DAMAGES CLAIMED FOR BREACH OF CONTRACT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 31, 1802.

SIR:

TREASURY DEPARTMENT, *March 29, 1802.*

I have the honor to enclose a communication from the Comptroller, together with sundry documents, relating to the claim of Comfort Sands and others.

By an act of the 2d March, 1799, the accounting officers of the Treasury were authorized and empowered to examine, and decide upon, the validity of a certain award or report made on the 25th day of October, 1787, by Isaac Roosevelt and others, referees nominated for the purpose between the United States and Comfort Sands and others, late contractors for the American army. The Comptroller, in the enclosed communication, states the result of that examination, and his decision hereon.

In his judgment, the report of the referees is not an award in a legal sense, and therefore not binding and obligatory against the United States: and he further states it as his opinion, that, if the award should be admitted as such, yet its amount could not, under the proviso annexed to the law, be paid to the parties, unless they shall disprove the evidence which seems to establish the existence of a copartnership in the contract between them and Daniel Parker and William Duer, who are indebted to the United States in a sum as large as the amount of the award. Of the correctness of that decision on both points, the documents will, it is believed, afford sufficient proof.

That decision being final and conclusive under the law, the claimants cannot receive any relief under its provisions; and no other mode of redress, if they are entitled to any, being left to them, except through Congress, the Comptroller's communication and the accompanying documents are for that purpose transmitted.

The length of time, near twenty years, which has elapsed since this claim was first preferred, renders it extremely desirable that it should receive from Congress an ultimate decision; and, if it shall be thought either that the Comptroller's opinion is erroneous, or, that setting aside the award, the claimants are, on the original ground of their contract, entitled to damages, or that the proviso annexed to the law is not, in its strict sense, grounded on justice, it is respectfully submitted whether, all the facts being now in the possession of Congress, the most eligible mode to afford relief will not be, as suggested by the Comptroller, a simple grant of money, with directions to pay it.

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

ALBERT GALLATIN.

The Hon. the SPEAKER of the House of Representatives.

SIR:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *March 19, 1802.*

In obedience to an act of Congress of the 2d of March, 1799, entitled "An act for the relief of Comfort Sands and others," I have at different times, when the current business of the office would admit, had their claim, founded on the award or report of Isaac Roosevelt, Henry Remsen, William Malcolm, and Elbridge Gerry, under consideration, and now beg leave to communicate to you the result. The remote date of the transaction which gave rise to this claim, the amount of the claim itself, (including interest, seventy-four thousand nine hundred and fifty-two dollars and forty-six cents,) and the number and respectability of those who have been called on before me to give opinions concerning it, could not but increase my reluctance to undertake the investigation, as well as my solicitude that that investigation might lead to a just and proper decision.

On the 6th day of December, in the year 1781, Comfort Sands, Richardson Sands, and Joshua Sands, entered into a contract with the Superintendent of Finance, to supply the garrison at West Point and its dependencies with provisions from the 1st of January, 1782, until the 1st day of January, 1783. This was called the West Point contract: the contractors were designated by the style of "Comfort Sands & Co." On the 6th day of April, 1782, Tench Francis, Comfort Sands & Co., Thomas Lowrey, of the State of New Jersey, Oliver Phelps and Timothy Edwards, of the State of Massachusetts, and Walter Livingston, of the State of New York, entered also into a contract with the Superintendent of Finance, to supply all the troops of the moving army of the United States, eastward of the river Delaware, with provisions, from the 1st day of May until the last day of December, 1782, inclusive. This was called the moving army contract. The private agreements of the contractors render it difficult to fix with certainty the proper designation of this company. In the papers which I have examined, they appear to have used different signatures, sometimes "Walter Livingston & Co." at other times "Sands, Livingston, & Co." The latter was probably the style which they assumed in relation to the United States, after the two contracts were converted, with the assent of the Superintendent of Finance, into a joint concern. The former, with that of Comfort Sands & Co., may have been necessary for the adjustment and distribution of their respective interests, in a private settlement. There is reason to believe that this consolidation of the two contracts took place before any supplies were furnished under that of the moving army; or, perhaps, with more certainty it may be said, before any accounts were rendered under it. The time fixed for its commencement was the 1st of May; on the 13th it appears that the Superintendent of Finance made a note in a diary which he kept, in the following words: "Tench Francis and Charles Stewart, Esqs. applied respecting the contract for West Point and its dependencies. Mr. Stewart says that General Washington wishes that contract, and the contract for the moving army, to be by consent of parties consolidated into one, and that he only wished for my concurrence, as the parties were agreed to that measure. I answered, that I had no objection; but that the rations issued at West Point ought to be at 9 $\frac{3}{4}$ d. agreeable to the contract; those for the moving army at 10d.; and if their contracts did not turn out profitable, that I would join in laying the matter before Congress in such light as it might justly merit, to enable them to determine whether circumstances were such as to entitle the contractors to an allowance of the half-penny per ration for the issues at West Point." In the same diary, under date of the 20th of August, 1782, the following note appears: "Walter Livingston and Charles Stewart, on behalf of the contractors, claim payment for forty-seven thousand dollars, amount of issues for the month of July, at West Point, and to the moving army. I stated, that I have already paid, in different sums, fifteen thousand seven hundred and fifty dollars. I agreed to pay Mr. Francis five thousand dollars on their account; that they should receive from Mr. Eddy ten thousand dollars; and from General Washington, out of the money to be paid by Mr. Hill, twelve thousand dollars; and to pay Mr. Whiteside for rum they bought of him, four thousand dollars, with which they are satisfied: and, in addition to this, I agreed to give them draughts on Mr. Swanwick for twenty thousand dollars; to enable them to take up moneys from the receivers of the several States, so as to keep the public rather in advance to the contractors." These notes serve to show that the two contracts were consolidated; that Colonel Stewart, whose name does not appear in either, was concerned in both; and that Walter Livingston, whose name appears but in one, made demands and received money under both. Again, when the accounts were under examination at the Treasury, the clerks, who were not apprized of the consolidation of the two contracts, objected to them, because the issues were introduced into the same general account current. In a letter of the 16th of August, 1782, from Guiliam Aersten and George Hopes, the subject was brought before Mr. Govett, the Auditor, in the following words: "An account current, the United States with Sands, Livingston, & Co. accompanied by a number of vouchers, has been referred to us by James Milligan, Esquire, Comptroller; in obedience to which, we have begun the examination thereof, and find the accounts stated in an immethodical manner, and the vouchers in the greatest disorder. Although the contract for the moving army is distinct from that at West Point and its dependencies, and separately entered in the Treasury books, of which the contractors were well informed, yet we find they have thrown the amount of issues under both contracts into *one general account current*, at the rate of 10d. per ration; in the very first view of which we told Mr. Sands, that in order to state his accounts in two different reports, as was absolutely necessary, we should be furnished with separate accounts current; besides, that the vouchers also ought to be kept in separate bundles, and returns for each post to accompany them; instead of which, we find by one of the bundles, that the same commissary has issued to both the moving army and under the West Point contract, and has blended the vouchers, and brought the whole into one return." The following extract of a letter from the Superintendent of Finance to General Washington, of the 5th August, 1782, tends to confirm the same opinion: "But as these various contractors have, as I am informed, lately joined stocks and contracts, I have made a short statement of the issues, according to *their accounts* and the payments made, from which it will appear that there are not four thousand dollars due for the month of June; and that if a credit be given for provisions purchased of the State of Connecticut, the public are at least four thousand dollars in advance. They say that there are forty thousand dollars due for the issues in July; but the accounts are not yet even presented; notwithstanding which, I shall pay them a considerable sum this week." The advances here promised were made, and are the same which appear in the above quotation from the diary of the Superintendent of Finance of the 20th of August. The following extract of a letter from the Superintendent of Finance to the President of Congress, of the 21st of October, 1782, is also to the same effect: "The vicinity of the army to West Point induced the two companies of contractors to join themselves together, and thus they presented for payment a monthly account of from forty-five to sixty thousand dollars." Other circumstances might be noticed, which indicate the existence of a common interest among the contractors under both contracts; but this is supposed to be sufficiently established.

It may be stated, I believe, without hazard of doing injustice to the contractors, that, prior to the month of August, they had no reason to complain of the Government for the manner in which its engagements had been performed. It was otherwise on the part of the Government. Very soon after the contractors commenced their operations, the army became discontented; their conduct was represented by the commander-in-chief to be irregular and uncertain; the provisions which they furnished often deficient in quantity and quality. The army had no confidence in the dispositions of some of the contractors; the contractors none in the credit and resources of the Government. In this state of mutual distrust, complaints and recriminations continued to increase, until the Superintendent of Finance, despairing of the means, or not thinking himself bound, to make advances in the manner and to the amount expected by the contractors, and the contractors unwilling, or perhaps unable, to grant him an accommodation which he desired as to time, a modification of the contracts, or a transfer of them to other hands, seemed to be unavoidable, when a letter from the contractors of the 11th September, 1782, determined the Superintendent to elect the latter alternative. This letter, with others of previous and subsequent dates, are hereto annexed, marked A. I shall have occasion to refer to some of them in another part of this communication.

In this manner the business of supplying the garrison at West Point and its dependencies, as well as the moving army, passed into other hands. The contract with Jeremiah Wadsworth, of Connecticut, and John Carter, of New York, for this purpose, bears date the 12th day of October, and was to take effect and have duration from the 16th

of that month until the last day of December, 1782, inclusive; this being the remainder of the term for which Comfort Sands and his associates had contracted. On this transfer their claims for damages rest. All their other demands, under both contracts, were settled at the Treasury, and paid with as little delay as the irregular manner in which the accounts were rendered and kept would admit. A warrant for the final balance, 24,498 $\frac{1}{10}$ dollars, (the sum found due on both contracts,) bears date the 16th of April, 1783. A copy of this warrant, discharged by the receipt of Comfort Sands, and a certificate of the register in relation to the union of the accounts of the two companies, on the books of the Treasury, are hereto annexed, marked B.

On the 29th of November, 1782, William Duer and Daniel Parker entered into a contract with the Superintendent of Finance to furnish all rations which might be required within the States of New York and New Jersey, during the year 1783, at eleven-ninetieths of a dollar per ration; and it appears, from an examination of the books of the Treasury, that they received on the 9th of December, 1782, before any supplies were furnished under this contract, the sum of ninety-nine thousand dollars, equal to their issues for the months of January and February following. At a final settlement of the accounts, under this contract, the contractors were found to be indebted to the United States thirty-eight thousand eight hundred and twenty-nine dollars and thirty-seven ninetieths, which, with the interest thereon, still remains due. Whether Comfort Sands & Co., or any of their associates, were also concerned, I have not been able to ascertain. Proof of this, at the present time, and under present circumstances, is not, perhaps, to be expected. The names of William Duer and Daniel Parker only appear.

From the termination of this contract until the 27th of May, 1785, the date of the first resolution of Congress on the subject of a reference, nothing material occurred, except an agreement between the Superintendent of Finance and the contractors to submit their claims to arbitration, and the execution of a bond for this purpose; a copy of which, and sundry letters connected therewith, are hereto annexed, marked C. This bond bears date the 1st day of September, 1784; has relation to claims for the damages under both contracts; and was executed by Robert Morris, Superintendent of Finance, on the part of the Government, and Walter Livingston, Comfort Sands, and Joshua Sands, on the part of the contractors. After the usual and necessary recitals, it concludes in the following words: "And the parties above named do hereby promise that they will faithfully abide by, perform, fulfil, and keep such award, provided the same be executed, ready to be delivered to either of the said parties, on or before the first day of October next. In witness whereof," &c. An award was not made within the time limited; the causes of failure I have not been able to discover. On an application to extend the time, a letter from the Superintendent of Finance of the 9th of October, 1784, to Sands, Livingston, & Co., contains the following paragraph: "I am much obliged, gentlemen, by your expression of the opinion you had formed of my candor and disposition to do justice. If a compliance with my duty should induce a change of that opinion, it will be my misfortune. It was always very questionable whether I had a right to refer your claim to the decision of arbitrators. No such power was expressly delegated by Congress. I had even reported that such power should be granted, and this report was not agreed to, which forms a strong presumption against it. At this hour, therefore, I cannot do an act which it may, perhaps, be contended that I ought never to have done, and which, if now done, would argue in me a doubt of the justice both of the Congress and of my successors. I have no such doubts, and a conduct expressive of it would be totally improper. I shall always be willing to certify such matters of conversation as may have passed on this subject, should it be useful or necessary for you; but, as a public officer, I cannot interfere. The earnestness of Mr. Livingston's solicitations would have induced me to do it, if my judgment did not strongly prohibit me, and I should err against the dictates of my own mind if I consented. Let me add, gentlemen, that I feel very sincere concern at being obliged to decline a compliance with your request, and the more so as I did hope that every concern of my administration would have been closed before I left the office of finance." The report which the Superintendent of Finance alludes to in the foregoing letter, as having been made to Congress by him on the subject of a reference, and not adopted, I have not been able to find: this circumstance, however, tends to throw some light on the resolutions under which what is called the award or report of the referees was made. It will be observed, that the bond executed by the Superintendent of Finance and the contractors differs from the resolutions of Congress in the following essential particulars:

1st. The bond fixes a limitation within which the award shall be made.

2d. It contains an express obligation on the parties to abide by, perform, and fulfil such award; subject, it is presumed, to legal exceptions only, if any should be found to exist.

On these points the resolutions of Congress are silent. That of the 27th of May, 1785, conveys an authority to John D. Mercier, W. Malcolm, and Isaac Roosevelt, to inquire into the particulars and to determine what damages, if any, have been sustained, and make report to Congress; or, in other words, like the powers usually delegated to committees, to ascertain whether any, and what, damages have been sustained, and make report to Congress. The resolution of the 27th of June, 1785, authorizes the same persons to make the same inquiry in relation to the damages claimed on account of the West Point contract, and its dependencies, and make report to Congress. It also instructs the Comptroller of the Treasury to attend on behalf of the United States—"the gentlemen appointed to inquire what damages, if any, have been sustained under both contracts, and to employ counsel, if necessary." The resolution of the 4th of November, 1785, the last act which appears on the printed journals of the former Government on this subject, authorizes "the Secretary of Congress, in conjunction with Walter Livingston, Comfort Sands, and their associates, to agree upon and appoint two disinterested referees, to be added to those heretofore appointed, to decide certain controversies, &c., who, or a majority of whom, shall be competent to report their opinion to Congress." The style of this resolution, viz: "referees appointed to decide certain controversies," differs from that of the preceding resolutions; but it appears to me to be a difference in form only. The restrictive words, "a majority of whom shall be competent to report their opinion to Congress," are preserved in all the resolutions, and, taken in connexion with the negative decision on the proposition of the Superintendent of Finance alluded to in his letter of the 9th of October, 1784, quoted above, serve to explain the sense of that body as to the objects of the inquiry, and the powers of the persons appointed to make it. Had any thing been intended further than to obtain from disinterested persons, acting on oath, a statement of the nature and extent of the damages claimed, it would not, I presume, have been left to implication. If such had been the intention, an obligation to abide by and fulfil the award would have appeared in the form of a resolution of Congress to that effect in express terms, or giving authority to some officer of the Government to enter into bond with the contractors for the purpose. On this point I must be understood to have formed an opinion with extreme diffidence and hesitation, as well from perceiving that the Secretary of the Treasury made his report to Congress of the 24th February, 1791, under different impressions, as that it cannot but have an influence on the decision of one of the principal questions—concerning the validity of the award which arises out of the act of the 2d of March, 1799.

The persons appointed under the resolutions of the 27th May, 27th June, and 4th November, 1785, being without limitation as to the time of making their inquiry and report, did not convene until the month of October, in the year 1787, when the Superintendent of Finance was not in office, and when the Comptroller of the Treasury was on the point of quitting the public service, in consequence of a resolution of the 21st of September, which declared

that that office and the office of Auditor, and the clerkships pertaining thereto, should be abolished from and after the 1st of November, 1787. The report of the referees, and their letter which accompanied it to Congress, bear date the 25th of October preceding. It appears that the Comptroller attended the meeting of the referees, but did not employ counsel, and took no part whatever in the investigation. Although no notice is to be found in the printed journals of the report and letter of the referees of the 25th of October, 1787, it appears, from an examination of the files of Congress, in the Department of State, that they were read on the 29th of February, 1788, and referred to Mr. Wadsworth, Mr. Otis, Mr. Dane, Mr. Hamilton, and Mr. Kearney, who made a report on the 25th of March, in the following words, viz: "The committee to whom was referred the award of referees upon claims of the contractors for supplying the army and garrison at West Point, beg leave to report that it is the opinion of your committee, the award of the said referees ought to be confirmed by the United States in Congress." It appears by the endorsement on this report, that on the 11th of June following it was recommitted, together with a letter from John D. Mercier, one of the five referees, explanatory of the principles of the award, and the reasons which induced him to dissent from it, to Mr. Williamson, Mr. Tucker, Mr. Baldwin, Mr. Edwards, and Mr. Brown. This committee prepared a report which was never acted upon by Congress. It places the subject in a point of view which indicates the opinion entertained at the time in relation to the powers and duties of the referees, that the United States were not represented in the manner intended by Congress; that the resolutions of the 27th May and 27th of June, 1785, were passed, nine States being present; that on the 4th of November, the date of the resolution under which the referees acted, Congress consisted of seven States only; and that "it was not in the power of seven States to vest them with such authority, or to appoint referees properly so called." With this view of the "subject, and considering that the persons who have reported their opinions to Congress have not stated any facts from which Congress can be enabled to judge of the propriety of such opinions, it appears to your committee that referees should be duly appointed, by whom the account may be finally settled, on which they submit the following resolve." This resolve was intended to authorize five referees to hear the parties, and finally determine the damages, if any had been sustained. A copy of this report, and of the letter and statement of Mr. Mercier, which produced the recommitment of the report of the former committee, are hereto annexed, marked D. The Auditor's report, under the present Government, dated the 15th of March, 1790, since suspended in the Comptroller's office; Mr. Hamilton's report to Congress, dated the 24th of February, 1791; reports of sundry committees of Congress under the present Government, and a copy of the report of the referees, with a statement of the sum now claimed, lately presented by Ebenezer Stephens, amounting to \$74,952 46, are also hereto annexed, marked E.

The foregoing statement of facts, in the order of their dates, although a tedious one, is supposed to have been necessary to a correct understanding of the case, and to a proper performance of the duty imposed, by the act of the 2d of March, 1799, on the accounting officers of the Treasury. They are empowered by that act to examine and decide upon the validity of a certain award or report, and, in doing which, they are to be governed by principles similar to those which would prevail in a controversy concerning it at law. These principles are understood to preclude any examination of the claim for damages on its original merits. The first question to be decided is, whether the report of the referees is an award in the sense of the act of Congress; that is to say, in a sense strictly technical. In my judgment it is not, for the following reasons, viz:

1st. The resolutions of Congress do not give an authority, in terms, to bind the United States. They authorize certain persons to report their opinions to Congress. An assent to hear opinions, without an engagement to abide by them, is not a submission. A written submission, like a written award, must be interpreted by its own words, and not by any matter which doth not appear on the face of it. If there be no submission, there can be no award, in a legal and obligatory sense.

2d. The United States have never confirmed the report of the referees, either expressly or by implication.

3d. The inquiry was postponed an unreasonable length of time, in consequence of which the United States were not properly represented, which would have been the less material if the referees had communicated to Congress the causes of the delay, and the facts and principles on which their opinions were founded.

4th. On the 4th of November, 1785, the date of the resolution under which two of the four referees who signed the report acted, Congress consisted of seven States only, a quorum not sufficient to grant or appropriate money, which, in the opinion of the committee appointed to reconsider the report of the referees, was a conclusive objection against it. If seven States in Congress were not competent to grant or appropriate the money claimed for damages, they could not vest referees with power to do an act which would render an appropriation unavoidable. A power which is not possessed cannot be delegated. There may, perhaps, have been cases of urgency during the existence of the former Government, in which the acts of seven States were confirmed by the votes of nine; but in such cases, the subsequent appropriation is to be presumed to have proceeded more from a regard to circumstances than a sense of obligation on principles of strict constitutional right.

If the act of Congress of the 2d of March, 1799, would admit of taking the merits of the claim for damages into consideration, it might be stated, in addition to the objections contained in Mr. Mercier's letter, that upwards of two-thirds of the amount admitted consists of charges for extra prices of provisions supposed to have been purchased with Mr. Morris's notes, a speculative profit on the contracts for the residue of the year after their issues ceased, and interest on these sums until October, 1787, when the referees made their report. Mr. Morris's notes were not issued by him as a public officer, but in his private capacity; the United States were charged by him for their full amount, as specie; and there is no instance, as I have been informed, of admitting depreciation to be charged on them in any account settled at the Treasury. To admit this part of the claim, therefore, would be to place the contractors on a better footing than others who received the same description of paper in payment for supplies similar to theirs, or for services in the field. As to the sums allowed for profit, there are reasons to believe that this, at 9½d. and 10d. per ration, could not have been realized, even if the contract had not been surrendered, and if the public stipulations had been punctually and liberally fulfilled. The prices of provisions, particularly flour, had been so much enhanced by the competition of the French agents, and other causes, in the latter half of that year, that it may be justly questioned whether the contractors did not derive an advantage, rather than an injury, from the transaction which released them from their engagements to supply the troops for the remainder of the period. If the charges under these heads ought not to have been admitted by the referees, for whatever reason, the allowance of interest thereon was, of course, improper; and yet these constitute the whole amount of the award, except the charge for damages on account of beef, to Phelps and Edwards, two of the original contractors.

Another part of the act of the 2d of March, 1799, which necessarily engaged my attention, is the proviso with which it concludes. This was added to the bill in the House of Representatives (which had been before Congress, at different times, from the year 1792 until its final passage) in consequence of the recommendation of the "Committee of Claims to whom were recommitted the petition of Comfort Sands and others, with the reports of the Secretary of the Treasury, of two select committees, and of the Committee of Claims thereon, and of a bill heretofore reported for the relief of the said Comfort Sands and others, with instructions to inquire whether any

of the parties for whom relief is intended to be provided by the said bill are indebted to the United States, and whether any, and, if any, what provision should be made in the said bill for the purpose of effecting a discount." In obedience to this instruction, the Committee of Claims reported in the following words, viz: "That there is a probability that some of the individuals for whom relief was intended to be provided by the said bill, on the settlement of their accounts, will be found to be indebted to the United States; should that be the case, if relief on their petition should be granted, the committee think a clause should be inserted in the bill, by which it shall be provided that such sums, as may be thus found due, shall be charged against the sums which may be allowed by such bill." The proviso is in these words: "That if, on examination by the officers of the Treasury, it shall be found that the said Comfort Sands, or either of his copartners, are indebted to the United States, they shall charge the amount in which they may be so indebted against the sums which may be allowed on account of said award." Although this proviso cannot have effect until the award is admitted to "be binding and obligatory against the United States," yet as it has been the subject of discussion, and as its justice is questioned by the parties interested and their counsel, it appears to me to be proper that I should notice it in the present communication. The persons immediately in the view of the committee, and whose debts to the United States the proviso was intended by them to embrace, are Walter Livingston, Thomas Lowrey, Daniel Parker, and William Duer. A statement exhibiting a view of their several balances, and the time and service in relation to which they became accountable, is hereto annexed, marked F. The names of Mr. Livingston and Mr. Lowrey appear in the original contract for the supply of the moving army; those of Mr. Parker and Mr. Duer do not; and on the part of the persons intended to be relieved it is denied that they were copartners either in a legal or equitable sense. Their several affidavits, and other proofs lodged at the Treasury since the passage of the act of the 2d of March, 1799, are hereto annexed, marked G. The circumstances which have given rise to a contrary presumption are the following, viz:

1. The names of William Duer and Daniel Parker frequently appear in letters and other papers bearing the signature of the company, as persons concerned in their pecuniary transactions.

2. Among the papers submitted to the referees to establish the claims for damages, are accounts of expenses incurred by the copartners. These include the expenses of Mr. Duer.

3. A very important letter to the Superintendent of Finance, dated at Rhinebeck, 11th September, 1782, a copy of which is hereto annexed, bears the signatures of Comfort Sands, Walter Livingston, William Duer, and Daniel Parker. In a letter from the Superintendent of Finance, of the 21st of October following, to the President of Congress, he notices this letter in the following words: "In consequence of this, *four of the contractors* joined in a letter to me of the 11th of September, (of which the enclosed paper is a copy.) In this letter those parts which commanded any particular attention were, first, the demand of two promises; one that they should be indemnified for all damages from the public inability to perform their engagements; and the other that I should, on producing the monthly accounts, immediately pay one-half the amount in specie, and three times as much more in the notes above described: and, secondly, that unless these assurances were given by the 1st day of October, the supplies must cease."

4. In two letters, dated Manor of Livingston, 9th of October, 1782, one to General Cornell, Intendent of Supplies, the other to the Superintendent of Finance, frequent allusions are made to "the company letter of the 11th of September." These letters of the 9th of October bear the signatures of Walter Livingston, and William Duer and Daniel Parker, by their attorney, Walter Livingston. They were both put under cover to General Cornell, with a letter dated the 10th of October, signed Comfort Sands & Co., with a request that he would forward the letter for Mr. Morris by express. It would seem that the person who affixed the signature of Comfort Sands & Co. to the letter of the 10th could not but regard Mr. Duer and Mr. Parker, whose names were subscribed by their attorney, Walter Livingston, to the letters of the 9th, in the character of copartners.

5. In a letter of the 21st of October, to the Superintendent of Finance, which bears the signature of "Sands, Livingston, & Co." allusions are made both to the letters of the 11th of September and 9th of October, viz: "We are extremely concerned that you should have conceived yourself restrained by the duty of your office from giving us that assurance of indemnification which we requested in *our letter of the 11th of September;*" and again: "You will observe by *our letter of the 9th of October,* which General Cornell has no doubt transmitted to you, that we are far from wishing, by a continuance of the contract, to impede any arrangements which might be in contemplation for the supply of the army," &c.

It is probable, among the papers of the former Government, other proofs might be collected to this effect; but I have not leisure to pursue the inquiry further. The circumstances already enumerated excite so strong a presumption that Mr. Parker and Mr. Duer were concerned in the contracts, that nothing short of direct and disinterested testimony can be expected to explain or do it away.

The subject is now before you in a light as clear and impartial as I am able (at a distance of near twenty years from the date of the principal transactions) to place it. Under the present and former Governments this claim has been so often investigated and discussed, that it seems now to be proper it should receive a final decision, which, if my construction of the act of the 2d of March, 1799, be correct, can only be by Congress. As a general principle, it is clear that the officers of the Treasury are competent to settle all claims against the United States which have a *legal existence*. Where *no legal claim exists*, (if relief be intended by the Legislature,) it is respectfully conceived that it should be given in the form of a grant for so much money, with directions to pay it. References to the discretion, and, of course, to the responsibility, of the officers of the Treasury, cannot but expose them to great inconvenience and solicitude.

I have the honor to be, sir, with great respect, your obedient servant,

JOHN STEELE.

The Honorable ALBERT GALLATIN, Esq.

[List of papers referred to in the foregoing letter.]

- A. No. 1. Letter from Comfort Sands, Walter Livingston, William Duer, and Daniel Parker to Mr. Morris, dated September 11, 1782.
- " 2. Letters from General Washington to Mr. Morris, dated May 17 and 25, 1782.
- " 3. Letter from the same to the same, dated June 16, 1782.
- " 4. Letter from Comfort Sands & Co. and Walter Livingston to Mr. Morris, dated June 17, 1782.
- " 5. Letter from Mr. Morris to General Washington, dated June 22, 1782.
- " 6. Letter from Mr. Morris to Comfort Sands & Co., dated June 22, 1782.
- " 7. Letter from General Washington to Mr. Morris, dated July 3, 1782.
- " 8. Letter from Mr. Morris to Comfort Sands & Co., dated July 12, 1782.

- A. No. 9. Letter from General Washington to Mr. Morris, dated July 30, 1782.
 “ 10. Letter from the same to the same, dated August 5, 1782.
 “ 11. Letter from Mr. Morris to General Washington, dated August 5, 1782.
 “ 12. Letter from General Washington to Mr. Morris, dated August 11, 1782.
 “ 13. Letter from the same to the same, dated September 4, 1782.
 “ 14. Letter from Mr. Morris to General Washington, dated September 9, 1782.
 “ 15. Letter from Sands, Livingston, & Co. to Mr. Morris, dated September 25, 1782.
 “ 16. Letter from Heman Swift, colonel 2d Connecticut regiment, to General Cornell, dated September 29, 1782.
 “ 17. Letter from Mr. Morris to the contractors for West Point and the moving army, dated October 6, 1782.
 “ 18. Letter from Sands, Livingston, & Co. to Mr. Morris, dated October 8, 1782.
 “ 19. Letter from Walter Livingston, and William Duer and Daniel Parker, by their attorney, Walter Livingston, to Mr. Morris, dated October 9, 1782.
 “ 20. Letter from the same to Ezekiel Cornell, dated October 9, 1782.
 “ 21. Letter from Comfort Sands & Co. to Ezekiel Cornell, dated October 10, 1782.
 “ 22. Letter from Ezekiel Cornell to the contractors for the moving army, dated October 12, 1782.
 “ 23. Letter from Sands, Livingston & Co. to Mr. Morris, dated October 21, 1782.
 “ 24. Letter from Mr. Morris to the President of Congress, dated October 21, 1782.
 “ 25. Gouverneur Morris's remarks respecting the contractors' accounts.
- B. Certificate from the Register of the Treasury respecting the union of the contractors' accounts, and a copy of the warrant for the final balance.
- C. No. 1. Bond between Mr. Morris and the contractors concerning a reference of the claims of the latter to arbitrators.
 “ 2. Letter from Mr. Morris to Comfort Sands, dated March 11, 1783.
 “ 3. Letter from Sands, Livingston, & Co. to Mr. Morris, dated October 4, 1783.
 “ 4. Letter from Mr. Morris to Sands, Livingston, & Co., dated October 15, 1783.
 “ 5. Letter from the same to the same, dated August 9, 1784.
 “ 6. Letter from Mr. Morris to Comfort Sands, dated September 30, 1784.
 “ 7. Letter from Mr. Morris to Sands, Livingston, & Co., dated October 9, 1784.
- D. No. 1. Report of the second committee of the old Congress, to whom was referred the report of a former committee, together with a letter from John D. Mercier.
 “ 2. Report of the former committee, above referred to.
 “ 3. Letter from John D. Mercier to the President of Congress, dated June 10, 1788.
 “ 4. Statement or account made out by Mr. Mercier, and alluded to in his letter.
 “ 5. Statement showing the distribution of the sum allowed under both contracts by the referees.
 “ 6. Letter from Mr. Morris to John D. Mercier, dated September 16, 1784.
- E. No. 1. Report of the Auditor of the Treasury, dated the 15th of March, 1790.
 “ 2. Report of the Secretary of the Treasury, dated the 24th of February, 1791.
 “ 3. Report of the first committee under the present Government, on the petition of Comfort Sands and others, made February 26, 1791.
 “ 4. Report of the second committee, made February 8, 1792.
 “ 5. Report of the Committee of Claims, made February 9, 1797.
 “ 6. Award or report of the referees, dated October 25, 1787.
 “ 7. Statement of the sum now claimed by the parties, presented by Ebenezer Stevens.
- F. Statement exhibiting a view of the balances due from some of the contractors.
- G. No. 1. Letter from the Comptroller to Mr. Watson, dated December 18, 1799.
 “ 2. Letter from the same to the same, dated March 1, 1800.
 “ 3. Depositions of Joshua Sands and Oliver Phelps, and an agreement between the contractors, ascertaining their respective proportions or interests in the contracts.
 “ 4. Deposition of Robert L. Livingston.
 “ 5. Deposition of Comfort Sands.
 “ 6. Deposition of Schuyler Livingston.

[NOTE.—See Nos. 17, 25, and 133.]

7th CONGRESS.]

No. 132.

[1st SESSION.]

INDEMNITY FOR MONEY LOST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 7, 1802.

DEPARTMENT OF STATE, *April 6, 1802.*

The SECRETARY OF STATE, to whom was referred, by the House of Representatives, the memorial of Fulwar Skipwith, stating certain claims against the United States, respectfully submits the following report:

The memorialist represents that in the year 1795, while he acted as consul general for the United States, at Paris, his house was robbed of three ingots, amounting in value to 4,550 dollars, which had been deposited under his care, by direction of the minister plenipotentiary of the United States to the French republic; that at the request of the said minister, he advanced that sum for the purpose of making up in Holland the fund to which the said ingots belonged, drawing, at the same time, for his reimbursement, by the direction of the said minister, bills on the United States to the amount of his advance; and that the said bills were protested, and the advance never repaid.

This representation appears to be established in every essential point by satisfactory documents. It also appears, that no recompense was ever made to, or charge made by, the memorialist for his trouble in receiving and taking charge of the ingots committed to him; and that no fault or negligence in the means used by him for keeping or recovering the lost ingots can be reasonably imputed to him.

The refusal of the Secretary of the Treasury to repay the memorialist the sum advanced by him is explained in a letter from Mr. Wolcott to Mr. Monroe, dated September 16, 1796, of which a copy is herewith reported, No. 1, and from which the following is an extract: "I deem it unnecessary at this time to express my opinion, as to the precautions taken by Mr. Skipwith, to secure the bullion whilst in his possession, because, by my contract with Mr. Swan, the proceeds of the bill were to be at his risk until lodged in the hands of our bankers at Amsterdam. It is for this reason that I did not conceive myself at liberty to pay the draught drawn on me by Mr. Skipwith, for the money which he states to have expended in the purchase of bullion, to replace an equal quantity missing out of his store of the parcel received from Dallarde & Swan."

On recurring to the said contract, a copy of which (No. 2) is herewith reported, it appears that in pursuance thereof, the said James Swan was bound to furnish bills on his house at Paris, payable to the minister plenipotentiary of the United States, (of which bill the ingots in question were part of the proceeds;) that on the payment thereof, amounting to one hundred and twenty thousand dollars in value, and on the obtaining the necessary passports from the French Government, the said sum was to be forthwith transported to Amsterdam, at the risk and expense of the said James Swan, and delivered to Messrs. Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst, and Hubbard, on account of the United States; and that within thirty days after due evidence should be produced at the Treasury of such delivery, the price of the bills were to be then paid.

It may be proper to add, that from a report of the then Attorney General, a copy of which (No. 3) is herewith reported, it appears that he concurred with the Secretary of the Treasury in opinion that the United States were not liable to the memorialist for the advance made by him, to supply the loss occasioned by the robbery of his house.

With this view of the subject, however, it is necessary to combine the following considerations:

The first is, that admitting the deposite in the hands of the memorialist to have been at the risk of James Swan, the memorialist received it as the property of the United States, and made his consequent advance for their use, under directions of the minister plenipotentiary, which he was at least justifiable in respecting and pursuing.

But it appears, in the next place, that the minister plenipotentiary himself was equally justifiable in the part which he had in the transaction. Not only were the bills made payable to him, by which means the proceeds necessarily passed under his care, but, according to information from the Treasury Department, it appears that no copy of the contract between the Secretary of the Treasury and James Swan was transmitted to the said minister plenipotentiary. The information, which appears to have been given him with respect to the tenor of it, is contained in a letter of June 23, 1795, to him, from the Secretary of the Treasury, of which a copy is reported, (No. 4.) In this letter, it is said to Mr. Monroe, that "if the bill [from which the ingots proceeded] is accepted, and the transportation of the money assured, [by passports from the French Government] you will be pleased to notify the house of Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst, and Hubbard, of Amsterdam, of what shall have been done; and you will expedite the delivery of the funds through the house of Dallarde, Swan, & Co. who are to co-operate to place the same in Amsterdam." In another paragraph, it is said, "I will attempt no apology for troubling you with a business which is foreign to your diplomatic duties, because I know that your zeal for the interest of the United States will readily induce you to comply with my request, and because you will perceive that your co-operation is really necessary to the success of an interesting object."

Although the intention of the writer in this case, with the contract in his mind, might annex to his expressions the same ideas as are expressed in that instrument, it appears, both from the conduct and correspondence of Mr. Monroe, that he considered, and as the Secretary conceives, justly considered, his zeal for the interest of his country and the preservation of its public faith abroad, as made responsible for effectuating, with as little delay as possible, the remittance to the bankers of the United States in Holland. And, as this construction of his duty was favorable in every view of the convenience of the house of Mr. Swan, in Paris, it may be presumed that they would not be forward in suggesting a different one.

With respect to the official opinion given by the Attorney General, it is to be remarked, that as it was founded on the contract, or on the contract and the letter above cited taken together, it is not applicable to the question which now presents itself.

To turn the memorialist over to a claim of reimbursement from Mr. Swan, who, as may be inferred from a letter from him of September 30, 1796, to the Secretary of the Treasury, (an extract of which, No. 5, is reported herewith,) would contest its legality, would appear the less justifiable on the part of the United States, and the more hard against the memorialist, inasmuch as it appears, by an extract of a letter from Mr. Monroe to the Secretary of the Treasury, of January 14, 1796, (No. 6.) herewith also reported, and a letter from the latter, of the 14th April, 1796, that the loss and replacement of the ingots was known at the Treasury a considerable time prior to the payment of James Swan under the contract; so that it was in the power of the United States to have included the advance made by the memorialist, in the settlement with Mr. Swan, if he, and not the United States were to bear the loss; or if it were doubtful on which of the parties the loss ought to fall, it would seem no unreasonable expectation, in behalf of the memorialist, considering the circumstances and authority under which he acted, that his speedy repayment should be either satisfied by the United States, or secured to him by their precautions.

From this view of the whole subject, the Secretary concludes that the United States are, in justice, bound to admit against themselves, in the first instance at least, the claim of the memorialist to be reimbursed the sum advanced by him to replace the value of the ingots of which he was robbed, with interest from the date of the advance, according to the legal rate at Paris, where the advance was made, and where the memorialist then resided, and has since continued.

The memorialist further represents, that, on the 1st of November, 1796, he forwarded a resignation of his commission of consul general; that the notification of its acceptance by the President was not received until the 1st of May, 1799; that, during this interval, from respect to the public good, he continued to exercise the functions of his office, rendered the more necessary and the more laborious by the absence of a public minister, and by the circumstances of the crisis, but without receiving any of the emoluments of office, notwithstanding a considerable expenditure incurred by him in the hire of an office, clerks, postages, stationary, &c.; and that he considers himself entitled to compensation for these services and expenses.

On this part of the memorial the Secretary of State is of opinion, that, as the memorialist might have so expounded or modified his resignation as to have legally claimed the emoluments of office until it should be accepted; and as the official emoluments were to be derived from individuals, not from the public, the United States are not in rigor bound to make the compensation prayed for. Nevertheless, considering the extraordinary lapse of time during which he was in suspense, and probably led by daily expectation of being relieved from it, to prolong his services

and expenses, it is conceived that liberal justice would not be exceeded by a compensation, as nearly equal as can be estimated to the emoluments which would have accrued, and still more reasonable that at least his actual expenditures should be reimbursed.

All which is respectfully submitted.

JAMES MADISON.

No. 1.

SIR: TREASURY DEPARTMENT, PHILADELPHIA, *September 16, 1796.*

I have received your several letters of the 10th of September, 1795, and 14th of January, and 30th of March, of the present year.

Whilst I rejoice with you that the proceeds of Swan's bill on Dallarde & Swan have at length happily reached their place of destination, I cannot help regretting that the business, previous to that event, should have proved so embarrassing and troublesome. Without the smallest wish to call in question the motives assigned in your letter of the 10th of September, 1795, for receiving payment of the bill on Paris, before you had secured permission for exporting the proceeds, I cannot help thinking, that, by resorting to the bill on Lubbert & Dumas, agreeably to the arrangement with Mr. Swan, as expressed in my letter of the 23d of June, 1795, you would have avoided much trouble; the money would have been drawn to Amsterdam without hazard; and, what is of no small importance, the contract with Mr. Swan would have been literally fulfilled.

You will readily admit that this opinion is not the result of conjecture on my part, when I assure you that the funds to enable Lubbert & Dumas to pay Swan & Schweizer's bill were forwarded by the same conveyance with my despatches to you.

I deem it unnecessary, at this time, to express my opinion as to the precautions taken by Mr. Skipwith to secure the bullion whilst in his possession, because, by my contract with Mr. Swan, the proceeds of the bill were to be at his risk until lodged in the hands of our bankers at Amsterdam. It is for this reason that I did not conceive myself at liberty to pay the draught drawn on me by Mr. Skipwith, for the money which he states to have expended in the purchase of bullion, to replace an equal quantity missing out of his store of the parcel received from Dallarde & Swan.

With perfect respect, &c.

OLIVER WOLCOTT.

JAMES MONROE, Esq., *Minister Plenipotentiary of the United States at Paris.*

No. 2.

Articles of agreement between Oliver Wolcott, Jun., Secretary of the Treasury, and James Swan, Esq., resident in the city of Philadelphia.

1st. The said James Swan shall deliver to the said Secretary of the Treasury quintuple draughts or bills of exchange, drawn by him on Messrs. Dallarde, Swan, & Co., at Paris, in favor of James Monroe, Esq., minister plenipotentiary of the United States at Paris, or order, for one hundred and twenty thousand dollars in specie, or the value thereof in bullion, payable at thirty days' sight; also quintuple draughts or bills of exchange, drawn by James Swan & Schweizer on Messrs. Lubbert & Dumas, of Hamburg, in favor of the said James Monroe, or order, for three hundred thousand current florins of Holland, payable at Amsterdam, in specie, at thirty days' sight; the receipt whereof the said Secretary of the Treasury does hereby acknowledge.

2d. The said Secretary of the Treasury shall remit the said bills to the said James Monroe, who shall, on the receipt thereof, present the bills drawn on Dallarde, Swan, & Co., at Paris; and if the same shall be instantly accepted and paid, and if the necessary passports can and shall be obtained from the Government of France for transporting the proceeds thereof to Amsterdam, the said bills on Lubbert & Dumas shall not be negotiated, but shall be surrendered to the said Dallarde, Swan, & Co., at Paris.

3d. In case the sum of one hundred and twenty thousand dollars in specie, or the value thereof in bullion, shall be paid by Dallarde, Swan, & Co., of Paris, on the presentation of the bill drawn on them, and if the necessary passports can and shall be obtained from the French Government, the said sum shall be forthwith transported to Amsterdam, at the risk and expense of the said James Swan, and be delivered to Messrs. Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst, and Hubbard, for and on account of the United States.

4th. The said Secretary of the Treasury shall, for and on behalf of the United States, pay to the said James Swan, at the Treasury, the sum of forty cents for each and every current florin of Holland, which shall be produced to the credit of the United States, in consequence of the said payment or delivery of one hundred and twenty thousand dollars, or the value thereof in bullion, agreeably to the third article, which payment the said Secretary shall cause to be made within thirty days after due evidence of the delivery at Amsterdam shall be produced.

5th. If the said bill on Dallarde, Swan, & Co. shall not be paid agreeably to the tenor of the foregoing articles, or if passports for transporting the proceeds thereof to Amsterdam cannot be obtained of the French Government, the said James Monroe shall return the same with notice thereof to the said Secretary of the Treasury, and shall, moreover, forthwith endorse and remit the bills drawn by James Swan & Schweizer on Messrs. Lubbert & Dumas, of Hamburg, to Wilhelm and Jan Willink, Nicolas and Jacob Van Staphorst, and Hubbard, of Amsterdam.

6th. In case the bill drawn on Messrs. Lubbert & Dumas shall be negotiated and paid, agreeably to the tenor of this agreement, the said Secretary of the Treasury shall, on behalf of the United States, cause to be paid at the Treasury, to the said James Swan, the sum of forty-three cents, money of the United States, for each and every current florin of Holland mentioned in said bill, within thirty days after due evidence of said payment shall be produced.

7th. No advance of money having been made by the United States, damages shall not be demanded of the said James Swan, or James Swan & Schweizer, in case the bills drawn by them and herein mentioned shall not be accepted and paid.

In witness whereof, the said Secretary of the Treasury, on behalf of the United States, hath hereunto subscribed his hand, and affixed the seal of the Treasury; and the said James Swan hath hereunto set his hand and seal, this twentieth day of June, in the year of our Lord one thousand seven hundred and ninety-five, and in the nineteenth year of the independence of the United States.

OLIVER WOLCOTT, JUN., *Secretary of the Treasury.*
JAMES SWAN.

No. 3.

Copy of a letter to Oliver Wolcott, junior, Esq. Secretary of the Treasury, dated

SIR:

PHILADELPHIA, April 7, 1796.

The articles of agreement, bearing date the twentieth day of June, one thousand seven hundred and ninety five, between you and James Swan, respecting the remittance of one hundred and twenty thousand dollars to Amsterdam, on account of the United States, together with the various letters on this subject, communicated to me, have been taken into consideration.

Mr. James Monroe is to be viewed in this affair as an agent, mutually appointed by each party, for whose conduct each is responsible to the other, according to the intent of the contract or articles of agreement taken altogether. To Mr. Swan, who expressly stipulated to bear the risk and expense of transportation of that sum from Paris to Amsterdam, the agency of Mr. Monroe was particularly desirable, because he was at the same time minister plenipotentiary from the United States to the republic of France, and in that character might render very essential service in obtaining proper passports, protections, and escorts.

Though the bill was delivered at Paris by Mr. Monroe, and bullion accepted by him for it, yet till the payment was made at Amsterdam, it was by express contract to be at the risk and expense of James Swan; and by the express terms of the 4th article, the payment to be made at the Treasury of the United States is, "of the sum of forty cents for each and every current florin of Holland, which shall be produced to the credit of the United States," agreeable to the 3d article, which required the payment or delivery to be made at Amsterdam to Messrs. Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst, and Hubbard, for and on account of the United States.

It is my opinion, that it was not in the power of Mr. Monroe to do any act touching this business which should bind the United States, unless in conformity to the articles of agreement, or the letter of 23d June, 1795, from the Secretary of the Treasury; for in his diplomatic character he possessed no power over the subject. As an agent to remit the bullion to Amsterdam, he was the agent of James Swan. Any loss from any accident while the bullion remained under his care, unremitted to Amsterdam, whether in his actual custody or that of his committee, Fulwar Skipwith, ought to be borne by James Swan, and ought not to be paid by the United States.

It seems to have been in the power of Mr. Dallarde to have furnished an effectual passport for the bullion to Amsterdam, as appears from the extract of his letter, which states that he received it from the Treasury of the republic, with a passport for carrying it into foreign parts. So that it seems to have been *his* fault, who was a partner of J. Swan, that the obstacle arising from a want of passport was suffered to occur; and James Swan, in his letter of 23d June, 1795, informed Dallarde, Swan, & Co. that he was "*obliged to pay* the sum of \$120,000 at Amsterdam." Mr. Dallarde too, dissuaded Mr. Monroe from strictly pursuing the contract and his orders in using the bill for 300,000 florins, to which he was directed to resort, in the event which actually happened, relative to the transportation of the specie or bullion from Paris to Amsterdam.

I do not think that the United States are liable to pay any money at their Treasury on account of this contract, till the payment stipulated to be made at Amsterdam shall have been made and duly notified; and that the transactions in France by Mr. Monroe in this affair have not imposed an obligation on the United States to pay here, until after actual payment shall be made by J. Swan at Amsterdam of the sum stipulated.

CHARLES LEE, *Attorney General.*

P. S. In the event of payment of the specie or bullion at Paris, as it actually happened, Mr. Monroe became the vehicle, approved by both parties, through whom it was to be conveyed to Amsterdam, at the risk and expense of Mr. Swan; and therefore, in this transmission, the United States are not responsible for any act or omission of Mr. Monroe, or any accident whatever, from the time of receipt at Paris, till it should be paid or delivered at Amsterdam.

CHARLES LEE.

No. 4.

TREASURY DEPARTMENT, June 23, 1795.

SIR:

The events of the war having interrupted the intercourse of this Department with our bankers in Holland, through the usual channels, I take the liberty to trouble you with a negotiation of importance to the credit of the United States.

For the purpose of providing funds to meet the interest which will fall due in Amsterdam on the first of September ensuing, I have entered into an arrangement with James Swan, Esq., the agent of the French republic, and now enclose his bill in your favor, on Messrs Dallarde, Swan, & Co. of Paris, for one hundred and twenty thousand dollars, in specie, or bullion equivalent: which I request you to present immediately on being received.

If the bill shall be accepted, and assurance of instant payment given, you will be pleased to ascertain, without delay, whether any regulations of the Government oppose obstacles to the transportation of specie to Holland; and if any exist, you will endeavor to obtain a special permission for the proceeds of this bill, which I have no doubt will be readily granted as a favor to the United States.

If the bill is accepted, and the transportation of the money assured, you will be pleased immediately to notify the house of Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst, and Hubbard, of Amsterdam, of what shall have been done, and you will expedite the delivery of the funds, through the house of Dallarde, Swan, & Co. who are to co-operate in placing the same in Amsterdam.

But if the bill on Dallarde, Swan, & Co. shall not be paid, or if the permission of the Government to transport specie cannot be obtained, you will *abandon* this part of the plan, and notify Dallarde, Swan, & Co. accordingly; at the same time you will return the bill on them to this Department, and inform me particularly of the causes of the disappointment.

In this event you will be pleased to have recourse to another bill, which you will find enclosed, drawn by James Swan & Schweizer, in your favor, on Messrs. Lubbert & Dumas, of Hamburg, for three hundred thousand current florins of Holland, payable in Amsterdam, which you will make payable, and remit without delay, to Messrs. Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst, and Hubbard, of Amsterdam.

It is proper for me to inform you that the proposed negotiation through the house of Dallarde, Swan, & Co. is to be preferred, as being most beneficial to the United States, and as requiring the least delay. In case it can be rendered successful, the bill on Lubbert & Dumas may be surrendered to Dallarde, Swan & Co.

I will attempt no apology for troubling you with a business which is foreign to your diplomatic duties, because I know that your zeal for the interest of the United States will readily induce you to comply with my request, and because you will perceive that your co-operation is really necessary to the success of an interesting object.

I have the honor, &c.

OLIVER WOLCOTT.

JAMES MONROE, Esq.

Minister Plenipotentiary of the United States to the republic of France.

No. 5.

Extract of a letter from James Swan, Esq. to the Secretary of the Treasury, dated

BOSTON, September 30, 1796.

My friends Messrs. Harrison & Sterrett forwarded to me copy of an account sales of 100 bars of silver sold by Messrs. Van Staphorst & Hubbard, and Messrs. Willink's, said to be that paid by my house to Mr. Monroe for the bill you had of me for \$130,000. Those friends will show you the original receipt of Mr. Monroe, dated 25th December last, and which is expressly for the \$120,000, and which exonerated me from every expense, risk, or trouble in getting the money from Paris to Holland. The very correspondence of Mr. Monroe with you, I believe, proves that he took all these on himself.

No. 6.

Extract of a letter from James Monroe, Esq., Minister Plenipotentiary of the United States of America, to the Secretary of the Treasury, dated at

PARIS, January 14, 1796.

When the money was received from Mr. Dallarde, I requested Mr. Skipwith to take charge of it, because he was our consul and the person to whom I was to look for such a service; and because I thought it would be safer with him than with any other person; and lastly, because he readily undertook the safe keeping, negotiation, and remittance, by bill or transportation, if such were the case, without asking any commission whatever.

Unfortunately his house was broken open and a part of it stolen, and which is not yet recovered, though diligent search is made after it. I send you the documents which prove that this incident was not the effect of negligence on his part: on the contrary, that all due attention and care were taken by him for the preservation of it. Thinking, however, that you had occasion for the remittance to Holland of the precise sum mentioned in Mr. Swan's bill, he offered to advance the deficit himself, in the expectation that you will pay the like amount to his order, and which I readily accepted.

7th CONGRESS.]

No. 133.

[1st SESSION.]

DAMAGES CLAIMED FOR BREACH OF CONTRACT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 15, 1802.

Mr. BACON, from the committee to whom had been referred a letter from the Secretary of the Treasury, and a letter from the Comptroller of the Treasury, and sundry documents relating to the claim of Comfort Sands and others, made the following report:

The committee to whom, on the 6th instant, was referred the "letter from the Secretary of the Treasury, accompanying a communication from the Comptroller of the Treasury, and sundry documents relating to the claim of Comfort Sands and others," have attended that service, and find the subject of the said letter, communication, and documents to be exceedingly intricate, involving a variety of nice and delicate principles, both of law and equity, for the adjustment and application of which a public body, so numerous as is that of the Legislature of the United States, must, in the opinion of the committee, be less competent than a small number of men, learned in the law, and in the habit of administering justice conformably to the principles of law.

It is also the opinion of the committee that the validity of the claim referred to may, with greater propriety and mutual satisfaction, be determined by a judicial court, than by the Legislature of the United States. The committee, therefore, ask leave to report, as their opinion, the following resolutions, viz:

1. *Resolved*, That provision ought to be made by law to authorize the Attorney General of the United States to agree with such person or persons, or with the legal representative or representatives of such person or persons, as are interested in an award or report of Isaac Roosevelt and others, referees between the United States and Comfort Sands and others, on the 25th day of October, 1787, on a statement of a case which shall try and determine the validity of said award or report, before the circuit court of the United States for such circuit as the Attorney General and the persons interested as aforesaid may agree to.

2. *Resolved*, That provision ought to be made by law to authorize the Attorney General of the United States, in case said award or report shall be adjudged to be binding on the United States, to agree on an issue or issues, either in law or in fact, which shall try the question "whether William Duer and Daniel Parker, or either of them, were copartners with the said Comfort Sands and others, in the contracts on which the said award or report was made," and, if so, whether all, or what part, of the sums which are due from them, or either of them, to the United States, ought to be deducted from the sum awarded or reported as aforesaid, under the *proviso* in the act of Congress passed the 2d day of March, 1799, entitled "An act for the relief of Comfort Sands and others."

3. *Resolved*, That provision ought to be made by law to authorize the Attorney General of the United States, in case a decision shall be made against the validity of said award or report, to agree on the appointment, by the said court, of referees to decide conclusively (subject only to legal exceptions, to be made before said court) on the merits of the original claim of said Comfort Sands and others, on which said award or report was founded.

4. *Resolved*, That provision ought to be made by law for the payment of any sum or sums which may be found due from the United States pursuant to these resolutions, and such proceedings as may hereafter be had conformably thereto.

[NOTE.—See Nos. 17, 25, 131.]

7th CONGRESS.]

No. 134.

[2d SESSION.

WIDOWS OF OFFICERS WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 5, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Sarah Peters, made the following report:

The petitioner is widow and relict of Doctor Alexander A. Peters, a surgeon's mate in the army of the United States, who died at Fort Johnson, in North Carolina, the 26th November last. She solicits Congress, in consideration of her helpless and disconsolate condition, to grant her a pension, or such other relief as their humanity may dictate.

Your committee have attentively considered the unhappy situation of the petitioner; they compassionate her misfortunes, and would rejoice at discovering any principle, hitherto deemed admissible by Congress, which would justify them in recommending relief.

Applications of a similar nature have been repeatedly made, but have been uniformly rejected. Neither the old Congress nor the present Government have ever extended the several provisions on this subject further than to those who have been disabled *in consequence of known wounds*, or to the representatives, and, in some cases, to the widows, of such as have been *slain by the enemy*, or have *died by reason of wounds received in actual service*.

To adopt a different system at this late period would, in the view of your committee, be liable to many and very serious objections. They, therefore, are of opinion that the petitioner should have leave to withdraw her petition.

7th CONGRESS.]

No. 135.

[2d SESSION.

INDEMNITY FOR MONEY PAID TO AN UNAUTHORIZED AGENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 10, 1803.

Mr. RANDOLPH made the following report:

The Committee of Ways and Means, to whom was referred the petition of Hugh Alexander and others, praying to be relieved from the grievance of being, a second time, subjected to pay sundry sums of money paid by them to a certain John Jameson, deputy of Samuel McDowell, late marshal of the district of Ohio, subsequent to the removal from office of the said McDowell, beg leave to report:

It appears to your committee, from a copy of the record of the court of the United States for the district of Kentucky, annexed to the petition, that, previous to the payment by the petitioners of the aforesaid sums of money to the said deputy, his principal was no longer an officer of the United States. Did the merits of the case rest solely on this fact, of which the petitioners profess an entire ignorance, your committee would have no hesitation to refuse to sanction the principle, that the payment of money to an unauthorized agent should exonerate those indebted to the United States from all further claim upon them; since the removal of an officer being the official act of a great department of Government, it ought to be presumed to be known to all persons concerned therein; and since the admission of the contrary position might endanger, to an illimitable extent, the revenue of the Union.

But it moreover appears, from the same evidence, that the executions so satisfied by the petitioners were not issued until twenty days after the removal of Mr. McDowell from the office of marshal. The injury sustained by the petitioners seems, therefore, not to be so much the result of their own imprudence, as of the official act of officers of the Government, in causing the process to be issued to the deputy after the authority of his principal had ceased to exist. Under this aspect of the subject, believing it to be unjust that the petitioners should be subjected again to the payment of the debt, your committee respectfully submit the following resolution:

Resolved, That the prayer of the petition of Hugh Alexander and others, presented to this House on the 5th instant, is reasonable, and ought to be granted.

7th CONGRESS.]

No. 136.

[2d SESSION.

INDEMNITY TO THE COMMERCIAL AGENT AT ST. DOMINGO, FOR LOSSES AND EXPENSES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1803.

DEPARTMENT OF STATE, *January 25, 1803.*

The SECRETARY OF STATE has, in pursuance of the resolution of the House of Representatives of the 12th instant, examined the memorial of Tobias Lear, and submits the following report thereon:

As the memorial appears to give a clear statement of the case of the memorialist, the Secretary deems it unnecessary to repeat the particulars contained in it. It is believed that the inducements of the memorialist to

undertake the service for which he was selected; his fidelity and activity therein; his disappointment of the advantages originally contemplated; his perseverance in discharging his trust, notwithstanding this disappointment, with the personal difficulties which he encountered, and the loss which he finally sustained, were such as the memorial has presented to the attention of Congress. Throughout a period, and in a scene attended by a variety of peculiar and perplexing occurrences, it is certain that his conduct commanded the general thankfulness of his fellow-citizens whose interest fell under his patronage, at the same time that it received the full approbation of the President. Considering, therefore, that the memorialist has rendered very useful services in a situation which required talents, zeal, and much discretion; that the fees attached to the office which he held were not regarded as the principal recompense for its duties, and that the course of business to which the office was expected to lead was cut off by a state of things altogether peculiar and unforeseen; that to this disappointment was added the positive loss sustained after he had relinquished the idea of profit from mercantile connexions and pursuits, and, consequently, when the continuance of his public services, which coincided with the wishes of the President and the manifest interests of our citizens, may fairly be ascribed to considerations of a public and meritorious kind, the Secretary is of opinion that the claim of the memorialist for reimbursement of his expenses, and indemnification for the loss of his property, is reasonable.

The Secretary annexes to this report a letter from the memorialist, accompanied with a schedule, showing the amount of fees received, and of the expenses and losses incurred by him during his agency.

JAMES MADISON.

SIR:

WASHINGTON, *January 20, 1803.*

As the honorable the House of Representatives has been pleased to refer to you for your report thereon, a memorial which I laid before that body, stating the circumstances attending my residence in the island of St. Domingo, as general commercial agent of the United States, and the losses which I sustained in consequence of continuing there until the destruction of the city of Cape François, I take the liberty of enclosing a schedule containing a statement of the amount of fees received by me for the execution of official duties, as established by law, during my residence in that island, and the amount of my expenditures for the same period, including house-rent, clerk-hire, passage out and home, &c., and also the amount of the property, as nearly as I can ascertain it, belonging to me, which was plundered or burnt when the city was destroyed. In this last article I cannot be so correct as in the preceding, because I was not fortunate enough to save the invoices or documents which would ascertain the amount with precision; but I am fully confident that the sum of four thousand five hundred dollars is much below the real loss which I sustained by that event.

For my time, or any services which I may have rendered my fellow-citizens at that critical period, out of the line of my official duty, I make no charge; for no pecuniary compensation could induce me to pass through similar scenes.

I forbear to enlarge on this subject, as you are well acquainted with the peculiar and delicate circumstances in which I was placed by the untoward events which took place during my residence in St. Domingo, and as I know your time must be much occupied at present; but I shall be happy to make any further communications which you may deem necessary in this business.

In addition to the before-mentioned schedule, I enclose an account of moneys paid by me for the relief of distressed American seamen, and give credit to the United States for one hundred dollars, for which I drew a bill favoring Clement Biddle. The vouchers for the payment, made before the destruction of the town, were consumed in my house; for those paid afterwards I have the receipts. Should the forms of office not allow the account to be passed without the vouchers, I must suffer the loss.

With sentiments of true respect and sincere attachment,

I have the honor to be, sir, your most obedient servant,

TOBIAS LEAR.

The Honorable JAMES MADISON, *Secretary of State.*

JANUARY 20, 1803.

| | | | | | |
|--|---|---|---|---|-------------------|
| Amount of fees received by Tobias Lear, during his residence in St. Domingo, as general commercial agent of the United States, | - | - | - | - | \$2,289 00 |
| Amount of his expenses during the same period, including house-rent, clerks' wages, passage out and home, &c. | - | - | - | - | 4,375 00 |
| | | | | | <u>4,375 00</u> |
| Excess of expenditures above receipts, | - | - | - | - | \$2,086 00 |
| Amount of property belonging to Tobias Lear, which was plundered or destroyed when the city of Cape François was burnt, | - | - | - | - | 4,500 00 |
| | | | | | <u>4,500 00</u> |
| | | | | | <u>\$6,586 00</u> |

N. B. This last sum, of four thousand five hundred dollars, is much less than the real loss sustained by the subscriber at the time mentioned; but as the inventories or documents which could give the particulars were destroyed in his house, it cannot be stated with precision.

TOBIAS LEAR.

The United States of America in account with Tobias Lear, general commercial agent of the United States in St. Domingo. Cr.

| Dates. | For what paid. | Amount. | Date. | In whose favor drawn. | Amount. |
|-----------|---|---------|--------|---|----------|
| 1801. | | | 1802. | | |
| July 21, | To cash paid the board of a distressed American seaman, named Richard Wareham, left at Cape François, | \$9 00 | March, | By my draught in favor of Clement Biddle for one hundred dollars, | \$100 00 |
| Nov. 14, | To cash paid board for George Powell, a distressed American seaman, left at Cape François, | 13 00 | | | |
| Dec. 4, | To cash paid for carrying a sick American seaman, named H. Baker, to the hospital, | 1 00 | | | |
| Dec. 11, | To cash paid Dr. Lacoste for attending an American seaman, who was wounded on board an American vessel, left at Cape François, and afterwards died, | 16 00 | | | |
| Dec. 14, | To cash paid the hospital account and funeral charges of H. Baker, an American seaman, who died in the hospital, | 19 00 | | | |
| 1802. | | | | | |
| Jan. 13, | To cash paid boarding and expenses of sending home three American seamen belonging to the schooner William, Captain Mender, of Savannah, which was lost on the Plate Wreck, | 36 00 | | | |
| March 30, | To cash paid expenses of an American seaman, named Henry Clarey, who had been left sick at Cape François, | 5 00 | | | |
| April 10, | To cash paid hospital expenses of two American seamen belonging to the brig Little Conwery, Captain Miles, of Norfolk, which was cast away at Port-au-Paix, | 19 00 | | | |
| | | | | Balance due to Lear, | 18 00 |
| | | 118 00 | | | \$118 00 |
| | To balance due to T. Lear, | \$18 00 | | | |

(Errors excepted.)

TOBIAS LEAR.

JANUARY 20, 1803.

WASHINGTON, January 10, 1803.

To the honorable the Speakers and the honorable the members of the Senate and House of Representatives of the United States. The memorial of Tobias Lear respectfully sheweth:

That your memorialist was appointed by the President of the United States general commercial agent of the United States in the island of St. Domingo, on the 11th day of May, 1801: that he embarked for said island on the 7th day of June, and arrived at Cape François on the 4th day of July: that, at the time of your memorialist's receiving this appointment, he was well aware there was no salary annexed to the office, and that the only direct emolument to be derived therefrom arose from the fees established by law for executing certain official duties; and that the principal advantage to be expected from appointments of this nature was, that it might be introductory of commercial business.

Upon the arrival of your memorialist at Cape François, which was then the seat of Government of the island, he found that, from the peculiar state of affairs there, he would be under the necessity of devoting some considerable time solely to the discharge of his official duties; he therefore gave up the idea of forming any commercial establishment on his first arrival, and employed himself entirely in executing the current duties of his office, and in giving, in his official character, all the aid in his power to the citizens of the United States established there, or trading to that place; and that these extraordinary duties were more frequent, and more necessary to be performed there, than at any other place where there was a consul or a commercial agent established.

That, on the 22d of October, an insurrection of the blacks took place; the object of which was to destroy all the white inhabitants of the island: that it commenced in the neighborhood of Cape François, and spread universal terror and dismay among the whites: that the insurrection put a total stop, for a time, to all commercial business: that, during this alarm, your memorialist was indefatigable in quieting the apprehensions of his countrymen and others; to prevent the destruction of lives and property, which would inevitably have taken place, had confusion and disorder prevailed among the American citizens at that critical juncture; and he flatters himself that his exertions were productive of the happiest effects, as it regards his fellow-citizens and other white inhabitants of the place.

That, from this time, your memorialist was convinced there was no probability of forming a commercial establishment there, with any prospect of permanency or advantage; he therefore wholly relinquished the idea of it, and thus his principal object in going to that island was defeated: and had he been guided by the earnest solicitations of his friends, by a view to his pecuniary interest or personal ease, he would immediately have left the place; but, knowing that his situation gave him the power of being useful to his countrymen there, he would not quit them in the hour of danger, or while he could render them any important services. Under this impression he continued at his post until the arrival of the French fleet and army in the month of February, when a scene of destruction took place in the city of Cape François, which is too well known to be now described. That, on this occasion,

the house of your memorialist was burnt, in common with others, and every article of furniture and other things, to a considerable amount, belonging to your memorialist, was plundered or destroyed.

Your memorialist will not go into a detail of his conduct at this critical period; he will only observe that his exertions were duly appreciated by his fellow-citizens who were there at the time, and rewarded by the testimony of their full approbation.

Your memorialist, therefore, prays that you will be pleased to take the peculiar circumstances of his case into consideration, and grant him such indemnification as in your wisdom shall seem proper.

TOBIAS LEAR.

7th CONGRESS.]

No. 137.

[2d SESSION.]

INVALID PENSIONERS OF SOUTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 28, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of George Mason, made the following report:

The petitioner, a soldier in the late revolutionary war, lost his leg by a cannon shot in the action of Fort Moultrie, 28th of June, 1776. He was in consequence placed on the list of invalid pensioners in the State of South Carolina, and received his pension regularly from that State until March, 1789, at which time the United States assumed the payment of the pensions certified by the several States.

From some cause, as yet undiscovered by your committee, no persons have ever been returned as entitled to pensions from the State of South Carolina, nor does the name of an individual pensioner from that State appear on the books of the United States. And yet it is understood that many suffering individuals of this description are to be found on the pension list of that State, who have never received, since the commencement of the present Government, a farthing, either from the State or National Treasury.

The petitioner having made, as he says, repeated applications for his pension, without success, now solicits the interposition of Congress. Your committee are of opinion he is entitled to relief, but that it should be afforded under a general provision, including all cases of a similar description. They therefore respectfully submit to the House the following resolution:

Resolved, That provision ought to be made by law for the payment of such invalid pensioners as were placed on the list in the State of South Carolina, agreeably to the former resolves of Congress; who, by the regulations of that State, were entitled to pensions at the commencement of the present Government of the United States, and who have not since been paid the same.

7th CONGRESS.]

No. 138.

[2d SESSION.]

REPRESENTATIVES OF OFFICERS WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 4, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Joseph Darlington and others, legal representatives of George Wilson, deceased, a lieutenant colonel in the 8th Pennsylvania regiment on continental establishment during the revolutionary war, made the following report:

It is alleged by the petitioners that the said George Wilson died of a severe sickness, occasioned by the fatigue he endured in an engagement with the enemy during the late war with Great Britain; and they pray that the provision made for the heirs and representatives of those officers and soldiers who were actually *slain by the enemy* may be extended to them.

The legal representatives of all those persons who died in the service of the United States in the course of the revolutionary war have equal claims with the petitioners to the bounty of Congress.

It would hardly have been within the means, certainly not within the views, of the Government to make so extensive a provision.

Your committee are of opinion the prayer of the petitioners cannot be granted.

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 4, 1803.

The SECRETARY OF WAR respectfully reports to the House of Representatives of the United States:

That, in obedience to their resolution of the 3d of April, 1802, relative to the claims of the State of Georgia for militia services, the Secretary has taken measures to obtain all such documents as relate to the subject, some of which were not received until the month of January past.

In the course of an examination of the various documents, the following facts appear, which, with the circumstances attending them, are considered as affording the best view of the subject, of what it is susceptible at this distant period of time. The muster and pay-rolls, received from Lieutenant Colonel Constant Freeman, who acted as agent of the War Department, in Georgia, at the time the services were principally performed, are offered as evidence of services actually performed by the militia of that State, for which compensation is claimed, amounting, in the whole, to the sum of \$142,535 29; of which sum, \$13,159 63 appear by the rolls to be due to such corps as were specially authorized by the Executive of the United States, for services subsequent to 1793; the remaining sum of \$129,375 66 is for services which were not considered, by the Executive of the United States, nor by the agent of the War Department, as fully authorized by the General Government, and for which no payments have been made.

Sundry letters from the Secretary of War are offered as the principal grounds on which a decision may be made relative to the latter claims. On the 27th of October, 1792, the Secretary of War wrote to the Governor of Georgia, and gave him a discretionary power, as to the force he should think proper to employ, in case sufficient evidence appeared of the hostile intentions of the Creeks against the frontiers of the State.

On the 30th of May, 1793, the Secretary wrote to the Governor, and authorized him to raise and organize one hundred horse, and one hundred militia foot, to be armed and paid by the United States; which force, in addition to the regular troops then stationed in Georgia, and a suitable number of spies and small scouts, was considered as competent to the defence of the frontiers; and directed that whatever force might be employed should be regularly mustered.

On the 10th of June, 1793, the Secretary wrote again to the Governor, and informed him that, if the State was invaded, or in imminent danger of being invaded, the measures which he (the Governor) had taken might be considered as indispensable; that he was the judge of the degree and duration of the danger, and would proportion the defence to exigencies; that the President had the fullest confidence that, when the danger which had induced the Governor to call out such large bodies of militia should subside, he would reduce the troops to the existing state of things. A letter of the same date as the last was written to the Governor of South Carolina, informing him that the President of the United States, having received authentic information of the unprovoked and cruel outrages of the Creeks on the frontiers of Georgia, requested that he would, in case of a serious invasion by the Indians, and on the request of the Governor of Georgia, direct such parties of the militia of South Carolina to march to the assistance of Georgia as the case might require, for the expense of which the United States would be responsible.

On the 19th of July, 1793, another letter from the Secretary of War to the Governor of Georgia states, as no information had been received at the seat of Government of any late depredations of the Indians, and as there was reason to hope that they would be brought to a sense of their crimes, and induced to give up some of the authors thereof, the directions given in the letter of the 30th of May still ought to operate. Captain Constant Freeman is mentioned as having been appointed agent for the War Department, who would regulate the issues of public property to the troops which might be in service.

On the 5th of September, 1793, a letter was written by the Secretary of War to Captain Constant Freeman, by which he was directed not to concur in any measures, at the expense of the United States, for invading the Creek country. And on the 22d of February, 1794, another letter was written by the Secretary of War to the Governor of Georgia, from which it appears that the President of the United States had been induced to believe that a greater number of troops had been employed than was necessary; and the Governor was informed that the General Government would not, except in case of an actual invasion, be pledged for the expense, if, in future, any number of troops should be employed which exceeded the force that the President had previously authorized, viz: one hundred horse and one hundred foot. He is also informed that, if it was expected that the militia were to be paid by the United States, it would be necessary that returns, muster and pay-rolls, should be made and delivered to Captain Freeman, the agent of the War Department, in order that the whole case might be submitted to Congress, as the only authority competent for deciding on what proportion of the expenses should be defrayed by the United States.

By a letter of the date of the foregoing, addressed by the Secretary of War to Mr. Habersham, collector of the customs in Georgia, who also had acted as an agent of the War Department, he is informed that the number of militia which had been supplied in the State of Georgia, at the expense of the United States, appeared by his representations to the War Department, to have greatly exceeded the number contemplated; and that one hundred horse and one hundred foot, in addition to the continental troops, were considered as adequate to the protection of the frontiers against small parties of Indians; and that orders had been given for that number to the late Governor, dated the 30th of May, 1793, which number the President of the United States consented might be kept up on certain conditions, mentioned to the Governor. Mr. Habersham was then directed not to furnish supplies, without particular orders from the proper Department, to any greater number than one hundred horse and one hundred foot.

Copies of many other letters and extracts of letters are among the documents, which are not considered by the Secretary of sufficient importance to require particular notice.

From the preceding exhibition of facts, and from the other less important documents and the circumstances connected with the subject, it appears that the actual services performed by the militia of the State of Georgia, in the course of the several years to which this inquiry is directed, for which payments have not been made, amount in the whole, according to the rolls delivered to the agent of the War Department, and by him transmitted to that Department, to \$142,535 29; that such part of said services as were performed under the immediate direction of the Executive of the United States, amounts to \$13,159 63; that, from October, 1792, to May, 1793, the Governor was, by direction from the Executive of the United States, to employ such force as, in his opinion,

should be necessary; that, from the 30th of May to the 10th of June, there was a suspension of his discretionary authority, and, on receiving the letter of the 10th of June, he was again authorized to act altogether at his own discretion as to the number of troops he should employ; and, until he received the letter of the 19th of July, 1793, he was authorized by the Executive of the General Government to employ such force as he should judge necessary for defensive protection; and that, from the general tenor of the directions of the Executive of the United States, he probably considered the United States as responsible for the expenses. Whether the Governor exercised the power confided to him by the Executive of the General Government with sufficient caution or not, must depend on mere opinion. When the situation of the State of Georgia at that period is considered, having a thinly inhabited frontier, of about four hundred miles in extent, bordering on numerous hostile and warlike Indian nations, and threatened with a general invasion from one of the most powerful, which was actually committing frequent depredations on the frontier inhabitants, it is not improbable but that the Governor might have been induced to believe that a greater number of men were necessary for the protection of the frontiers than would have been considered needful by persons remote from the scene of action. At the time when these services were performed a hostile disposition pervaded the greater part of the Indian nations within the United States. A serious war then existed between the United States and the numerous tribes of Indians in the country northwest of the Ohio; and a predatory war was carried on between the territory southeast of the Ohio, now the State of Tennessee, and the Cherokees, the expenses of which were principally defrayed by the United States. Troops were kept in pay, at the expense of the United States, on the frontiers of South Carolina.

As it would be impracticable, at this time, to ascertain, with precision, what number of troops was really necessary to have been kept in service at different periods in the State of Georgia; and, as the opinion of the Executive of the United States appears to have varied on the subject, in respect to the degree of danger with which that State was threatened; and, as the suspension of the Governor's discretionary power, between the 27th of October, 1792, and the receipt of the Secretary's letter of the 19th of July, 1793, was but of ten days' duration, it is considered by the Secretary, that the services of the whole of the militia, called out by the Governor of Georgia in the year 1793, do constitute a just claim upon the United States for pay up to the time in which the said troops could have been disbanded after the receipt of the said letter of the 19th of July, which probably could not have been effected earlier than the last of September; and, when it is considered that they were spread over an extensive country, it may be doubtful whether the necessary arrangements could have been made and carried into execution at so early a period.

Under a full view of all the circumstances relating to the subject, the Secretary respectfully submits to the consideration of Congress, whether justice would not require an admission of the claims for all services performed for defensive protection in the year 1793, up to the 1st of October of the same year, for which regular pay and muster-rolls have been received; and whether the admission of the claim for like services, for which muster and pay-rolls have been received for the other three months of the year 1793, would not, under all circumstances, do less injustice than would result from a rejection of that part of the claim. The services for which pay and muster-rolls have been received, up to the end of the year 1793, amount to \$95,971 23, exclusive of the sum of \$13,159 63, due to the particular corps and spies, specially authorized subsequent to the year 1793.

What weight should, in this instance, be given to the provision in the constitution "that no State shall make war, unless in case of invasion, or of such imminent danger as will not admit of delay," which is referred to by the Secretary of War in his statement to the President of the United States, (as per document marked letter K,) and which the State of Georgia may consider as authorizing her claims, is submitted to the determination of Congress.

H. DEARBORN.

WAR DEPARTMENT, *February 3, 1803.*

Correspondence on the Georgia claim, accompanying the report of the Secretary of War of February 4, 1803.

GEORGIA:

A.

By his Excellency JOHN MILLEDGE,
Governor and commander-in-chief of the army and navy of this State, and of the militia thereof.

To all to whom these presents shall come, *greeting:*

KNOW YE, That George R. Clayton, Esq., who hath certified the documents hereunto annexed, is one of the secretaries of the executive department of this State, in whose office the archives of the same are deposited.

Therefore, all due faith, credit, and authority, are and ought to be had and given his certificate and attestation as such.

In testimony whereof, I have hereunto set my hand, and caused the great seal of this State to be put and affixed, at the State-house, in Louisville, this sixth day of November, in the year of our Lord
[L. s.] eighteen hundred and two, and in the twenty-seventh year of the independence of the United States of America.

By the Governor:

HOR. MARBURY, *Secretary.*

SAVANNAH, *April 23, 1793.*

SIR: The very critical situation to which the frontier settlers are reduced, from the late murders and depredations committed by the Indians, renders it indispensable that means be taken to guard against their inroads. I have made the needful communications to the War Department, and, in the interim, have to request your issuing orders to the contractors to provide rations for such part or parts of the militia of this State as may be called into service, to be furnished at the several stations and places of rendezvous. In order that you may be informed how far such a measure is correspondent with the system adopted by the General Government, I herewith furnish a certified copy of a clause of a letter from the Secretary of War, dated October 27, 1792, on the subject of Indian affairs.

I am sir, your most obedient servant,

EDWARD TELFAIR.

To JOHN HABERSHAM, *U. S. Agent.*

Extract of a letter from the Secretary of War to his excellency the Governor of Georgia, alluded to in the foregoing letter.

If the information which you may receive shall substantiate, clearly, any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof as may be in your power, and which the occasion may require.

I have the honor to be, sir, your most obedient servant,

H. KNOX, *Secretary of War.*

EXECUTIVE DEPARTMENT, LOUISVILLE, November 6, 1802.

I certify that the foregoing extracts are truly copied from the originals on the journals and files of this department.
GEO. R. CLAYTON, *Secretary.*

SIR:

SAVANNAH, April 23, 1793.

I am favored with your excellency's letter of this date, in respect to supplying such part or parts of the militia as may be called into service at the several stations and places of rendezvous with rations, and enclosing a certified copy of a clause of a letter from the Secretary of War, dated the 27th October, 1792, which has reference to the subject.

Being of opinion that I shall be justified, by the aforesaid clause, in doing so, I shall immediately give directions to the contractor, who is now here, to furnish supplies to such of the militia as may be drawn out under the sanction of your excellency, and will communicate the same to the Secretary of War, and the commanding officer of the federal troops in this State, without delay.

I am, sir, with great respect, your excellency's most obedient servant,

JOHN HABERSHAM,

Agent for supplying the troops in Georgia.

His Excellency EDWARD TELFAIR, Esq., *Governor, &c. &c.*

EXECUTIVE DEPARTMENT, LOUISVILLE, November 6, 1802.

I certify that the foregoing letter is truly copied from the original, now on the files of this department.
GEO. R. CLAYTON, *Secretary.*

SIR:

WAR DEPARTMENT, May 30, 1793.

The duplicates of your two letters, dated at Savannah on the 22d and 29th ultimo, were received on the 28th instant, and submitted to the President of the United States, who, after having seriously considered their contents, has directed me to make the following reply to your excellency:

That, from considerations of policy, at this critical period, relative to foreign Powers, and the pending treaty with the Northern Indians, it is deemed advisable to avoid, for the present, offensive expeditions into the Creek country; but, from the circumstances of the late depredations on the frontiers of Georgia, it is thought expedient to increase the force in that quarter for defensive purposes; the President, therefore, authorizes your excellency to call into and keep in service, in addition to the regular force stationed in Georgia, one hundred horse and one hundred militia foot, to be employed, under the orders of Lieutenant Colonel Gaither, in repelling inroads, as circumstances shall require.

You will please to nominate and appoint the commissioned officers to the above corps of horse, to consist of one captain, two lieutenants, and two cornets; the non-commissioned and privates to consist of six sergeants, six corporals, one trumpeter, one farrier, and eighty-six dragoons.

In order that the corps may be well equipped, the public will find the caps, swords, pistols, saddles, bridles, and carbines, all of which, however, will be deducted, at their prime cost and charges, from the pay of each individual, which you will perceive, by the enclosed schedule, is very liberal. This corps of horse to be engaged of proper characters, to serve until the first day of May or June next, *unless sooner discharged*, which the Government must hold the right of doing, if it should think fit; if the non-commissioned and privates cannot be engaged for the above period, it must be left to your discretion to engage them for as long a time as possible.

The authority for the above purpose is specially vested by law in the President of the United States; but the infantry or foot militia must be called into service according to the general course of the militia law, to which you will please to advert. The pay of the infantry will be the same as the troops of the United States, agreeably to the schedule No. 2.

It will, however, be important that proper endeavors be used to engage them for as long a period as the cavalry. The commissioned and non-commissioned officers for the infantry to be the same as for the continental troops, to wit: one captain, one lieutenant, one ensign, six sergeants, six corporals, one drum, one fife, and eighty-six privates.

An additional thousand stand of arms and accoutrements, fifty barrels of powder, and a proportional quantity of lead and flints, will be forwarded to Major Habersham with all expedition, to be by him forwarded to Augusta, to the care of Major Forsyth, under the provisions of the former quantity.

As it does not yet appear that the whole force of the Creek nation is disposed for or engaged in hostility, it is considered that the above force will be sufficient for the object designated.

As it is to be apprehended that the objects of the Western frontiers may, notwithstanding the treaty, require the energy of all the regular troops in that quarter, and also of the recruits who are marching that way, it has been considered that no part of them could be sent to Georgia in the present instance; but, if the treaty should be successful, or if the troops should be victorious, it may be otherwise in future.

The case of a serious invasion of Georgia by large bodies of Indians must be referred to the provisions of the constitution; but the proceeding with efficacy in future (the necessity of which appears but too probable) requires absolutely that no unnecessary expense shall be incurred in the mean time.

It has been heretofore considered that block-houses afford but a very imperfect security to a frontier, and nothing has occurred lately to induce a contrary impression; they serve to cover little more than the persons who are actually within them; the garrisons are necessarily too small to afford any considerable party to sally out; and the experience of Indian warfare evinces that the savages soon learn the force within, and either despise or avoid it. It has been found, by practice, in Kentucky and along the whole Western frontiers, that a few scouts or spies, who are formed of the hardiest and best hunters, and who shall be advanced a few miles of the settlements, traversing

incessantly at right angles the paths most used by the Indians, are better calculated to give the alarm to the settlers, and secure them from danger, than any other species of troops whatever; and, in order that nothing on the part of the Government should be wanting to induce the best frontier citizens to undertake this service, the high rate of five-sixths of a dollar per day has been allowed to each scout. Two men or scouts will cover an extent of ten or twelve miles; they are to be mustered upon oath at the time of their entering and leaving the service; this is essential, in order to prevent abuse.

Indeed, it is indispensable that all troops, who are to be paid by the General Government, should be mustered in the same manner by some respectable magistrate or high officer of the militia.

If your excellency should have any map, which may be depended upon, of the Creek country, a copy of it would be of service.

I have the honor to be, with great respect, your excellency's most obedient servant,

H. KNOX, *Secretary of War.*

His Excellency the GOVERNOR OF GEORGIA.

EXECUTIVE DEPARTMENT, LOUISVILLE, GEORGIA, *September 24, 1802.*

The foregoing letter is truly copied from the original now in this office.

GEORGE R. CLAYTON, *Secretary.*

C.

SIR: WAR DEPARTMENT, *June 10, 1793.*

Your letter of the 8th of May has been received, and submitted to the President of the United States.

The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your excellency may be considered as indispensable. You are the judge of the degree of danger and of its duration, and will undoubtedly proportion the defence to exigencies.

The President, however, expresses his confidence that, as soon as the danger which has induced you to call out so large a body of troops shall have subsided, you will reduce the troops to the existing state of things—indeed, to the number mentioned in my letter of the 30th ultimo, duplicates of which have been forwarded, provided the safety of the frontiers will admit the measure.

The articles mentioned in the enclosed invoice have been shipped this day on board the schooner Peggy, Captain Skilly, consigned to John Habersham, of Savannah, who has been directed to take your orders as to their further disposition. The remainder will be forwarded as soon as prepared, so as to complete the number and quantity mentioned in my letter of the 30th ultimo.

As a general and open Creek war, in the present crisis of European affairs, would be complicated and of great magnitude, the President of the United States, anxiously desirous of avoiding such an event, for this purpose has again directed Mr. Seagrove to repair to the heart of the Creek country, provided the measure can be attempted with any reasonable degree of safety. If a few of the most violent depredators could be put to death, it ought, in the present conjuncture, to be considered as satisfactory.

I enclose you a copy of the letter which has been written to Mr. Seagrove on this occasion.

I also enclose a copy of a letter to the Governor of South Carolina, in case circumstances should require you to call for aid from that State.

I have the honor to be, your excellency's most obedient servant,

H. KNOX, *Secretary of War.*

His Excellency the GOVERNOR OF GEORGIA.

EXECUTIVE DEPARTMENT, GEORGIA, *September 24, 1802.*

The foregoing letter is truly copied from the original now in this office.

GEORGE R. CLAYTON, *Secretary.*

(Duplicate.)

D.

SIR: WAR DEPARTMENT, *June 10, 1793.*

The President of the United States having received authentic information from Georgia of the unprovoked and cruel outrage of parties of Creeks upon the frontiers of that State, and, as it is at present uncertain to what degree the evils complained of may be extended, the President has directed me to request your excellency, in case the frontiers of Georgia should be seriously invaded by large bodies of Indians, that you would, upon the request of the Governor of the said State, direct such parties of the militia of the State of South Carolina to march to the assistance of Georgia as the case may require, for the expenses of which the United States will be responsible: the militia to provide themselves with provisions to the place of rendezvous, which shall be appointed by the Governor of Georgia, where arrangements for further aid will be made by the contractors for the continental troops.

I have the honor to be, with great esteem, your most obedient servant,

H. KNOX, *Secretary of War.*

His Excellency the GOVERNOR OF SOUTH CAROLINA.

EXECUTIVE DEPARTMENT, LOUISVILLE, *September 24, 1802.*

The foregoing duplicate is truly copied from the one now in the office.

GEORGE R. CLAYTON, *Secretary.*

E.

SIR: WAR DEPARTMENT, *July 19, 1793.*

Your excellency's letters of the 12th and 18th ultimo have been received, and submitted to the President of the United States.

The reasons given by his order, in my letter of the 20th May, still operate to prevent any departure from the line of conduct therein specified; and it is to be hoped, from no information having been received of any late depredations of the Creeks, that they may be brought to a sense of their crimes, and be prevailed upon to give up at least some of the authors thereof.

The swords and equipments for the hundred horse could not be completed by the manufacturers until this time; they are now sent, together with the arms, accoutrements, and ammunition, contained in the enclosed list.

The public have no horsemen's swords in store; some are in train of being mounted, which will be finished with all possible expedition; as soon as one hundred are mounted, application will be made to the President for permission to forward them to Georgia.

This letter will be delivered by Captain Constant Freeman, who is ordered into Georgia as an agent of this Department, to regulate the issues of public property to the troops who may be in the service of the United States, and to prevent or remedy any abuses which exist, or which may exist hereafter.

I have the honor to be, sir, your humble servant,

H. KNOX, *Secretary of War.*

His Excellency GOVERNOR TELFAIR.

EXECUTIVE DEPARTMENT, LOUISVILLE, GEORGIA, *September 24, 1802.*

The foregoing letter is truly copied from the original now in this office.

GEO. R. CLAYTON, *Secretary.*

F.

SIR: WAR DEPARTMENT, *September 5, 1793.*
You are not to concur in any arrangements, at the expense of the United States, which the Governor of Georgia may choose to make for the purpose of invading the Creeks.

I am, sir, your humble servant,

H. KNOX, *Secretary of War.*

Captain CONSTANT FREEMAN.

H.

Extract of a letter from the Secretary of War to Constant Freeman, agent for that Department in Georgia, dated

FEBRUARY 22, 1794.

It is difficult or almost impossible to say how you can muster the militia, whose times of service must have long ago expired. If the hundred horse and the hundred foot authorized on the 30th of May should have been organized, or, indeed, any corps in lieu of them, there would be no exception to your mustering of them.

You will, however, perceive by my letter to the Governor of this date, a copy of which is herewith transmitted, that you may receive returns, muster and pay-rolls, for the purposes herein mentioned, and transmit them to this office.

You have also enclosed a copy of a letter to John Habersham, Esq. If the Governor should arrange the hundred horse and hundred foot which he is authorized to do, you are to muster them, from time to time, as mentioned in your former instructions.

SIR:

WAR DEPARTMENT, *February 22, 1794.*

It has been understood by the President of the United States that a body of militia has been kept upon the frontiers of the State of Georgia during the greater part of the last year, exceeding greatly the number which, according to information received at this office, would seem to have been required by the state of things in that quarter. This number has been represented from one thousand to twelve hundred men.

If this number, or indeed any excess of the force hereafter described, should be continued to be kept up in ordinary cases, the President of the United States desires that it may be explicitly understood by your excellency, that the General Government will not be pledged for the expense thereof.

If, indeed, there should be a powerful and sudden invasion of the State of Georgia by Indians, such a case must be referred to the provisions contained in the constitution, and submitted to the consideration of Congress.

The enclosed letter was written to your predecessor, upon the 30th May last.

The President consents that the hundred horse and the hundred foot therein described should, in addition to the continental troops, posted in Georgia, be kept up at present, or during any considerable danger, on the condition that you should monthly state to this office, in order to be submitted to him, your reasons for the continuance of this force. Instructions are also transmitted to Mr. Habersham, the agent for the contract in Georgia, prohibiting his making any provision for supplies of any sort, to a greater number than the said hundred horse and hundred foot, in addition to the regular troops.

No returns have been received at this office of the numbers kept in service during the last year, excepting the information before mentioned from Mr. Habersham, of the number being from one thousand to twelve hundred. If it should be expected that the said militia are to be compensated from the United States, it would be necessary and proper that returns, muster and pay-rolls, should be given to the agents of this Department in Georgia, in order that the whole case might be submitted to Congress; for it is deemed that Congress alone are competent to decide, under a full view of the circumstances of the case, whether any expenses incurred, or what proportion of them, are to be defrayed by the United States. Hitherto no estimate could be formed of the amount of the charges of a corps, of which no returns or musters have been transmitted.

I have the honor, &c.

H. KNOX, *Secretary of War.*

His Excellency the GOVERNOR OF GEORGIA.

SIR:

WAR DEPARTMENT, *February 22, 1794.*

The number of militia in the State of Georgia, which were supplied at the expense of the United States, appears, by your representation, to have greatly exceeded the number contemplated.

It was considered that one hundred militia horse and one hundred foot, in addition to the continental troops, would have been adequate to the protection of the frontiers of Georgia against small parties; in pursuance of this opinion, orders were given for that number to the late Governor, on the 30th of May, 1793, a copy of which is herewith transmitted.

Upon mature consideration, the President of the United States consents that this number should be kept up on certain conditions mentioned to the Governor of this date, a copy of which is herein enclosed.

In consequence of this arrangement, you will not, after receiving this letter, furnish supplies of any sort to any greater number of militia than the one hundred horse and one hundred foot, unless in cases specially sanctioned by the General Government, and previously notified to you by the proper Department.

I am, sir, with great esteem, your most obedient servant,

H. KNOX, *Secretary of War.*

JOHN HABERSHAM, Esq.

K.

Extracts of a letter from the Secretary of War to Constant Freeman, agent for the War Department in Georgia, dated

MAY 14, 1794.

The Governor of Georgia is authorized to establish a block-house on the frontiers every twenty-five miles, and to garrison the same for the militia, each with one lieutenant, one sergeant, one corporal, and fifteen privates.

The utility of these block-houses will depend upon the discipline of the garrisons, and the regularity of the musters.

You will therefore make an efficient arrangement for the regular inspection and muster of these garrisons once in every two months.

I have written to Colonel Gaither in order to furnish you with the necessary assistance of the continental officers for this purpose, and the rules herein directed must be rigidly adhered to.

Extracts from the report of the Secretary of War to the President of the United States, relative to the defensive protection of the frontiers, dated

MAY 1, 1794.

Influenced by this opinion, I beg leave to submit the following ideas:

1. That no more than one hundred horse be allowed for the defensive protection of Georgia.
2. That as many additional militia foot be allowed to the hundred already permitted, and the continental troops, as will admit of a block-house being erected every twenty-five miles or thereabouts; each block-house to have one subaltern, one sergeant, one corporal, and fifteen privates.
3. That Governor Blount be permitted the same sort of defence for his Territory, with thirty mounted volunteers. It is understood that, by an order of the 14th April, Mero district has been arranged.
4. That a correspondent number of garrisons for block-houses be allowed for the southwestern parts of Virginia and the Ohio, but no mounted militia; the usual number of scouts is, however, to be retained.

That the several block-houses be erected by the militia, without expense to the United States.

That this arrangement be for defence: that in cases of invasion the provisions in the constitution to be resorted to.

That returns of the number of garrisons aforesaid be made to the Secretary of War, and continental officers to be appointed to muster the men as often as once in every three months, or oftener if possible; and that any one of the garrisons who should be absent, unless by actual sickness, of which ample evidence should be produced, should forfeit his pay; and if by permission of his officer, he should forfeit his pay.

Very special circumstances upon which the safety of the garrison may have rested, as to procure a supply of ammunition, provisions, or to warn the inhabitants of any imminent danger, or upon a scout, to be considered as good reasons for dispensing with this order.

[NOTE.—See Nos. 141 and 148.]

7th CONGRESS.]

No. 140.

[2d Session.]

APPLICATION OF THE WIDOW OF AN ARMY CONTRACTOR KILLED BY THE ENEMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 8, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Ann Elliott, made the following report:

It is stated by the petitioner, that her late husband, Robert Elliott, was contractor to the army of the United States, and that in attempting, under the orders of the late General Wayne, to supply the garrison at Fort Recovery with provisions, he was attacked and slain by a party of Indians on the 6th of October, 1794. She further represents, that this unfortunate event was occasioned by the want of a proper military escort, which it was the duty of the Government, agreeably to its own contract, to have furnished; and she expresses a confidence that this consideration, connected with the compassion which her forlorn condition, and that of her numerous and helpless family, must necessarily awaken, will induce Congress to extend to her its liberality.

Although your committee cannot discover that any stipulations made with the said Robert Elliott have been violated on the part of the United States, yet they readily admit his conduct to have been in a high degree meritorious. They perceive much in the misfortunes of the petitioner that should entitle her to commiseration; but they believe, that to yield to the dictates of pity, regardless of the rules of general justice, would afford less evidence of sound wisdom than of extreme sensibility in the Legislature.

The provision made by law for the relief of widows and orphans is not sufficiently broad to embrace cases of this description; nor is it for your committee to develop the reasons which influenced the Legislature to make a discrimination in this respect between officers in the line and those in the staff of the army. Suffice it to say, that such a distinction is permitted to exist; and unless it is thought expedient to abolish it entirely, and to provide generally for all cases analogous to the present, your committee cannot feel themselves justified in recommending any relief. They are of opinion that the petitioner should have leave to withdraw her petition.

To the honorable the House of Representatives of the United States: The petition of Ann Elliott, of the county of Cumberland, and Commonwealth of Pennsylvania, respectfully sheweth:

That your petitioner's husband, Robert Elliott, being employed as a contractor to the army of the United States, under the command of General Wayne, employed against the Northwestern Indians, unfortunately lost his life in that service, whilst in the actual discharge of his duty on the 6th day of October, 1794.

That to supply this army exposed both the contractors and their stores very frequently to imminent danger. Often obliged to pass from one post to another, through a wilderness infested with hostile Indians, a military force was necessary for the protection of their persons and their property. The Secretary of War sensible of this, in the contract entered into with the said Robert Elliott and his partner, Elie Williams, on the 1st day of January, 1794, for the supply of General Wayne's army, (and in execution of the which contract the said Elliott was killed) it was expressly covenanted, on the part of the Government, "that sufficient guards of protection, to conduct in safety the persons and property of the said contractors, their agents, and all persons engaged in the business of transportation from post to post, should at all times be furnished by the United States."

Your petitioner further sheweth, that the said Robert Elliott, having had exclusively the management of the business of that contract, during the summer of 1794, so far as related to the contractors' necessary attendance on the army, and the transportation of supplies from post to post, had spent the whole summer with the army, with much fatigue and danger to himself, and much to the satisfaction of the officers and soldiers of the army. That, in the early part of the month of October, 1794, he was returning home to his family, and had reached Fort Washington on his way thither, when he received from General Wayne the letter and orders herewith produced, (marked document No. 1,) to which your petitioner prays leave to refer, and that the same may be taken as a part of this her petition. That this letter is written in a style sufficiently expressive of the urgency of the demand, and of the importance of its object, to excite every exertion of Mr. Elliott to execute the orders of the commander-in-chief. That being at this time at Fort Washington, Mr. Elliott made the necessary arrangements to leave that place, and did leave it, on the 6th day of October, 1794. But previous to his departure from Fort Washington, having to pass through a wilderness infested with hostile Indians, from whom much danger was to be dreaded, he demanded of the commandant at Fort Washington a necessary and sufficient guard of protection, to conduct in safety his person and property he was about to transport from Fort Washington to Fort Recovery, according to his stipulation with the Government of the United States. That the situation of the garrison at Fort Washington, at that time, precluded the possibility of giving to the said Elliott the guard necessary to protect his person and property, pursuant to the aforesaid stipulation, on the part of the United States, as will fully appear by the letter of the commandant at Fort Washington to the said Robert Elliott, bearing date on the 5th of October 1794, herewith produced, (marked document No 2,) to which your petitioner refers, and prays that the same may be taken as a part of this her petition.

That Mr. Elliott being anxious for the fate of the army, whose preservation most probably depended upon his exertions, was induced, in the discharge of his duty, and in the service of the United States, to set out from Fort Washington, on the 6th of October, 1794, without the guard necessary to protect his person and property, which, by his contract with the United States, he was entitled to have; and on that same day, for the want of that sufficient guard, was killed by the Indians at no great distance from Fort Washington, and with his life lost a valuable horse, and, as your petitioner believes, a considerable sum of money, and many valuable papers and evidences of debt, the particulars of which she cannot state or enumerate.

That by this failure on the part of the United States to fulfil their said contract with the said Robert Elliott, your petitioner has been deprived of a tender and affectionate husband, and ten infant children bereft of a provident, attentive, industrious and affectionate father. To her and to them the loss is irreparable, but the injury which his affairs sustained at and by his death have added poverty and want to the catalogue of their misfortunes. Without the means of providing for a large, young, and helpless family, your petitioner has no resource but in the honor, the justice, and the liberality of the Legislature of her country, to whom with confidence she commits her case, and prays for such relief as, under all circumstances, they shall think her entitled to.

And your petitioner, as in duty bound, shall ever pray, &c.

ANN ELLIOTT.

JANUARY 25, 1803.

"Fifthly. That escorts and guards for the safety of the provision, and for the protection of the cattle against the enemy, shall be furnished, wherever, in the opinion of the commanding officer of the army or of any post, to whom application may be made, the same can be done without prejudice to the service. And that the party of the second part shall not be answerable for any deficiency of supplies at any of the said posts or places, if it shall appear, upon satisfactory proof, that such deficiency was occasioned by the want of proper escorts or guards."

I certify that the foregoing is a true copy of the fifth article of the original contract now on file in this office, between Alexander Hamilton, Secretary of the Treasury, of the one part, and Robert Elliott and Elie Williams, of the other part, dated January 1, 1794.

EDWARD JONES,

Principal clerk in the office of the Secretary of the Treasury.

No. 1.

SIR:

HEAD-QUARTERS, MIAMI VILLAGES, *September 21, 1794.*

Immediately on the receipt of this letter you will use the utmost despatch in advancing with all such supplies, stores, cattle, &c., as you can command, and transport for the use of the army, to Fort Recovery, in order to take advantage of the return of the escort now marching for that place under the command of Brigadier General Todd, who will arrive there on the 23d instant. The enclosed abstract will show you that even one day's delay may be fatal.

I am, sir, your very humble servant,

ANTHONY WAYNE.

ROBERT ELLIOTT, Esq.

N. B. Your horses are all sent on; few, if any of them, will be able to return.

No. 2.

SIR:

FORT WASHINGTON, *October 5, 1794.*

I have this evening been favored with your letter of this date, wherein you request an escort for two hundred packhorses, twenty-five wagons, three hundred cattle, and three hundred sheep, which you mention are destined for the army. I have to inform you that I will furnish one sergeant, one corporal, and twelve men from this to Hamilton, and which is all that the present situation of this garrison will admit of. Could I furnish one hundred, I would do it with pleasure.

I am, very respectfully, your obedient servant,

JOHN PEIRCE, *Captain commandant.*

MESSRS. ELLIOTT & WILLIAMS.

[NOTE.—See No. 151.]

7th CONGRESS.]No. 141.[2d SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 10, 1803.

Mr. EARLY, from the committee to whom was referred the report of the Secretary of War, together with sundry documents respecting claims against the United States to compensation for services performed by certain militia within the State of Georgia, during the years 1793 and 1794, made the following report:

That it appears to your committee that the said services were performed under circumstances which render them a just claim to compensation from the Government of the United States, and that said Government hath already gone far in recognising their validity, by settling with and making payment to the contractor who furnished supplies to the said militia, whilst engaged in performing the same services for which they now claim compensation.

Your committee therefore beg leave to submit the following resolution:

Resolved, That provision ought to be made, by law, for the payment of certain militia employed within the State of Georgia, during the years 1793 and 1794, for the defence of said State.

[NOTE.—See No. 139.]

7th CONGRESS.]No. 142.[2d SESSION.]

INDEMNITY FOR THE LOSS OF A VESSEL AND CARGO FOR WANT OF A SEA-LETTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1803.

DEPARTMENT OF STATE, *February 10, 1803.*

The SECRETARY OF STATE, to whom was referred, on the 17th ultimo, the petition of William] Wilson, John Potts, and David Easton, praying relief in the case of the brig Jesse and her cargo, which, in the year 1793, were captured by a French privateer, and sold at Charleston, South Carolina, under the authority of the French consul resident there, has examined the same, and thereupon reports as follows:

That the allegations on which the petitioners rely are, that the loss of their property "is fairly attributable to the want of a sea-letter, which the American Government had not in time provided for the protection of American owned vessels; and also to the improper conduct, within our own territory, of the agents of a foreign nation;" al- luding to an illegal condemnation pronounced by the French consul, and the sale of the vessel and cargo in pur- suance thereof.

Without inquiring how far the omission of their duty by the officers of Government might in any case give to the individuals who should incur injuries thereby a right to be indemnified by the public, it is sufficient to observe, that until maritime hostilities commenced by the rupture between France, England, and Holland, in the month of February, 1793, it would have been useless to issue sea-letters to vessels of the United States; and that as the pe- titioners' vessel sailed from the United States in the month of October preceding, it was not to be expected that she could have been supplied with a sea-letter. It may be added, on this point, that, until France and Holland became concerned as parties to the war, no treaty required our vessels to carry sea-letters.

The assumption of judicial powers by the French consul was unwarrantable, and his sentence of condemnation must be considered as void, and not forming any part of a new title to the vessel or her cargo. For this or similar conduct, his *exequatur* was revoked by the Government of the United States. Notwithstanding his interference, the courts of the United States were undoubtedly competent to administer redress to the petitioners. That they actually failed to obtain it through that channel, must have been owing to the want of an early prosecution of their rights, or a steady perseverance in it, or to circumstances for which the nation is not responsible; inasmuch as it

fully acquitted itself of its duty in respect to the petitioner's second allegation, by providing proper courts in which relief might be obtained for such wrongs, committed within the country.

The Secretary is therefore of opinion, that this case is in no respect favorably distinguished from other illegal captures made by the citizens of the same Power during the late war, and that the United States are not bound to afford any peculiar relief to the petitioners.

All which is respectfully submitted,

JAMES MADISON,

7th CONGRESS.]

No. 143.

[2d SESSION.]

INDEMNITY TO A POSTMASTER FOR HIS EXPENSES IN DEFENDING A VEXATIOUS PROSECUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Jonathan Hastings, deputy postmaster at Boston, praying to be reimbursed for certain expenses incurred in defending a vexatious suit instituted against him in his official capacity, made the following report:

That although your committee are convinced the petitioner has been harassed by an unjust prosecution, yet they are equally convinced the Government cannot be considered as bound in such cases to afford pecuniary relief.

Your committee are of opinion that the petitioner have leave to withdraw his petition.

7th CONGRESS.]

No. 144.

[2d SESSION.]

INFORMER IN THE CASE OF A BREACH OF THE REVENUE LAWS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Jacob Gideon, made the following report:

The petitioner (alleging he was informer against Messrs. Priestman & Austin, of Philadelphia, for a breach of the revenue laws, and therefore entitled to a fourth part of the forfeiture) complains that he has been deprived of his share of the condemnation money, in consequence of a pardon granted to the offenders by the President of the United States.

If the petitioner ever was entitled, as informer, to a share of the penalty incurred by Priestman & Austin, of which there is no satisfactory evidence, still it is certain his right could not be affected by the pardon. He may, therefore, now prosecute his claim before the proper tribunal.

Your committee, referring to the annexed letter from the Secretary of the Treasury, and documents accompanying it, are of opinion the prayer of the petition ought not to be granted.

SIR:

TREASURY DEPARTMENT, *August 8, 1801.*

In reply to yours of the 5th instant, I must observe that you have certainly misunderstood the true situation of your claim. In the case of Priestman, the late Secretary of the Treasury decided *not to remit*. I have considered that decision as final, so far as related to this Department, and have not acted upon it; there is, therefore, no decision whatever of the Treasury Department which can affect any claim of yours in that case. The President has granted a pardon in the same case; and how far this may affect your claim is not a question that can possibly come before me in any shape. But you have also misconceived my individual opinion upon that subject. It is clear that a pardon from the President extends only to the share of the United States, and does not embrace the legal share of any other person. If, as an informer, you are entitled in this case to a share, it is my opinion that you must recover it, notwithstanding the President's pardon. But, whether you are so entitled or not, is a question of fact with which I am unacquainted, and on which I cannot act, or have any thing whatever to do. You must act in it as you may be advised.

I am, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Mr. JACOB GIDEON, *Philadelphia.*

SIR:

TREASURY DEPARTMENT, *February 10, 1803.*

I have been prevented by indisposition from attending to your letter, enclosing Jacob Gideon's letter.

Mr. Priestman's watches were condemned, not, as Mr. Gideon states, for not having paid the duties, but for having been transported across from Baltimore to Philadelphia without the proper certificates, as will appear by the judge's certificate, herein enclosed.

It never was, nor could have been, the intention of the President to remit, by a pardon, property which had legally vested in the custom-house officers, or in the informer. With a full knowledge of the facts, and upon the above-mentioned certificate of the judge, he granted a pardon, remitting the share of the United States. The same construction was given at the Treasury, as will appear from the enclosed copy of a letter to Mr. Gideon, dated 8th August, 1801.

I have understood, but not officially, that the information given by Gideon was, that the watches had been smuggled, which on trial appeared not to be true; but that the information thus given, although erroneous, had led to the discovery of the omission of the certificate on which the condemnation took place.

But whether he was legally entitled to a share of the forfeiture as informer, is a question with which I do not conceive Government to have any thing to do. The condemnation of the watches is a matter of record; the legal effect of the President's pardon is a proper subject of judicial decision where a third person is concerned; and if the marshal has wrongfully paid any moneys which had legally vested in Mr. Gideon, he may have his recourse against him. If (for I am not acquainted with the precise state of facts) Mr. Priestman had given security for the appraised value of the watches, and no moneys had yet come into the hands of the marshal when the President's pardon took place, Mr. Gideon may recover the amount of his legal share against him. But, as he had opportunity of taking proper advice at Philadelphia, his application to Congress affords a strong presumption that he is not in a legal sense an informer.

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

ALBERT GALLATIN.

JOHN C. SMITH, Esq., *Chairman of the Committee of Claims.*

To the honorable Richard Peters, Esq., Judge of the district court of Pennsylvania, in and for the Pennsylvania district: The petition of William Priestman respectfully sheweth:

That your petitioner imported from Great Britain, in a certain vessel called the Montezuma, two hundred and forty-three silver watches, which vessel arrived at Baltimore, in the district of Maryland, some time in the month of September or October last; and the duties on the said watches, to the amount of three hundred and sixty-three dollars and thirty-five cents, were paid to Mr. R. Purviance, collector of the said port, previous to receiving a permit from the collector of the said port, to take the said watches from a warehouse in which the said watches had been deposited by order of the officers of the customs at said port, agreeably to the laws of the United States. The receipt, by the said collector for the said duties, the petitioner has ready in court to be produced.

That your petitioner was then, and still is, a resident in Philadelphia; and not knowing or suspecting that, in so doing, he should contravene any law of the Congress of the United States, he, about the 20th of November last, caused the said watches, after the duties thereon were so as aforesaid paid to the collector at the port of Baltimore, to be transported across the State of Delaware, from Baltimore, in Maryland, to Philadelphia aforesaid.

Your petitioner further states that, on an affidavit of ———, your petitioner is said to be liable to a forfeiture of the said watches for having transported the same from Maryland, across the State of Delaware, to Pennsylvania, without a permit first had and obtained from the collector of the port of Baltimore; whereupon, he begs leave to observe, that he did not know, nor was he ever informed, that a permit for such purpose was necessary; that, having paid all the duties demanded and required by the laws of the United States, he conceived himself authorized to cause to be transported the said watches to any part of the United States, according to his convenience.

As no motive can be suggested which could have operated to induce your petitioner to avoid asking a permit from the collector of Baltimore, had he been acquainted with the laws on the subject, he presumes your honor will readily believe that he has not been guilty of wilful negligence, much less of any intention of fraud.

Your petitioner, therefore, requests that your honor will appoint a day for the purpose of giving an opportunity to your petitioner to show cause why the said penalty, if any has been incurred according to the strict letter of the law, should be remitted, and that your honor will cause the facts which shall appear upon such examination to be stated and annexed to this petition, and to direct the transmission thereof to the Secretary of the Treasury of the United States, according to an act of Congress, dated the 26th day of May, 1790, and the 3d of March, 1797.

WILLIAM PRIESTMAN.

Petitioner sworn to truth of facts, 26th January, 1798.

R. PETERS.

PHILADELPHIA, *January 22, 1798.*

It is hereby certified, that the following articles, to wit: two hundred and three silver watches, three gold ditto, two enamelled ditto, two metal ditto, two hunting ditto, and seven pinchbeck ditto, have been seized as being of foreign manufacture and liable to the payment of duties, and having been transported from the State of Maryland, across the State of Delaware, to the district of Pennsylvania, without a permit from the collector of any district in the State of Maryland first obtained, and not having been reported to the collector of the district of Pennsylvania within twenty-four hours after the arrival thereof in the district of Pennsylvania; and that the said seizure was made under the nineteenth section of an act of Congress, passed the 18th day of February, 1793, entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same."

SHARP DELANY, *Collector.*

UNITED STATES, *district of Pennsylvania:*

JULY 18, 1798.

I have examined into the facts stated by the petitioner, William Priestman, and can discover no intention of fraud. It appears that the duties on the watches seized were paid at Baltimore, from whence they were brought under the care of a certain John J. Austin, clerk to William Priestman, who swears he was ignorant of any law prohibiting the transportation without a permit over land, and the business seems to have been left very much to his management. It appears, also, that Priestman mentioned these watches to Mr. Delany, the collector at Philadelphia, and wished to pay the duties at that port if it could have been done. The identity of the watches seized being the same on which the duties were paid at Baltimore, appears to me to be well established.

RICHARD PETERS,

Judge of the Pennsylvania district of the United States.

To the SECRETARY OF THE TREASURY.

7th CONGRESS.]

No. 145.

[2d SESSION.

COMPENSATION FOR REMOVING THE PURVEYOR'S OFFICE FROM PHILADELPHIA,
IN 1802:

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 18, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the account of Benjamin and Andrew Mifflin, clerks in the purveyor's office of public supplies, for extra expenses incurred by them in consequence of the removal of said office from Philadelphia to the Buck Tavern, on the Lancaster road, in the year 1802, made the following report:

That, in their opinion, the said account is reasonable and ought to be allowed.

The UNITED STATES, Drs.

To Benjamin and Andrew Mifflin.

To their extra expenses when ordered to attend the purveyor's office, removed to the Buck Tavern, on the Lancaster road, from Philadelphia, on account of the yellow fever of 1802.

| | | | | | |
|-----------------|---|---|---|---|----------|
| August 7, 1802. | Cash paid wagonage, ferriage, and turnpike, | - | - | - | \$5 25 |
| | Cash paid for coachee, ferriage, and turnpike, | - | - | - | 6 50 |
| October 14, " | Cash paid for apartments, | - | - | - | 90 00 |
| | Cash paid for wagonage, turnpike, and ferriage, | - | - | - | 5 25 |
| | Cash paid for coachee, turnpike, and ferriage, | - | - | - | 6 50 |
| | | | | | \$113 50 |

I certify that the above expenses were incurred by Messrs. Benjamin and Andrew Mifflin, in consequence of their removal with the office from this city, in the month of August last, conformably to the recommendation of the Board of Health.

PHILADELPHIA, December 31, 1802.

ISRAEL WHEELLEN,
Purveyor of Public Supplies.

SIR:

PHILADELPHIA, January 5, 1803.

William Jones, Esq., Representative in Congress from this city, has been so obliging as to take charge of our accounts for extra expenses incurred by us in consequence of the removal of the purveyor's office from this city, during the continuance of the yellow fever last year. At our request, it was presented to you by the purveyor, when he was at Washington in November last; on his return, he informed us you thought it could not be paid without an appropriation by Congress for that purpose. We beg leave respectfully to state, that the removal took place in consequence of the recommendation of the Board of Health at a time of great alarm; that the expense to us was unavoidable; that though it is but small, we hope you will not consider it as unworthy of your attention, when you reflect on the smallness of our salaries, being but twelve hundred dollars a year for both of us, and will therefore not admit of even this small deduction. We trust, therefore, you will be pleased to request the committee on the appropriation law to insert a clause to authorize the payment, or direct it to be defrayed out of the contingent fund of the War Department, or in such other way as you shall judge best. Which is respectfully submitted by

Your most obedient servants,

BENJAMIN MIFFLIN,
ANDREW MIFFLIN.Hon. HENRY DEARBORN, Esq., *Secretary of War.*

7th CONGRESS.]

No. 146.

[2d SESSION.

COMPENSATION FOR THE TRANSPORTATION AND SAFE-KEEPING OF A MUTINEER
AT SEA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of William Breck, Junior, made the following report:

The petitioner states that, in the year 1799, being commander of the ship Despatch, and at that time on the northwest coast of America, received on board his ship, at the request of David Lamb, part owner and commander of the ship Ulysses, one Stephen Bruce, third mate of the said Ulysses, who had been one of the leaders of a mutiny on board the ship last mentioned; that he carried Bruce to China, and delivered him prisoner to the American consul, by whose order he again received the prisoner on board his ship, brought him to America, and delivered him to the marshal of the district of Massachusetts; that, during the whole voyage, he supplied the prisoner with provisions and sea stores.

He asks compensation for this expense and service. The facts alleged in the petition are satisfactorily proved.

The petitioner first made application to the Secretary of State; but, as there was no appropriation applicable to this object, no relief could be afforded.

By a letter from the Secretary of State, accompanying this report, it appears that several of the mutineers on board the *Ulysses* were brought by different American vessels to the United States. As your committee are of opinion provision should be made for all who have been engaged in this service, they respectfully submit to the House the following resolution, to wit:

Resolved, That provision ought to be made by law for the payment of the expenses incurred in bringing to the United States, by order of the American consul, the mutineers on board the ship *Ulysses*, and for the adjustment of the claims made by individuals who may have performed that service.

SIR:

DEPARTMENT OF STATE, *February 15, 1803.*

The case of Captain Breck has been heretofore examined at this office; but, as no appropriation is supposed to be applicable to it, no relief could be afforded. Several others of the mutineers on board the *Ulysses* were received on board American vessels, and brought to the United States. Some of them were tried and convicted at Boston.

Should the Legislature grant compensation in the present case, it is suggested that provision should be made for the others, as applications relative to them will doubtless follow.

I have the honor to be, with great respect, sir, your most obedient servant,

JAMES MADISON.

Hon. JOHN C. SMITH, Esq., &c.

8th CONGRESS.]

No. 147.

[1st SESSION.]

INDEMNIFICATION FOR THE ILLEGAL SEIZURE OF A VESSEL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 12, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of David Valenzin, a foreigner, complaining of the oppressive conduct of the commandants of certain armed vessels of the United States towards his person and property, and claiming indemnification therefor, made the following report:

As no evidence whatever accompanied the petition, your committee conceived it but an act of justice to the petitioner to obtain such information relative to the case as might exist in the Navy Department. The documents furnished by the Secretary of the Navy, in answer to their request, are herewith presented. These, it will be seen, are of a nature not calculated to give effect to the claim of the petitioner.

Your committee are of opinion the prayer of the petition ought not to be granted.

NAVY DEPARTMENT, *November 18, 1803.*

I have been duly honored with yours of the 15th instant. I am not possessed of any official information that would enable you to form a satisfactory determination on the claim of Mr. David Valenzin. Commodore Morris, who is now in the *Adams*, in the *Potomac*, is expected up the first fair wind. On his arrival, I expect to have it in my power to furnish you with particular information respecting Mr. Valenzin's claim.

I have the honor to be, with great respect, sir, your most obedient servant,

R. SMITH.

The Hon. J. C. SMITH.

SIR:

NAVY DEPARTMENT, *November 30, 1803.*

Agreeably to my letter of the 18th instant, I have now the honor to send to you herewith the information which I have this day received from Commodore Morris relative to the claim of David Valenzin. The petition you transmitted to me, appearing to be an official document, you will also receive.

I have the honor to be, with high respect, sir, your obedient servant,

R. SMITH.

Hon. J. C. SMITH, *in Congress.*

SIR:

UNITED STATES' SHIP *ADAMS*, *November 27, 1803.*

In conformity to your request, I have the honor to furnish, for your information, a copy of my correspondence and the facts relative to the detention of the imperial polacre brig *Paulina*, which I trust will prove that there were sufficient grounds for detaining the said polacre, and considering David Valenzin as a subject of Tripoli.

I have the honor to be your obedient servant,

RICHARD V. MORRIS.

Hon. ROBERT SMITH.

On the 15th January, 1803, Lieutenant Sterrett received the enclosed orders to cruise. On the 17th he boarded and brought in for trial the imperial polacre brig, bound from Malta to Tripoli, laden with merchandise, the property of Tripolines, and having on board the subjects of the Bashaw of Tripoli, one of whom was the principal of the charter-party and claimant of the principal part of the cargo. Lucca Radishjz, the master of the said brig, took this cargo in at the port of Malta, well knowing the relative situation of Tripoli with the United States. The master of the vessel that brought this cargo from Smyrna refused to proceed to Tripoli, and others were solicited

to take it on board. None would venture but Lucca Radishjz. Mr. Pulis was ordered to take the oath of a master of a merchant ship to that effect. I solicited Sir Alexander Ball to grant a trial on the said polacre. He assured me that it was not in his power. My only alternative was to endeavor to have the validity of the capture investigated at Gibraltar; and for that purpose carried the papers first discovered, with Lucca Radishjz, the master, and the boatswain, to answer the necessary interrogations, and that he might be satisfied that there were no illegal advantages taken of him. His Royal Highness the Duke of Kent, then the Governor of Gibraltar, did not think proper to let the court of admiralty take cognizance of the affair. I was then compelled to send the papers, with the Tripolines, to America. It was also my intention to have sent Lucca Radishjz to the United States, if he would not consent to relinquish all claims to freight and demurrage, which I was induced to believe he was not entitled to. This offer Mr. Sterrett made him, at my request. He absconded from the United States' ship Chesapeake, and refused the offer made to him and the imperial consul at Gibraltar. My correspondence with Sir Alexander Ball was perfectly satisfactory respecting the distance the polacre was taken from the land. Mr. Heath was prizemaster, and can give every information of the pretended insult made to the imperial flag, and the treatment of the crew. The petitioner, David Valenzin, is the person alluded to as being the principal in the charter-party, and a subject of the Bashaw of Tripoli. Both can be proved by papers which were discovered on board the vessel detained by Lieutenant Sterrett, and were put in his possession when he left the Mediterranean, in the Chesapeake frigate, for America. The contract of the charter-party was in the name of Lucca Radishjz, the master of the imperial brig, on the one part, and David Valenzin on the other part, as principal owner of the cargo. As a proof that David Valenzin is a subject of Tripoli, a regular attested certificate from the British consul to that effect was discovered among the secreted papers; and, as a further proof, Mr. Cathcart knew him in Tripoli as a broker, and his father as a merchant in the city of Tripoli, and always considered him a Tripoline. His servant has also declared him a Tripoline, as well as himself.

RICHARD V. MORRIS.

[NOTE.—See No. 150 for supplemental report.]

5th CONGRESS.]

No. 148.

[1st SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1803.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of John F. Randolph and Randolph McGillis, together with the "report of the Secretary of War respecting claims against the United States for services of the militia of the State of Georgia," made the following report:

By the convention concluded between the United States and the State of Georgia, relative to the cession of the territory therein described, the sum of \$1,250,000 is stipulated to be paid by the United States to the State of Georgia, "as a consideration for the expenses incurred by the said State in relation to the said territory." When the present case was before the House at the last session, a question arose whether this claim was not finally extinguished by that convention. Your committee, believing it their duty to direct their first inquiries to this object, requested of the Attorney General his opinion as to the construction which ought to be given to the passage above recited. His answer, accompanying this report, is such as, in the opinion of your committee, precludes the necessity of investigating at this time the original merits of the claim.

The late commissioners on the part of Georgia sent also to the committee a certificate, under their hands, in which they explicitly declare that the militia services which are the basis of the present application were not at all contemplated as part of the consideration expressed in the articles of cession. If the construction of that instrument is to depend on extraneous facts, not only is the information derived from the commissioners important, but also it would have been desirable that a particular statement of the "expenses" for which the sum already mentioned is stipulated to be paid, had likewise been presented. On this point your committee are still uninformed. And although it is believed, upon a question of construction merely, such information cannot be necessary, yet, as affecting the equity of the case, it would have been highly satisfactory.

To obviate the inference which would necessarily be drawn from the interpretation given to the convention by the Attorney General, it is said that the present is not a claim made by the State of Georgia, but by individuals of that State; and, of course, cannot be affected by any negotiations between the General Government and the Government of Georgia.

The manner of exhibiting the demand assuredly cannot change its nature. In the view of your committee, the claim, whatever shape it may assume, and whether originally well founded or not, is virtually a claim of the State of Georgia. The militia were called into service by the Executive of that State, and, notwithstanding the ulterior responsibility of the General Government, the State must be considered as accountable, in the first instance, for the expenses incurred.

Any other supposition would derogate equally from the theory of our national Union and the acknowledged sovereignty of the individual States. It will not be doubted that the State of Georgia possessed the power of exonerating the General Government from all supposed liability in the case, and thereby rendering itself responsible to its own citizens. That such is the course it has thought proper to pursue is to be presumed from the sound construction which the late convention ought to receive.

Under these impressions, your committee respectfully offer to the House, as their opinion, that the petitioners have leave to withdraw their petition.

SIR:

DECEMBER 3, 1803.

I had the honor of receiving your note of the 30th ultimo. Wishing to take time for the recollection of what depended upon memory, my answer has been delayed.

Having no authority to determine whether the *consideration for the expenses incurred* by the State of Georgia in relation to the ceded territory, (as expressed in your first question,) ought to be so construed as to include an allowance for the defensive operations carried on by the Executive of that State, under the sanction of the General Government, in the years 1792, '93, and '94, I can only, in compliance with the request of the honorable Committee of Claims, state to them my private ideas and recollections on the subject.

The expenses incurred by the State, for which the \$1,250,000 are to be paid as a *consideration*, appear to me to be a description so extensive, by the mere force of the terms, as to include every species of expense which had been previously incurred by the same State, having *any relation* to the ceded territory *exclusively*, or to it in *common* with what now constitutes that State. I know of no principle of construction which can so limit the description of expenses expressed in the treaty of cession as to exclude therefrom any which were then considered by *either party as chargeable* on the United States for the past military defensive operations of Georgia. Although, in the sense of the convention, "*said territory*" means the ceded territory, as distinguished from the remaining territory of the State, yet, at the time of incurring the said expenses, both territories were considered as undivided parcels of an entire whole; and, of course, any defensive operations in one part had a relation to the other, as included in the whole; and were, in fact, thus an expense for the defence of both.

Further, the \$1,250,000 are expressly for *expenses incurred*. If expenses to *this amount* had not been incurred, at the time of making the cession, *exclusively* on account of the *ceded territory*, the presumption is strong that the allowance was not made *merely* in consequence of such expenses, but in consideration of those incurred on some *common ground*. Indeed, I have no recollection of any expenses, *exclusively* on account of the ceded territory, having been stated by the commissioners on the part of Georgia, while in treaty with them.

In reference to your other queries, "whether the *commissioners considered the present claims satisfied by the convention,*" and "*what,*" in fact, "*were the particular expenses referred to*" in the above construed passage, I can only state my own impressions. It is perfectly recollected, in the course of the negotiation with the commissioners on the part of Georgia, at one or more of the interviews with them, they stated, as a reason why an allowance to a certain amount ought to be made them out of the proceeds of the ceded territory, that their State then had a debt which had been incurred for military services in defence of the State or of the ceded territory, and which the United States, on an application, had unreasonably refused to allow them. The reply was, that those expenses were incurred for the benefit of the State, and that some other States, which had incurred similar expenses, had received for them no compensation from the General Government. I have not been able to recollect the precise words which either party made use of on this occasion, and therefore cannot now say that my impressions were correct. I am, however, certain that I had no knowledge of the expenses in question until they were disclosed for the aforesaid purpose; nor have I any recollection of any other ones being insisted on as reasons for the allowance. It is impossible for me to say what influenced the minds of the other commissioners, or what weight the recited circumstance had, in conjunction with other considerations, in reconciling my own mind to the sum finally agreed on. The above is the substance of my own reflections and recollections in reference to the objects of your inquiries.

I have the honor to be, very respectfully, your and the committee's obedient, humble servant,

LEVI LINCOLN.

Honorable J. C. SMITH, Esq.

8th Congress.]

No. 149.

[1st Session.]

CLAIMS FOR SERVICES RENDERED AND SUPPLIES FURNISHED DURING THE
REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 24, 1804.

SIR:

TREASURY DEPARTMENT, *January 24, 1804.*

In conformity with the request contained in your letter of the ———, enclosing a copy of the resolution of the House of Representatives of the 21st ultimo, I have the honor to enclose a report and statement, prepared by the Register of the Treasury, of the claims for services rendered or supplies furnished during the revolutionary war, which had been liquidated, and for which either certificates had been issued or credit entered on the books of the Treasury, but which, having never been paid nor funded, are barred by the act of limitation.

I have the honor to be, with respect, sir, your obedient servant,

ALBERT GALLATIN.

The Hon. THOMAS CLAIBORNE, *Chairman, &c.*

TREASURY DEPARTMENT, REGISTER'S OFFICE, *January 24, 1804.*

The REGISTER, to whom was referred, by the Secretary of the Treasury, a resolution of the House of Representatives of the 21st December, 1803, with a letter from the chairman of the committee appointed thereon, begs leave to report:

That he has examined the records of the Treasury, and has, in the subjoined statement, classed the several claims against the United States which are barred by the statutes of limitation, and to which he begs leave to refer.

He also reports that there are accounts, not barred by acts of limitation, before the Comptroller, which have not been admitted by that officer; and that there are claims filed with the Auditor of the Treasury, and upon which the Auditor reported his reasons for their non-admission, per his report No. 6,365, laid before Congress 23d December, 1795; and also his statement referred to by a Committee of Claims, in their report of the 16th March, 1802.

JOSEPH NOURSE, *Register.*

Classes of claims against the United States which are barred by acts of limitation.

| | | | | | |
|------------|---|---|---|-------------|-------------|
| 1st class. | Loan Office certificates outstanding, viz: | | | | |
| Agreed. | Issued by the Loan Officer for New Hampshire, | - | - | \$ 2,864 23 | |
| | Massachusetts, | - | - | 11,167 07 | |
| | Rhode Island, | - | - | 948 00 | |
| | Connecticut, | - | - | 4,689 90 | |
| | New York, | - | - | 5,781 29 | |
| | New Jersey, | - | - | 1,668 12 | |
| | Pennsylvania, | - | - | 21,778 71 | |
| | Delaware, | - | - | 103 43 | |
| | Maryland, | - | - | 6,911 66 | |
| | Virginia, | - | - | 9,010 21 | |
| | North Carolina, | - | - | 4,663 85 | |
| | South Carolina, | - | - | 9,985 40 | |
| | Georgia, | - | - | 11,239 49 | |
| | | | | | \$90,811 36 |
| 2d class. | Indents issued for the payment of interest on the public debt, out- | - | - | - | |
| Agreed. | standing, | - | - | - | 64,590 98 |
| 3d class. | Final settlement certificates issued by commissioners appointed in the | | | | |
| | several States for adjusting claims against the United States, viz: | | | | |
| | Issued by the commissioner for New Hampshire, outstanding, | - | - | 39 89 | |
| Agreed. | Massachusetts, outstanding, | - | - | \$2,077 67 | |
| | Do. cancelled at the Treasury, and for which credits | - | - | | |
| | were given individuals on Treasury books, | - | - | 206 58 | |
| | | | | 2,284 25 | |
| | Rhode Island, outstanding, | - | - | 3,158 24 | |
| | Connecticut, do. | - | - | 482 68 | |
| | New York, do. | - | - | 1,935 19 | |
| | New Jersey, do. | - | - | 2,636 05 | |
| | Pennsylvania, do. | - | - | \$7,831 53 | |
| | Do. cancelled at the Treasury, and for which credits | - | - | | |
| | were given individuals on Treasury books, | - | - | 2,919 41 | |
| | | | | 10,750 94 | |
| | Delaware, outstanding, | - | - | 667 82 | |
| | Maryland, do. | - | - | \$616 02 | |
| | Do. cancelled at the Treasury, and for which credits | - | - | | |
| | were given individuals on Treasury books, | - | - | 491 42 | |
| | | | | 1,107 44 | |
| | Virginia, outstanding, | - | - | 802 00 | |
| | South Carolina, do. | - | - | 8 74 | |
| | | | | | 23,873 24 |
| 4th class. | Certificates issued by commissioners in the commissary, quartermaster, | | | | |
| | marine, and clothing departments: | | | | |
| Agreed. | Issued in the commissary's department, outstanding, | - | - | 1,226 69 | |
| | Quartermaster's do. do. | - | - | 743 35 | |
| | Marine do. do. | - | - | 677 32 | |
| | Clothing do. do. | - | - | 1,657 47 | |
| | | | | | 4,304 83 |
| 5th class. | Settlements by army commissioner: | | | | |
| | Certificates issued by John Pierce, outstanding, | - | - | 46,468 97 | |
| Agreed. | Do. do. cancelled at the Treasury, and for which | - | - | | |
| | credits were given to individuals of the following corps, viz: | | | | |
| | To sundry regiments of the Massachusetts line, | - | - | \$21,857 04 | |
| | To Colonel M. Willet's regiment, New York line, | - | - | 1,363 93 | |
| | To Colonel M. Hazen's regiment, | - | - | 1,968 07 | |
| | To Colonel Lamb's regiment of artillery, New York line, | - | - | 959 99 | |
| | To Colonel Nichola's regiment of invalids, | - | - | 1,402 54 | |
| | To Colonel Baldwin's regiment of artificers, | - | - | 162 16 | |
| | To corps of sappers and miners, | - | - | 109 90 | |
| | To Armand's legion, | - | - | 566 68 | |
| | To Lee's legion, | - | - | 283 99 | |
| | | | | 28,674 30 | |
| | | | | | 75,143 27 |
| 6th class. | Credits on the Treasury books in favor of individuals of the following corps, | | | | |
| | on accounts for balance of pay, settled at the Treasury, viz: | | | | |
| Agreed. | The 9th Massachusetts regiment, commanded by Colonel Wesson, | - | - | 2,451 46 | |
| | Invalid regiment, commanded by Colonel Nichola, | - | - | 4 44 | |
| | Captain Caleb North's company, (4th Pennsylvania regiment,) | - | - | 292 50 | |
| | Captain John Lacey's company, do. | - | - | 973 00 | |
| | Captain James Taylor's company, do. | - | - | 355 89 | |
| | Captain Thomas Robinson's company, do. | - | - | 574 61 | |
| | Fourth Pennsylvania regiment of artillery, | - | - | 267 63 | |
| | Captain John Franklin's company of militia, | - | - | 59 56 | |
| | Captain Van Heer's company of dragoons, | - | - | 79 32 | |
| | Balances in specie due to the following lines, for services in 1783, viz: | | | | |
| | Maryland line, | - | - | 5,394 57 | |
| | Virginia line, | - | - | 4,873 05 | |
| | North Carolina line, | - | - | 1,685 43 | |
| | Balance to the credit of Hugh Smith, late postmaster at head-quarters of | - | - | | |
| | the American army, | - | - | 120 65 | |
| | | | | | 17,132 11 |

CLASSES OF CLAIMS—Continued.

| 7th class. | Pensions.—Settlements at the Treasury in favor of invalid pensioners of the following States, viz: | | | | | | |
|------------|--|---|---|---|---|----------|--------------|
| Agreed. | New Hampshire, | - | - | - | - | \$541 52 | |
| | Massachusetts, | - | - | - | - | 3,651 73 | |
| | Rhode Island, | - | - | - | - | 560 52 | |
| | Connecticut, | - | - | - | - | 1,064 89 | |
| | Vermont, | - | - | - | - | 705 00 | |
| | New York, | - | - | - | - | 1,327 01 | |
| | New Jersey, | - | - | - | - | 1,110 30 | |
| | Pennsylvania, | - | - | - | - | 811 99 | |
| | Delaware, | - | - | - | - | 442 27 | |
| | Maryland, | - | - | - | - | 92 93 | |
| | Virginia, | - | - | - | - | 1,667 91 | |
| | North Carolina, | - | - | - | - | 4,650 00 | |
| | Georgia, | - | - | - | - | 9 39 | |
| | | | | | | | \$16,635 46 |
| | | | | | | | \$292,491 25 |

TREASURY DEPARTMENT, REGISTER'S OFFICE, *January 24, 1804.*JOSEPH NOURSE, *Register.*

8th CONGRESS.]

No. 150.

[1st SESSION.

INDEMNITY FOR THE ILLEGAL SEIZURE OF A VESSEL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1804.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was recommitted the petition of David Valenzin, together with their former report thereon, [See No. 147,] made the following supplementary report:

Under the peculiar circumstances of this case, your committee feel it a duty they owe to the House and to themselves, not only to present the facts which have governed their opinion, but also to state minutely the whole progress of the inquiry.

The petition was referred to the committee on the 10th day of November last. It was accompanied by no evidence whatever. Neither the petitioner, nor any person in his behalf, appeared to exhibit proof in support of the claim, or to point out the source from which it might be obtained. It was not even known to any member of the committee by whom the petition was presented. On the 15th November the committee thought proper to transmit the petition to the Secretary of the Navy, with a request that he would furnish whatever evidence might exist in his Department respecting the transactions complained of by the petitioner. The answer of the Secretary, as appears by his note of the 18th November, was necessarily delayed, until Commodore Morris, who was then in the Potomac, and hourly expected, should arrive in this city. On the 30th November the committee received from the Secretary the documents which accompanied their former report. The only information derivable from these documents, which could reflect any light upon the subject, was a declaration subscribed by Commodore Morris, in which it was stated that on the 17th January, 1803, Lieutenant Sterrett, by his order, captured and brought in for trial the imperial polacre Paulina, Lucca Radishjz, master, bound from Malta to Tripoli, having on board Tripoline subjects, among whom was David Valenzin, the petitioner, who appeared principal in the charter-party, and claimant of the greater part of the cargo; that the commodore attempted to procure an adjudication of the prize at Malta, but was refused by the Governor of that island; that he then proceeded to Gibraltar, in the hope of trying the validity of the capture at that place, but the Duke of Kent, then Governor of Gibraltar, declined taking cognisance of the affair; that he was compelled, in consequence, to send the papers with the Tripoline to America; that David Valenzin was at the time of the capture a subject of the Bey of Tripoli, the papers which had been secreted by him clearly proving him to be such; and that he was declared to be so both by Mr. Cathcart and his own servant.

From this representation alone the committee did not feel themselves justified in recommending any relief for the petitioner. At the same time, apprehensive that other facts might exist material in the case, they delayed their report until the 12th December, when, no further evidence appearing, the report, with the papers received from the Navy Department, was presented to the House. Upon the suggestion of a member in his place, that the petitioner had expressed to him a desire to be heard before the committee, and that evidence would be adduced to establish the claim, the report and petition were ordered to be recommitted. The committee convened the next morning, and the petitioner appeared, attended by a stranger, who, being acquainted with the petitioner's language, had kindly offered to assist him as an interpreter. The petitioner then declared himself a Jew, born at Venice; that his mother dying when he was sixteen years old, his father removed to Tripoli, where he established himself as a merchant; that his brother and himself arriving to years of maturity, left their father and commenced business at Rosetta, in Egypt, from whence, for many years past, they had carried on a circuitous traffic with Tripoli, through Smyrna and Malta; that in one of these voyages he was captured by the American squadron, divested of all his property and papers, and sent a prisoner to this country, where he had long expected a trial; that he had been offered his liberty by the Secretary of the Navy, and a passage to the Mediterranean in a public vessel, which he had declined until the legality of his capture should be determined; that he knew not what disposition had been made of his effects, nor in what way to obtain his papers.

After hearing the petitioner, the committee the same morning addressed a letter to the Secretary of the Navy, (marked A.) requesting further information in the case, if in his power to furnish it; particularly what disposition had been made of the polacre? for what purpose Valenzin had been brought a prisoner to the United States? and in whose possession were his papers, if any were found upon him at the time of his capture? The answer, under date of the 20th of December, (marked B.) which is said to furnish the only official information, relative to the case existing in that Department, contained a letter from Daniel C. Heath, prize-master on board the polacre. This letter, the writer of which, it is understood, immediately left the city on a furlough, barely states that the prize, by order of Commodore Morris, had been delivered up to Lucca Radishjz, her commander; that he knew not why Valenzin was brought hither as a prisoner; and that his papers were committed to the care of Lieutenant Sterrett. As no notice was taken in this letter of the petitioner's property, the committee were left to conclude it had passed with the polacre into the hands of her captain; nor were they undeceived in this respect until some time afterwards. They also remained ignorant in whose hands the papers were deposited until the morning of the 27th December, when, by accident, they learned that the marshal of the district of Maryland had them in his custody. The committee made no delay in communicating this fact to the House. A resolution was instantly adopted, empowering the committee to send for such persons and papers as might be necessary to the investigation of the claim. They availed themselves of this authority by issuing their warrant, (marked C.) and despatching a messenger to Baltimore the next day. He returned on the 30th with all the papers and documents said to have been found on board the polacre at the time she was captured. These were numerous, written partly in Arabic, partly in a corrupt dialect of the Italian, spoken on the coast of Barbary, and wholly unintelligible to every member of the committee. By the aid, however, of two gentlemen in the House acquainted with the Italian language, they were enabled to make some progress in translating a few of what appeared the most important documents. Whilst the committee were thus employed, Commodore Morris, who had taken his departure shortly after his communication already mentioned, returned to this city, and, at the request of the committee, immediately appeared before them. He repeated the statement he had before given, and seemed confident that the petitioner was a Tripoline, rightfully captured, and his property lawful prize; that he had two complete sets of papers: the one clearly showing him to be a subject of Tripoli, the other of a more recent date, fraudulently calculated to prove him a subject of the Emperor of Germany; the latter being readily produced by him at the time of his capture, whilst the former were found concealed in the bottom of a cask. He added, that, as the polacre was not in a condition to cross the Atlantic, he had ordered her to be delivered to Lucca Radishjz, the master; and *as the property taken from the petitioner was of a perishable nature, he had directed it to be sold at Malta, for the benefit of the captors.* The committee being thus, for the first time, informed of the sale of the petitioner's property, were particular in their inquiries as to its amount, and the manner and proceeds of the sale. To these inquiries the commodore made no other answer than by referring the committee to Mr. Heath, the prize-master, who, he made no doubt, would furnish all the necessary information on the subject. Mr. Heath, it appeared, had left Washington the 20th December, the day on which his letter to the Secretary of the Navy was delivered to the committee; nor could it be ascertained, by the most diligent inquiries, in what direction he had gone. This circumstance, added to the extreme difficulty of deciphering the petitioner's papers, the doubtful evidence which resulted even from such as could be translated, and the reserve manifested by those who possessed originally the means of information, served to produce a delay which the committee deeply regretted, but which, by their utmost efforts, they could not avoid. Being informed that William Eaton, Esq., late consul at Tunis, was daily expected in Washington, that he had seen the petitioner in the Mediterranean, and was well acquainted with his language, the committee indulged a hope that from him, at least, some useful information might at length be derived. Meanwhile it was perceived that the petitioner's apparel was not such as to render him comfortable during the inclemency of the season; believing the Government bound to provide him with necessary food and clothing until the proper measures were taken for his liberation, the committee, on the 5th January, addressed a letter (marked D) to the Secretary of the Navy, in which they freely communicated to him the embarrassments they experienced in the investigation; the further delay which must inevitably attend it; the destitute condition of the petitioner; and requesting to be informed, whether, as the head of a Department, he did not consider it compatible with his duty to make some temporary provision for the petitioner's relief. To this letter an answer (marked E) was received the 17th of the same month. On that day Mr. Eaton, who had just arrived, attended the committee. He assisted them in further translating the Italian, but was unable to interpret the Arabic originals, the import of which is still undiscovered. From an attentive examination of the papers, one circumstance appeared strongly marked. In such a bore date prior to the commencement of hostilities between the United States and Tripoli, wherever the petitioner's name occurred, he was uniformly denominated *a subject of Tripoli*; in those dated subsequent to that event, he was as uniformly styled an *Austrian or imperial subject*. The former are those which were said to be secreted at the time of his capture. Amongst the latter is a passport, purporting to be signed by the imperial consul at Rosetta. The unfavorable presumption which naturally arose from conduct so equivocal, was, in some measure, removed by the remarks of Mr. Eaton; who declared it as his opinion that *Jews*, (and the petitioner was evidently of the number,) throughout the coasts of the Mediterranean, were not considered as the proper subjects of any nation; particularly that none of the Barbary Powers would, in any case, recognise them as such, unless for some special or mercenary purpose; and, finally, that the petitioner appeared to him one of those *sea pedlars* (such was his expression) who are frequently found in that part of the world, but whose residence is never known.

At this stage of the inquiry your committee did not deem it so essential to decide the propriety of the original capture, as to discover whether the captors had conformed to the requirements of law, in relation to the prisoner or the prize. No certain evidence had yet been obtained of the amount and value of the property taken, nor, indeed, of its actual sale.

Accidentally hearing, on the 17th January, that the account of sales had been returned to the Navy Department, and the proceeds deposited in the bank, the committee immediately wrote a letter (marked F) to the Secretary of the Navy, desiring information on these points. His answer of the next day (marked G) did not communicate the information desired, inasmuch as no returns, it seemed, had been made to that Department. The Secretary, however, mentions that he had heard, informally, a sum of money had been deposited in the bank by the prize-master, which was said to have proceeded from the sale of Valenzin's property.

The presence of Mr. Heath now appeared to your committee indispensable. A suggestion that he might be at Havre-de-Grace, or at Dover, had induced them to write him (copy marked H) as early as the 11th January, directed to both those places, but without success. On the 19th the committee made out their warrant, (marked I,) and sent a messenger in pursuit of him. On the morning of the next day, it is understood, the unfortunate petitioner, in a moment of insanity, put a period to his own existence!

Notwithstanding this melancholy catastrophe, your committee have thought it their duty to complete, as far as might be in their power, the inquiry they had thus far pursued; and as the messenger returned with Mr. Heath on Sunday last, they have since proceeded to take his examination, which is subjoined, (marked K,) and which appears

to be a free disclosure of all the circumstances attending his management of the prize. He testifies, after explaining the time and manner of the capture, that David Valenzin, and several other prisoners, were put on board the *Enterprise*, and sent to Tunis; from which place he received the order of Commodore Morris to deliver to the Bey of Tunis, or his order, the greater part of the cargo. The residue being the property of David Valenzin, and but a small proportion of it in a perishing condition, was sold by order of the commodore, and the sales completed by the 8th of June, 1803. The gross amount of sales was \$2,665 70; the nett proceeds, after deducting charges and expenses, were \$2,144 11. This sum, after deducting five doubloons paid to Commodore Morris, leaving a balance of \$2,064 11, was by him deposited, with the approbation of the Secretary of the Navy, in the bank of discount and deposite in this city, on the 17th December, Anno Domini 1803. On which day, also, he left his papers relative to the disposal of the cargo with Mr. Goldsborough, clerk in the Navy Department.

From the whole evidence thus collected, your committee are clearly of opinion, that, in whatever light the original capture is to be viewed, the disposition of the prize was irregular and illegal. If it was the intention of the captors to consummate their right to the property captured, it was obviously their duty to transmit the same, accompanied by the necessary papers, without delay, to the United States for adjudication. Even admitting the propriety of selling such of the prize goods as were in a perishing condition, still the residue, with the proceeds of such as were necessarily sold, might and ought to have been thus transmitted at the time the prisoner was sent to the United States. By the sale of the property, under the attending circumstances, it is worthy of consideration, whether a serious, if not an insurmountable obstacle may not have been created to a trial of the validity of the capture in a court of maritime jurisdiction. To subject the claimant or claimants to the inconvenience and expense of seeking redress from the ordinary courts of law in a case so situated, can be neither right nor reasonable. Justice, therefore, evidently requires that provision be made by the Legislature for their indemnification.

Your committee are also of opinion, that until David Valenzin was duly liberated from his imprisonment, an obligation rested upon the Government of the United States to provide for his decent support; and that, of course, the individuals who have generously contributed to his necessities, and who have defrayed the expense of his interment, ought to be remunerated. With these impressions, your committee respectfully offer to the House the following resolutions, viz:

Resolved, That provision ought to be made by law for restoring to the legal representatives of David Valenzin, the value of the property captured from him in the Mediterranean by the American squadron, in the month of January, A. D. 1803.

Resolved, That provision ought to be made by law for indemnifying the individuals who, during the imprisonment of the said David Valenzin, contributed to his support, and who have defrayed the expenses of his interment.

A.

SIR:

COMMITTEE ROOM, *December 13, 1803.*

The Committee of Claims are desirous of obtaining some further information relative to the case of David Valenzin, if it be in your power to furnish it. They have instructed me particularly to inquire what disposition was eventually made of the "imperial polacre," captured by order of Commodore Morris? for what purpose was Valenzin brought a prisoner to this country? and in whose possession are his papers, if any were taken from him at the time of his capture?

I have the honor to be, sir, with very great respect, your obedient servant,

JOHN COTTON SMITH.

HON. the SECRETARY OF THE NAVY.

B.

SIR:

NAVY DEPARTMENT, *December 20, 1803.*

On receiving your communication of the 13th instant, I wrote Mr. Daniel C. Heath, who was prize-master of the imperial polacre in question, requesting information from him relative to the queries proposed by you; and now enclose a copy of Mr. Heath's answer. It is not in my power to furnish you with any further official information on the subject.

I have the honor to be, with great respect, sir, your most obedient servant,

R. SMITH.

HON. J. C. SMITH, *Chairman Committee of Claims.*

SIR:

WASHINGTON, *December 17, 1803.*

Yours of yesterday, on the subject of the imperial polacre, I have had the honor to receive; and now answer, as far as is in my power, the questions on that subject which you have been pleased to desire of me. The following are the questions and answers:

1st. What disposition was ultimately made of the polacre?—I ultimately, by the order of Commodore Morris, delivered her to S. Radishjz, master of her at the time of capture.

2d. For what purpose was Valenzin sent a prisoner to this country?—I do not know.

3d. In whose possession are his papers, if any were taken from him at the time of capture?—There were some papers found by Lieutenant Lawrence, who in the first instance had charge of the polacre, which I believe were delivered to Captain Sterrett. The information they contained I am not acquainted with. After I took charge of the polacre as prize-master, I found a number of concealed papers on board, but they are not of material import as relates to David Valenzin.

I have the honor to be, with the highest respect and consideration, your most obedient, humble servant,
DANIEL CHARLES HEATH.

ROBERT SMITH, Esq.

C.

To THOMAS DUNN, assistant doorkeeper of the House of Representatives, greeting:

By virtue of a resolution which passed the House of Representatives of the United States of America, on the 27th December, instant, "empowering their Committee of Claims to send for such persons and papers as, in their opinion, may be necessary to the investigation of the claim of David Valenzin, now under their consideration," you are hereby authorized and required to proceed, without delay, to the city of Baltimore, in the State of Maryland, there to demand and receive of Reuben Etting, Esq. marshal of the district of Maryland, (who is also hereby

required to deliver to you) all such papers, books of accounts, vouchers, and documents, of what kind or nature soever, belonging to the said David Valenzin, or found upon him, the said David, at the time of his capture by Lieutenant Sterrett, under the order of Commodore Morris, as may be in the hands or possession of him, the said Reuben Etting, Esq., and the same to safely bring with you; and for so doing this shall be your sufficient warrant.

Given under our hands, at the city of Washington, the twenty-eighth day of December, in the year one thousand eight hundred and three.

JOHN C. SMITH,
ANDREW GREGG,
DAVID HOLMES,
THOMAS PLATER,
THOMAS MOORE,
WILLIAM CHAMBERLIN,
GEORGE M. BEDINGER,

Committee of Claims, House of Representatives of the United States.

D.

SIR:

COMMITTEE ROOM, *January 5, 1804.*

The Committee of Claims not having yet completed the examination of D. Valenzin's petition, they have directed me to inquire if it will not be consistent for you to make some temporary provision for the petitioner? Although it may ultimately appear that he was rightfully captured, and brought to this country by our armed vessels, still the committee are impressed with a belief that the Government is bound to support him until the proper measures are taken for his enlargement. Further time will be required to investigate his case. His papers are voluminous, and in languages not easily interpreted. Meanwhile, the man must unavoidably suffer, exposed as he is to this inclement season, without the necessary clothing, unless he can obtain immediate relief from some department of the Government. The committee will feel themselves bound, upon principles of humanity, to contribute as individuals to his comfort, and rely upon the justice of the Legislature to indemnify them. They do not desire, sir, that you should incur, personally, this inconvenience; they only wish to be informed whether, as the head of a Department, you deem it incompatible with your duty to extend any aid to the petitioner?

I have the honor to be, sir, with perfect respect, your obedient and very humble servant,

JOHN COTTON SMITH.

Honorable the SECRETARY OF THE NAVY.

MONDAY EVENING, *January 16.*

The chairman of the Committee of Claims had the honor to address, in their behalf, a note to the Secretary of the Navy, on the 5th instant, relative to the case of David Valenzin. The committee have directed the chairman to inquire of the Secretary whether the note has been received?

To the SECRETARY OF THE NAVY.

E.

SIR:

NAVY DEPARTMENT, *January 17, 1804.*

I have received your letter of the 5th instant.

I concur in opinion with the "Committee of Claims," that some temporary provision ought to be made by Government for David Valenzin; but I have not the power, consistently, to make any provision for him.

I have the honor to be, with great respect, sir, your most obedient servant,

R. SMITH.

Honorable J. C. SMITH.

F.

SIR:

JANUARY 17, 1804.

It is suggested to the Committee of Claims that the property of David Valenzin, taken on board the polacre captured by Lieut. Sterrett, was sold by order of Commodore Morris; that the proceeds of the sale have been deposited in the bank, and the account of sale returned to the Navy Department. If you are possessed of any information on these points, you will oblige the committee by communicating it as speedily as your convenience will permit.

I have the honor, &c.

JOHN COTTON SMITH.

Honorable SECRETARY OF THE NAVY.

G.

SIR:

NAVY DEPARTMENT, *January 18, 1804.*

Your letter of the 17th instant has been received. I have no information, officially, of the property of David Valenzin having been sold. We have never received any account of the sales at this Department. I have, however, understood that a sum of money has been deposited in the office of discount and deposite at this place, to the credit of Lieut. Daniel C. Heath, who was the prize-master; and that the money so deposited accrued from the sale of merchandise found on board the vessel in which Mr. Valenzin was taken. The sum, I have understood, amounts to between \$2,000 and \$2,500.

I will here take the liberty of observing, that by the law "for the better government of the navy of the United States," passed 23d April, 1800, it is provided, that

"The commanding officer of every ship or vessel in the navy, who shall capture or seize upon any vessel as a prize, shall carefully preserve *all* the papers and writings found on board, and transmit the whole of the originals, un mutilated, to the *judge of the district* to which such prize is ordered to proceed."

The papers in this case have, no doubt, been transmitted to a district judge; but as the property captured was not sent into some port of the United States, and as our admiralty courts cannot proceed but *in rem*, the judge, it is presumed, determined that he could not take cognizance of the case.

I have the honor to be, with great respect, sir, your most obedient servant,

R. SMITH.

Honorable J. C. SMITH.

H.

SIR:

JANUARY 11, 1804.

The Committee of Claims have directed me to request your attendance at this place as speedily as possible, in order to communicate such facts as may rest in your knowledge respecting the case of David Valenzin, who was captured by the American squadron under the command of Commodore Morris, and whose petition is now before Congress.

The House of Representatives have empowered the Committee of Claims to send for such persons and papers as may in their opinion be necessary to investigate the case. The committee, unwilling to issue a mandatory process in the first instance to compel your attendance, presume you will render such a measure wholly unnecessary, by complying instantly and cheerfully with this request.

Yours, &c.

J. C. SMITH, *Chairman.*Mr. D. C. HEATH, *Havre-de-Grace.*

I.

To THOMAS DUNN, assistant doorkeeper of the House of Representatives of the United States, greeting:

The House of Representatives of the United States having, at the present session of Congress, empowered us their Committee of Claims to send for such persons and papers as in our opinion might be necessary to the investigation of the claim of David Valenzin, under our consideration: and it being certified to us that evidence material to the inquiry may be derived from Daniel C. Heath, a lieutenant in the navy of the United States,

You are hereby authorized and required to cause the said Daniel C. Heath, wherever found, to make his personal appearance forthwith before us, to answer such interrogatories as shall be put to him touching the premises; and for so doing this shall be your sufficient warrant.

Given under our hands, at the city of Washington, the nineteenth day of January, in the year one thousand eight hundred and four.

JOHN. C. SMITH,
ANDREW GREGG,
THOMAS PLATER,
THOMAS MOORE,
DAVID HOLMES,
W. CHAMBERLIN,
GEO. M. BEDINGER,

Committee of Claims of the House of Representatives of the United States.

K.

The declaration of Daniel Charles Heath, acting lieutenant in the navy of the United States, and late prize-master on board the polacre Paulina, captured by Lieutenant Commandant Sterrett, under the order of Commodore Morris, of the American squadron in the Mediterranean, taken on oath before the Committee of Claims, on the 31st January, A. D. 1804, viz:

That the deponent was on board the Enterprise at the time of the capture of the said polacre Paulina, which took place off the island of Malta; that the prize was carried into the port of Vallette by Lieutenant Lawrence, who afterwards returned on board the Enterprise, and the charge of the polacre was committed to the deponent, as prize-master, on or about the 19th January, A. D. 1803. That on the 29th of the same month, David Valenzin, and several other persons captured on board the polacre, were put on board the Enterprise, and sent to Tunis, as the deponent was informed; that the deponent received orders from Lieutenant Commandant Sterrett, approved by Commodore Morris, then at Tunis, to deliver to the Bey of Tunis, or his order, the greater part of the cargo of the polacre, as particularized in the said order. The residue of the cargo, which was said to belong to David Valenzin, the deponent sold by the order of Commodore Morris. The sales were completed by the 9th June, 1803; the gross amount of which being \$2,665 70 reduced to American currency, may be seen by the accounts of Joseph Pulis, Esq., American consul at Malta, and Mr. William Higgens, who had the management of the sales of said cargo, and whose accounts of the sales are now before the Committee of Claims; and the nett proceeds, after deducting some charges and expenses, amount to two thousand one hundred and forty-four dollars and eleven cents. From which sum the deponent paid to Commodore Morris (as per receipt) five doubloons, and the balance, estimated at two thousand and sixty-four dollars and eleven cents, was by the deponent deposited, with the approbation of the Secretary of the Navy, in the bank of discount and deposite in this city, on the 17th December, 1803; that as the deponent was leaving this city, he left his papers relative to the disposal of the cargo of the polacre Paulina with Mr. Goldsborough, clerk in the Navy Department.

The raisins, figs, and cheese, which Mr. Pulis had the management of the sale of, were in a perished and perishing state.

The part of the cargo that Mr. Higgens had the management of the sale of, which was perished and in a perishing state, is particularized in a certificate given by Mr. George Pierce and Mr. Lure, which the committee have an opportunity of seeing.

The deponent further saith that the proportion of Valenzin's property in a perished and perishing condition was but small, not exceeding, perhaps, four hundred dollars in value.

Sworn before me,

DANIEL C. HEATH.

JOHN C. SMITH, *Chairman.*

8th CONGRESS.]

No. 151.

[1st Session.

ARMY CONTRACTOR KILLED BY THE ENEMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1804.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Ann Elliott, made the following report:

This case has several times been submitted to the consideration of Congress, but has never received a final decision. The petitioner, owing, it is presumed, to her destitute circumstances, and her distance from the seat of Government, has heretofore failed to produce such evidence as could justify any former committee in reporting favorably upon her claim. But, from the proofs now exhibited, your committee are enabled to present the following statement of facts:

The petitioner's late husband, Robert Elliott, Esq., was, in the year 1794, contractor to the army of the United States commanded by General Anthony Wayne. By the original contract between the United States, on the one part, and Robert Elliott and Elie Williams, on the other part, it was, amongst other things, stipulated as follows, to wit:

"Escorts and guards for the safety of the provision, and for the protection of the cattle against the enemy, shall be furnished whenever, in the opinion of the commanding officer of the army, or of any post, to whom application may be made, if the same can be done without prejudice to the service; and the party of the second part shall not be answerable for any deficiency of supplies at any of the said posts or places, if it shall appear, upon satisfactory proof, that such deficiency was occasioned by the want of proper escorts or guards."

On the 21st September, 1794, General Wayne wrote Mr. Elliott, requesting him, immediately on the receipt of the letter, to use the utmost despatch in advancing to Fort Recovery all such supplies as he could procure for the use of the army; adding, "the enclosed abstract will show you that even one day's delay may be fatal." Mr. Elliott received this letter on the 5th October, and, having his supplies in readiness, wrote the same day to the commanding officer at Fort Washington, desiring an escort for two hundred packhorses, twenty-five wagons, three hundred cattle, and three hundred sheep. The answer of Captain Pierce, then commanding that post, contains the following extract: "I have to inform you that I will furnish one sergeant, one corporal, and twelve men from this to Hamilton, and which is all that the present situation of this garrison will admit of. Could I furnish one hundred, I would do it with pleasure."

Notwithstanding Mr. Elliott was under no obligation, from the strict letter of his contract, to proceed with the supplies thus unprotected, yet, urged, it is believed, by a regard to the suffering condition of the army, and by that high sense of duty and of patriotism of which there are but few examples, he set out the next morning, without convoy, and, advancing two or three miles in front of the provisions and stores, attended only by his servant, he had arrived within a few rods of Fort Washington, when he was attacked and slain by a party of Indians. His body, stripped of its apparel, was left in a mangled condition. His horse was also killed, and the equipage, with his portmanteau, containing all his most valuable papers, fell into the hands of the savages. The servant escaped, but, unfortunately, the next day, in the attempt to convey the body of his master to the fort, he was killed, as well as the horse on which he rode.

The provisions which Mr. Elliott thus put in motion, at the expense of his life, reached Fort Wayne in safety, and in such season as to prevent the post from being abandoned, and (as the general himself expressed it) "to save the troops from starving."

The deceased left an amiable wife and ten children, who, by his untimely fate, the loss of all his most useful papers, and the consequent derangement of their affairs, were reduced at once from affluence to poverty. To his family his death was a misfortune which no munificence of the Government can repair; but, in their present indigent situation, even the value of the property sacrificed on that occasion would be an important object. This is estimated at seven hundred and eighty dollars, exclusive of the cash the deceased might have had with him, the amount of which cannot be known, but is supposed, from several circumstances, not to have been an inconsiderable sum. Your committee consider the Government bound, from a fair construction of the contract before mentioned, to afford relief, at least to the extent of the property taken and destroyed; and they will add, if the liberality of the nation should be manifested to the widow and orphan children, the case would not be without precedent. On this point, however, they forbear to express any direct opinion, believing that a simple representation of the facts will best enable the House to decide whether patriotism so distinguished ought not to receive from the Legislature a suitable reward.

Without recommending, therefore, at this time, any particular provision, your committee respectfully submit the following general resolution:

Resolved, That the prayer of the petition of Ann Elliott is reasonable, and ought to be granted.

[NOTE.—See No. 140.]

8th CONGRESS.]

No. 152.

[1st Session.

INDEMNITY FOR LOSSES BY FIRE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1804.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Paul Harralson, late collector of internal revenue in the State of Tennessee, praying a pecuniary allowance, in consideration of the loss of his dwelling-house, together with a sum of money and his valuable papers, by fire, made the following report:

The facts stated by the petitioner do not appear to be fully established by the evidence he has offered; and, if the proofs were ever so satisfactory, your committee consider the principle as settled by several decisions of the House, the present session, that the Government is not bound to provide any indemnification in cases of this description. They are, therefore, of opinion that the petitioner have leave to withdraw his petition.

[8th CONGRESS.]

No. 153.

[1st SESSION.]

CLAIM OF THE COLLECTOR OF SAVANNAH FOR BILLS OF EXCHANGE ON THE WAR
AND NAVY DEPARTMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1804.

Mr. SAMUEL L. MITCHELL, from the Committee on Commerce and Manufactures, on the memorial of Abraham Bradley, attorney for the executors of John Habersham, late collector of the port of Savannah, referred on the 16th February, 1804, made the following report:

Major Hbaersham was frequently employed by Government to furnish money from the custom-house at Savannah to pay the regular troops, to defray the expense of holding treaties, and to supply the Indians on the southern quarter of the Union. The Treasury, by adopting this mode of transacting the business, avoided the hazard of remitting money to and from the State of Georgia. The usual method of transacting this business was, for Mr. Habersham to pay the agents of the War and Navy Departments there such sums as the public service required, and to receive their draughts on the Secretaries for the amount. These draughts, which were in the nature of good bills of exchange, the collector, Mr. Habersham, remitted regularly to the Treasury, and there they were placed to his credit, just as if he had remitted specie. It unluckily, however, happened that he paid a draught of one Edward Price, for one thousand dollars, upon Oliver Wolcott, the then Secretary of the Treasury, and another draught of the same Price, for eleven hundred dollars and fifty-three cents, upon James McHenry, the then Secretary of War. Price was the factor of the United States for supplying the Creek Indians with merchandise. These draughts were neither paid at the Treasury, nor passed to Major Habersham's credit. The reason of this was that one of the draughts was informal, and that Price had not duly rendered his accounts for settlement. Before these statements were regularly made, and the proper adjustment effected at the Treasury, Price died. In the mean time the papers in the War Office have been consumed; and, as the collector and factor are now no more, and the accounts been destroyed by fire, there appears to be no possibility of settling these accounts upon just principles, without legislative aid.

From eighteen months to two years elapsed before Major Habersham received any intimation that Price's said two draughts had not been honored at the Treasury. This long omission amounts, in the opinion of the committee, to an acceptance of them on the part of the Government; and, as the collector has paid the money once, it appears, in the present case, unjust that his executors should be compelled to pay it over again. It is therefore submitted:

That the proper officers of the Treasury be authorized to pass to the credit of John Habersham, late collector of Savannah, in Georgia, the amount of two orders or bills drawn in his favor by Edward Price, and one of them endorsed by William Wallace; the former upon Oliver Wolcott, Secretary of the Treasury, and the other upon James McHenry, Secretary of War; making, together, the sum of \$2,124 53.

[8th CONGRESS.]

No. 154.

[1st SESSION.]

CLAIM OF AN ARMY CONTRACTOR FOR FURTHER ALLOWANCES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1804.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the memorial of Thomas Mounger, made the following report:

The memorialist, whilst contractor for supplying the troops of the United States, within the State of Georgia, in the year 1801, lost (by a disease which prevailed among them) a number of beef cattle, which were intended for public use. For this loss, under all its attending circumstances, he prays indemnification.

He likewise complains that the Secretary of War violated the contract made with him for the year 1802, in not permitting him to furnish the supplies which were issued at Fort Wilkinson, whilst the treaty between the commissioners of the United States and the Indians of the Creek nation was held at that place. And he claims, as damages, the difference on the whole amount of the supplies issued, between the price of the provisions, as stated in his contract, and the price which the agent of the War Department might have given for those which were actually furnished; although he does not pretend to know, much less to prove, that any such difference at all existed.

A more detailed statement of the case will be found in a document herewith presented, (marked A,) signed by the Comptroller of the Treasury, to whom, it appears, the memorialist had appealed from the decision of the Accountant of the War Department, and by whom that decision was affirmed.

As to the first part of the claim, no principle seems better established than that the Government is not to be considered as insuring the property of individuals against casualties of any kind. On this ground, Congress have rejected numerous applications not less meritorious than the present.

In respect to the other part of the claim, your committee are unable to perceive that the Secretary of War has been guilty of any violation of the contract made with the memorialist for the year 1802. From the very words of that instrument, it is evident the Secretary could be under no obligation to call on the memorialist to issue the supplies in question; and, from information communicated by the Accountant, it appears, that as there had been complaints of a want of punctuality on the part of the memorialist, in relation to his supplies at other garrisons, the Secretary had too much reason to apprehend the public service might suffer, if the sole charge of providing for that extraordinary and important occasion were confided to the memorialist.

After a long and patient hearing of the memorialist, and an attentive consideration of his case, your committee are of opinion the prayer of his memorial ought not to be granted.

A.

JANUARY 28, 1804.

The questions submitted to me by the Accountant of the War Department, and Mr. Mounger, contractor, to supply the troops within the State of Georgia, during the year 1801, arise under an agreement between the late Secretary of War and the contractor, made and executed on the 15th day of November, in the year 1800, and a letter from the present Secretary to him, dated 16th July, 1801. To these I have recurred.

1. He claims an allowance for sixty-six head of cattle, alleged to have been purchased, in pursuance of the letter above mentioned, and which, he says, died of a disorder which afterwards prevailed among them. These cattle were purchased by the contractor, to supply a meeting of commissioners on the part of the United States and a number of Indians, which was expected at Fort Wilkinson, in the month of October then ensuing. This meeting did not take place until late in the month of May following, when the Secretary of War informed the commissioners, by letter, they were to be supplied by Mr. Halsted.

2. He claims the profit resulting from the supplies furnished at the treaty with the Creek Indians, at Fort Wilkinson, in 1802. These claims are made under the letter before mentioned, and under the first article of his agreement with the late Secretary of War.

With respect to the first claim, I am of opinion that the contractor is not entitled to be paid by the United States for the cattle lost in the manner stated.

1. Because the cattle purchased by a contractor are always purchased and kept at his risk, unless it be otherwise provided for in the agreement; and no such provision is to be found in the agreement before me. It stipulates that he shall be allowed and paid for "all losses sustained by the depredations of an enemy, or by means of the troops of the United States." From this stipulation it is too strongly implied, to admit of doubt, that he is not to be paid for losses arising from other causes.

2. Because, under the agreement, he can only be entitled on the delivery of the rations.

As to the second claim, the contractor has not brought forward a charge to any specified amount; he has not even stated the number of persons who attended the meeting and were supplied; nor has he furnished any evidence of the cost at which Mr. Halsted supplied the commissioners and Indians. The charge is made *in blank*.

The claim arises on a supposed breach of contract on the part of the United States. It is represented, on behalf of the Secretary of War, that he directed the supplies to be furnished by Mr. Halsted, because Mr. Mounger had not rendered his accounts regularly, according to the eleventh article of the agreement, and that he has considered Mr. Mounger as not having complied with the agreement on his part. If it should be admitted that there was a breach of the contract on the part of the United States, and that a failure by Mr. Mounger to fulfil the eleventh article would not justify a non-compliance on the part of the Government as stated, still the accounting officers of the Treasury are not authorized to assess damages for an alleged breach of contract between the United States and one of their citizens. In cases of this nature, between citizen and citizen, the remedy must be sought in the courts of judicature. The claim is inadmissible at the Treasury.

G. DUVALL.

5th CONGRESS.]

No. 155.

[1st Session.

CONSULAR SERVICES AT TUNIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 29, 1804.

MR. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of William Eaton, late consul of the United States at Tunis, made the following report:

That so far as an examination of this case involves a consideration of the petitioner's consular agency, your committee feel a pleasure in expressing their decided approbation of his official conduct. Nor do they hesitate in communicating to the House their impression that the petitioner has a well-founded claim upon the Government for his sacrifices and expenditures in the public service. But inasmuch as his demand is under a course of examination at the Treasury Department, and as it is confidently believed that the Executive is both enabled and disposed to render him complete justice, your committee consider the present application as premature, and that legislative interference ought to be withheld until a fair opportunity shall be afforded for the adjustment of the claim by the proper officers.

Your committee are therefore of opinion that the petitioner have leave to withdraw his petition, and the papers accompanying the same.

SIR:

In order to give your honorable House a plain view of the grounds on which my claims against the United States are founded, it will be useful to offer a detail of the events from which the expenses accrued to me; but to do it correctly, the causes which produced those events should be stated.¹ This will necessarily survey the entire period of my agency at Tunis. It will be done with as much conciseness as consists with precision.

The treaty between the United States and Tunis, as arranged in the month of August, 1797, by the intervention of Joseph Etienne Famin, was ratified by the Senate, March 6, 1798, with a suspension of the fourteenth article, and a resolution "That it be recommended to the President of the United States to enter into a friendly negotiation with the Bey and Government of Tunis, on the subject of the said article, so as to accommodate the provisions thereof to the existing treaties of the United States with other nations." Though the treaty was ratified with this only exception, yet the eleventh and twelfth articles were objectionable; and on the 18th of December, 1798, Richard O'Brien, your petitioner, and James Leander Cathcart, were duly "authorized to confer, negotiate, and conclude, with the Bey and Regency of Tunis, on the alterations in the said treaty, which the honor and essential interests of the United States require should be made;" and instructions were given accordingly. On the 9th of February, 1799, Mr. Cathcart and myself arrived at Algiers, where Mr. O'Brien had been some months before us. About the same time arrived the brig of war Hassen Bashaw, and schooners Shioldebrandz and Le la Eisha for the Dey. Some days were consumed here in arranging a general settlement with Algiers; which

being effected, Mr. Cathcart and myself departed for Tunis, March 2d, and had audience with the Bey of that Regency the 15th following. Mr. O'Brien had been taken ill, and remained at Algiers.

Mr. Famin, *chargé des affaires*, had formed sanguine expectations of an appointment to the consulate of the United States at Tunis, and had, by a very liberal distribution of presents and promises, so established himself in the interests of the Government, that it was with difficulty the proper consul was received and accredited; for he had already presented to the Bey \$50,000 cash, and to his minister \$10,000; had engaged to them naval and military stores, arms, and jewels to the value of (as per invoices, including freight, and excluding insurance and other contingencies) about \$181,000; and he had scattered among the subordinate officers of Government presents to the amount of about \$20,000, making an aggregate of \$261,000. Though we did not admit the claim for arms and jewels, they being evidently promised by Famin after our arrival, yet, after much discussion, we succeeded in obtaining a modification of the treaty with but a very trifling sacrifice. The Bey of Tunis allowed the United States six months to send forward the naval and military stores, and one year to procure the arms and jewels stipulated by my predecessor. But he created an additional claim on the United States of a vessel of war, upon a pretext that his friendship was as valuable to us as that of the Dey of Algiers, and that he was therefore entitled to the same evidence of our desire to cultivate it. We had, indeed, at that period furnished the navy of Algiers, on various accounts, a frigate of 32 guns, a brig of 22, one schooner of 18, one of 14, and one of a smaller size. And, together with the value of these vessels, paid the Dey cash, and other regalia, to the amount, as per Mr. O'Brien's estimate, of something more than \$1,000,000. It was impossible to convince the Bashaw of Tunis that these vessels of war were not gratuitous to the Dey, and equally difficult to persuade him that I had not a discretion to engage him a vessel of war. My resistance, therefore, to his claims, at the earliest period of my agency, placed me on unfavorable terms with the Regency.

The six months allowed to send out the stores elapsed; and the succeeding six months were a series of vexations, claims and resistances, menaces and defiances, until the return of the treaty ratified, accompanied with a letter from the President of the United States to the Bey, and assurances from the Department of State that a large ship was on the passage out with stores. The Bey had, at this time, actually equipped a squadron to cruise against Americans; and had already, through the seduction of Famin, gotten into his possession and arrested a large American ship, the *Camilla*, of Boston, from Naples. The seasonable arrival of those communications and of the expected ship, the *Hero*, tranquillized our affairs; and the Bey's squadron was ordered to run upon the Danes. Nothing material intervened at Tunis until after the arrival of another store-ship, the *Anna Maria*, on the 25th November, 1800. But occurrences had happened at Tripoli and Algiers which eventually affected us here. The Bashaw of Tripoli, conceiving the notion that his friendship also was as valuable to the United States as that of the Dey of Algiers, declared to the President, by letter, dated 27th May, 1800, that he should expect the same demonstrations of regard; and signified, at the same time, in terms sufficiently intelligible, that, in case of refusal or delay, he should resort to coercive measures; and he persevered in his resolutions. At Algiers, on the 7th September, same year, arrived the United States' frigate *George Washington*, with annuity; discharged her cargo on the 9th October, and on the 19th sailed for Constantinople, in the service of the Dey, wearing his flag, and carrying his ambassador and regalia to the Sublime Porte.

The menacing attitude assumed by Tripoli, and the indignity suffered by our flag at Algiers upon a ship of war, provoked the jealousy of the Bey of Tunis,* and prompted him to such projects of asserting his own consequence, and making himself felt by the American agent.

No sooner had the *Anna Maria* discharged her cargo at the Bey's arsenal, December 23, than he arrested her in his port, under pretext of a right ceded by the twelfth article of treaty, and ordered her to take in a cargo of oil for Marseilles. I contended that a fair construction of that article only went to authorize him to use our merchant vessels, found in his port, on emergencies; and refused to permit the ship to go into his merchant service. He, as usual, pointed to Algiers, mentioned the example of the American frigate being sent to Constantinople in the service of that Dey, and again accused me of want of accommodation. I could not admit the example of aggression at Algiers as authority for my submitting to it at Tunis. Menace was used. The contest continued till January 4, 1801, when the *Sapatapa* (Bey's prime minister) consented to stipulate a freight, though inadequate to the service, to be paid to the captain. And the ship departed for the island of Gerbi, January 8, to receive the chief of her cargo, and returned to Tunis to complete it, February 20.

Meantime a decree from the Sublime Porte had compelled the Bey of Tunis, who had made a truce without consulting the Grand Seignior, to resume his position in the war with the French republic; and the minister now refused either to fulfil his contract, to discharge the ship, or to pay demurrage for her detention; but insisted on sending her to London. Besides a disagreement between the master and him about the freight, there were some impediments to the ship's proceeding thither.

The minister required me to compel a compliance on the part of the captain. It was impossible to convince him that I was not clothed with a power to do it. He threatened war. I affected indifference; and the ship was held in arrest until the 6th day of March following, when the dispute appeared to be drawing to a serious issue; for the court, I was assured by respectable authority, had determined to seize both the ship and crew as an indemnity for the impediment, occasioned by her resistance to the cargo going to a seasonable market. It was at this crisis that I consented to become myself responsible for the cargo, in order to get the ship and people out of their hands. The minister taxed me about 33 per cent. above market price for the cargo. I engaged to pay the demurrage for the detention, for the minister would not talk about it, and despatched the ship to Marseilles, as will appear from document marked A, and the charter-party. And I thought it reasonable to charge the United States the amount of demurrage during the time the ship was forcibly detained by the Government, which was about seventy days.

The minister desired that, from the avails of this cargo, I would procure him a corvette from America, and a part cargo of sugar and coffee, on which he would allow me commission. I entered into engagements with Captain Coffin to that effect. Six months was the time fixed on for me to remit the minister the full avails of this cargo; though it was manifestly impossible to get the articles he required from America in that time.

It was hoped that, by this arrangement, we had at least gained six months' tranquillity at Tunis; but the Bey soon after created a new demand on the United States for forty 24 pound battery guns, which he stated to the President, by his letter, dated 15th April, 1801, and which came forward in an express vessel which I despatched, April 20, to Government, with information of the war with Tripoli, which that Bashaw had already declared against the United States.

On the 28th June following the Bey of Tunis made a fresh demand of me for ten thousand stands of arms. I refused to state this demand to my Government; and the Bey ordered me to quit his kingdom in thirty days, as per report, No. 1.

* This Bey has never ceased to quote *Algiers* as authority for all his exactions. He thinks himself quite as *princely* a pirate as the Dey.

About this time I received a letter from Mr. Cathcart, dated at Leghorn, June 15th, which suggested to me the plan of using Hamet Bashaw, the legitimate sovereign of Tripoli, then an exile in Tunis, as an instrument, in favor of the United States, to chastise the perfidy of our enemy, his younger brother, who had treasurably usurped the Government. I did not then enter decidedly into the measure; doubting whether any construction of my original instructions from Government would authorize the discretion.

But, on the 17th July following, Commodore Dale arrived with his squadron at Portofofine, forty miles from Tunis; and, on the 18th, on his board, he put into my hands the letter from the Department of State, dated 20th May preceding, (marked B.,) which, by its discretionary instructions, removed that obstacle. This discretion was highly proper at that time, and on that station. For Tunis may be said, by a figure, to be a site on the enemy's flank, from which his whole camp may be reconnoitred without his having the means of preventing it; and from which he may be annoyed in his operations without the capacity of resistance. I soon entered into a convention with Hamet Bashaw, conditioned, on his part, that, on his being restored to his dominion, he should place the usurper and family into our hands as hostages of a perpetual peace. And I sketched the project to the Department of State, in my report of 5th September following, (No. 2.)

The moment of the appearance of a force on the Barbary coast was peculiarly favorable, both as it affected Tunis and Tripoli. It checked, for a moment, the arrogance of the former; and it gave a paralytic shock to the latter. The enemy was securely calculating on the booty he expected from American captures; he had no apprehensions of a force so near him; and was consequently unprepared to counteract its operations. His best corsairs, comprising his chief naval force, and the chosen strength of his Turkish soldiery, were either blockaded at Gibraltar, or were at sea, not in a capacity to return immediately to his succor. He had but a few guns, badly mounted, on his castle batteries; not soldiers to man them; and scarcely a sentinel on their ramparts. His interior was agitated by dissensions, and his capital distressed by famine. Of this last circumstance, however, I was not informed till after the departure of the commodore for his station. It had been carefully concealed from me until the alarmed commerce of Tunis betrayed it in a demand of the Bey for my passports of safe-conduct to his merchantmen bound to that port with provisions. At once to seize the advantages which the occasion offered, and to silence the Bey's demand for passports, which, if granted, would, according to Barbary exclusive privileges, have covered the property at all events, I announced Tripoli in a state of blockade, and despatched an express vessel to the commodore with the information, (as per document C.) He confirmed the blockade, and pledged himself for its support. (D.) Nine days afterwards he appeared in the road of Tunis, on his way to Gibraltar, having quitted the enemy's coast by reason of sickness in his ship. He left with me, however, a letter of instructions to keep up the idea of a blockade. (E.) On the eleventh, having sprung a mast, he appeared again in the bay with a signal to speak the consul; I went on board. He then stated to me that he, in fact, had no orders which would authorize him to act offensively, nor yet to hold a prisoner he might take; that he had consequently released the crew of the corsair captured by Lieutenant Sterrett, as well as sundry considerable merchants of Tripoli, who had fallen into his hands, coming from Smyrna, in the Bashaw's promise to give up seven Americans in exchange, when taken; that he expected fresh instructions at Gibraltar, believing that the information of the war had seasonably reached the United States, when he should return to Tripoli; he enjoined on me, at the same time, to keep up the color of a blockade. I never saw the commodore afterwards; though I kept the enemy three months in a state of blockade when we had not a ship of war within three hundred leagues from his port; his chief commerce and whole supplies of provision depending on Tunis, and my passports being still withheld.

In this suspense of things, the friendly Bashaw grew despondent. He had received satisfactory assurance that his subjects would revolt to receive him if he should be offered to them; and I renewed to him some encouragements on the 3d November, as reported to Department of State, December 13, (No. 3.)

Being myself in a very imperfect state of health from the convalescence of a fever which had reduced me very low the preceding summer, my physician advised me to take a sea voyage. Accordingly I embarked in the United States transport the George Washington, and proceeded to Leghorn. The Bey of Tunis, immediately after my departure, demanded passports of my chargé des affaires; who wrote me, and received my answer. (F.)

On my arrival at Leghorn, the President's answer to the Bey's demand for forty 24 pound battery guns came to hand, unsealed. It conveyed in pretty explicit language a resolution *no longer to owe to humiliating concessions our right to navigate the seas freely.*

This Mr. Cathcart and myself construed as assurance of the approbation of Government to our measures, and as an encouragement to perseverance.

Being informed from Tunis that overtures of reconciliation had been made by the ruling Bashaw of Tripoli to his exiled brother, it was resolved that I should return immediately to Tunis, in order to defeat his design, (No. 4.)

We now viewed the project with Hamet Bashaw more essential to the object of effecting a peace than ever before. It was thought a very unfortunate circumstance that a construction of the constitution should have prohibited Commodore Dale from receiving discretionary orders on leaving the United States for the expedition. The consequence certainly was, that the fair prospects, which presented themselves on his first arrival on the enemy's coast, failed in execution; and that the expedition of 1801 effected nothing essential to the issue of the war. The measure of setting the Tripoline prisoners at liberty, which was calculated by benevolent experiment to move the gratitude of the barbarian, operated, in effect, quite a different sentiment on his mind; for he attributed to fear those acts of generosity which a civilized enemy would have acknowledged as proofs of magnanimity. His corsairs escaped the vigilance of our ships, and got safe home. About one hundred Swedish captives were employed making gun-carriages on the castles, and in repairing their platforms and parapets. He had found means to procure supplies of ammunition and a competence of provision, and was now in a pretty good situation of defence. If he succeeded in getting possession of his rival brother, it would relieve him from apprehensions of an internal revolt, and would tend to render the terms of peace with the United States much more exorbitant; or the war, on his part, more active, and pernicious to our commerce. There being no direct passage to Tunis to be procured, it was thought advisable, both on account of despatch and safety, to embark in my own armed ship Gloria, which I accordingly did on the 28th February, and arrived March 12th. She was a new well-built Danish ship, of about 300 tons, captured by the Bey of Tunis, and finally abandoned by the Danish negotiator, which I had purchased; but for which I was refused a Mediterranean passport, on a construction of our law; in consequence of which I had mounted upon her deck fourteen 12 and 6 pounders, and on her fore-castle and quarter six smaller guns. On my arrival at Tunis I found Hamet Bashaw actually on the point of departing for the kingdom of Tripoli, under the escort of forty armed Turks, sent by the ruling Bashaw for his *protection!* Despairing of the aids he had anticipated from the Americans, and refused further supplies of provisions by the Bey of Tunis, he was compelled to this alternative. I reanimated his hopes and his prospects; but he was watched by his escort, and finally constrained to embark in a Russian ship for his passage. The Bey of Tunis now demanded my passports for him and his retinue, and renewed his demand for passports for his merchantmen to Tripoli. I refused to grant either one or the other. He became outrageous; threatened the nation with war, and myself with chains. I began to be apprehensive of real danger, and was desirous of communicating this state of things to the commanding officer on

the coast. There was no American vessel of war near; and it would be improper and unsafe to confide this information to accidental conveyance.

There were then with me, at the American house, Doctor William Turner and Mr. Charles Wadsworth of the navy, and Captains George G. Coffin and Joseph Bounds, American masters of merchantmen, whom I consulted, and, with their advice, (certificate G,) despatched the Gloria to the commanding officer with a detail of facts; and suggested to him the exertions I thought requisite to prevent the friendly Bashaw falling into the enemy's hands, as well as to seize the Tripoline soldiers who guarded him; and, at the same time, I requested he would give the Gloria a warrant to act under my orders till *the arrival of the commodore*.

The Gloria fell in with Captain McNeal, the only commander on the coast, three days after leaving port, who approved of my measures; sent back the ship with his warrant to act, under my orders, offensively against the Tripolines until the arrival of the commodore; and went himself in search of the Bashaw.

Meantime I had wrought upon the Bey's minister to countenance and aid my project in consideration of my promise to give him ten thousand dollars on condition of *his fidelity, and in case of its success*. I thought it good policy to secure the minister; not so much for the service he would render, as to check the mischief which seemed impending. He confessed it was the intention of the enemy Bashaw, by this illusive overture, to get possession of the rival brother in order to destroy him; and he permitted my dragoman, under an injunction of secrecy, to communicate the design to Hamet Bashaw. This determined him to go to Malta, under a pretext to his people of evading the Swedish and American cruisers. He arrived safely, dismissed his escort, and reported himself to me.

Having now gained what I considered the most important point in our plan, the security of the friendly Bashaw, I immediately despatched the Gloria to convey the intelligence to our commodore and to the Government, as per copy of despatches, (H.)

The ship arrived seasonably at Gibraltar; but what was my astonishment to learn, that, instead of meeting there a squadron prepared to seize this advantageous position, to find a solitary captain of a frigate, just from his counting-house, ready to stamp defeat, and pass censure on a measure, the ground of which he could not have surveyed! Captain Murray discarded this project, and dismissed my ship in a manner most injurious and most disgraceful to me; but proceeded himself to Tunis, where he arrived early in June, and tarried six days with me without intimating any thing of his proceeding at Gibraltar, though he expressed his dissent to the plan concerted with Hamet Bashaw. The Gloria arrived a day or two after the Constellation's departure; but a general discontentment prevailed among the crew. Two of them had been taken off by Captain Murray at Gibraltar; two or three others deserted after arrival at Tunis; and all were unwilling to go to sea, it being known that sundry cruisers of the enemy were out.

During these transactions, it appears, the Sapatapa had betrayed to the ruling Bashaw the plot of his brother with the Swedes and Americans to dethrone him. The Swedish admiral had embraced the project, and entered into some arrangements with Captain McNeal to give it effect, but waited the arrival of the American squadron; for, as an offensive and defensive alliance was understood to exist between the Swedish court and the Government of the United States so far as related to Tripoli, that admiral had orders to act with the advice and concurrence of the American commodore. See his letter to Hamet Bashaw, (marked L.)

The alarm excited in the apprehensions of the usurper by these manœuvres induced him to come forward with propositions of peace, first through the mediation of Tunis, then of Algiers; and to call to the defence of his city as many of his Moorish and Arabic subjects as were still in submission.

On the 7th July, 1802, the brig Franklin, Captain A. Morris, of Philadelphia, was sent into Bizerte, a port in the kingdom of Tunis, sixty miles from the capital, by sea; and the next day the vessel and cargo were put up at public auction in Tunis.

On the 11th I wrote the advice (K) which Captain Murray answered, August 18, (letter L.) In consequence of which I took the depositions, (M.) The day after its date I received the advice from Captain Murray, (N.) Notwithstanding the engagements he had entered into with Hamet Bashaw, as appears by his letter of 18th August, he abandoned the enemy's coast on the 28th of the same month; and from that day, till some time in April or May of the year 1803, no American ship or vessel of war appeared in sight of Tripoli!

The capture of the Franklin, and the safe arrival at Tripoli of the captives, in sight of the Constellation, gave the court of Tunis a contemptible opinion of the vigilance and enterprise of our frigates. The deserters from the Gloria at Tunis had promulgated the transactions which took place at Gibraltar respecting this ship, in such a manner that they became known to the Sapatapa: It was a matter of exultation at that piratical court that the "*American consul was abandoned by his countrymen*." And the occasion was seized to "*humble his pride!*"

The ship intended for a cruiser, and part cargo commissioned for by the Sapatapa as part payment for his cargo of oil, had arrived the 13th January, 1802, but were rejected by the minister, because I would not furnish passports to his coasters for Tripoli; and, by the event of peace, they sunk more than cent. per cent. in value. My project with Hamet Bashaw was considered as blown out. The expense of the Gloria had continued from the 1st March, without produce; and I saw no immediate prospect of relief from this expense, for I could obtain no information from the commodore, though I knew he had arrived at Gibraltar 25th May, and thought he must have been informed of the arrangements made to terminate the war, as the despatches conveying the intelligence arrived at Gibraltar a little before him, and were copied in the consular office there, and as he lay seventy-seven days in that port, between the 24th May and 19th August, he must have had ample time to read them.

It was at this juncture of affairs that the Sapatapa required immediate settlement.

Besides bringing forward the privateer ship and merchandise above mentioned, for the minister, I had made him very considerable remittances in cash on the score of the Anna Maria's cargo, and other matters. On presenting my accounts, he struck out the sum before stated, as conditionally engaged for his *secret service*. Against this I remonstrated, alleging that he had forfeited right to the gratuity on account of having shifted his ground; offered himself as the mediator of peace in behalf of the enemy; and, as I had good reasons to believe, had betrayed to him the whole affair: at any rate, the condition was in no sense fulfilled; and, of course, no obligation on my part towards him. He affected not to understand any thing about this subject; but insisted on the deduction as an *error!* We had frequently before compared accounts, and agreed. The case went before the Bey. I demanded that the Sapatapa should produce his books in evidence. He said he kept none. He *was not a trader*; but he swore by the head of his master that his statement was honest. His master, of course, gave judgment against me. There is no appeal from that decision, nor could I obtain forbearance. The minister, when retired from the hall of justice, said, with a sarcastic cant, "*We know how to keep consuls to their promises!*"

It was in this dilemma that I found myself compelled to apply to the commercial agent of the Bey for a loan of \$34,000, on a credit of six months, \$2,000 of which were discounted by him for use.

Mr. Cathcart, having been made acquainted with the conduct of Captain Murray, wrote, on the 25th of August, to the Department of State, the letter of which O is a copy. This document will do something to establish what I am desirous of showing, that our project with Hamet Bashaw was the result of deliberation, and that I acted in concurrence with an agent who held the highest confidence of Government.

Thus stood affairs with me until the 8th September, when the Bey of Tunis, as if sedulously calculating to harass my feelings, conceived the project of sending the *Gloria* to America, with a letter to the President of the United States, demanding a frigate of thirty-six guns. The letter was accompanied to me with his passport to the ship as a protection against Tripolines,* and his peremptory order to despatch her without delay. I availed myself of this protection, at the risk of the Bey's resentment, to send the ship to Leghorn, and ordered the crew to be discharged. The discussion of the Bey's renewed demand for a frigate, with his minister, and his letter to the President, may, at least, add one more proof of the arrogance and exorbitance of his disposition towards the United States, as communicated, (marked P.)

Though our ships of war had now all left the coast, I still kept up a correspondence with Hamet Bashaw; till at length he proceeded to Derne, and was affectionately received by his subjects, who renewed their allegiance to him. He now sent two agents to me, one of his generals and his secretary, to bring this intelligence, who arrived about the 1st December. The Bashaw was soon after joined by a nephew, who had been banished to Cairo, at the head of a multitude of mountain Arabs; so that he found himself with a force sufficient to act against the usurper, and only waited the arrival of our squadron to block him by sea, when he would move and invest him by land. His agents had been with me about sixty days, *incog.*, when Commodore Morris appeared, for the first time, February 22, 1803, in the road of the *Golette*, for the purpose of contesting the Bey's claim to property belonging to his subjects, taken upon the imperial polacre, the *Paulina*. The commodore went on shore, under the pledge of the Bey's honor that he should be treated with the same distinctions as officers of the same rank of other friendly Powers. After some discussions he satisfied the Bey's claim, as was supposed; and entered into some engagements with the agents of Hamet Bashaw, for which he held the express sanction of the Government, (as per document Q.) These agents renewed to the United States, in the name of their sovereign, the condition to deliver the usurper, his family, and admiral, into our hands, as hostages of peace; and they assured us that it only required a force to prevent their escape by sea, to insure the success of the project; for the subjects of Tripoli were very universally attached to the legitimate Bashaw, and incensed against the usurper for his barbarities. They said the object could be carried without the squadron's firing a gun! The commodore promised to be before Tripoli in June following, for this purpose. The agents urged more expedition, and wept to urge in vain.

While with me, I had exhibited to the commodore a view of my affairs; mentioned to him what I supposed would be the balance, which was \$22,000, due on my note to the Bey's agent, and the cause in which it originated; and read to him my letter of the 9th November, 1802, to the Department of State, wherein it was stated that I should have need of \$23,000 for defraying expenses incident to my measures with Hamet Bashaw. He expressed his entire satisfaction with my transactions, and his opinion that Government would indemnify me, especially for the amount which the Bey's minister had fraudulently extorted from me, as he had repeatedly heard the commercial agent confess was the case. He was requested, on going to pay his visit of congé to the Bey, to say something to the minister (to whom it appeared the cash was going) to engage his forbearance until I could receive relief from America. This he said he would do, and every thing seemed to have resumed a tranquil appearance at Tunis; but the next morning the Bey's agent came forward with additional claims on the score of the prize—some trifling articles of no great value. A contest of words, contradictions, and reproaches ensued on the subject. The parties became incensed against each other. The commodore left the American house, and, instead of going to take leave of the Bey, as is always customary, and for which carriages were waiting, shaped his course for the marine to embark. It was at this moment of irritation and distrust that the agent followed after, refused him a passage in his sandals to the *Golette*, and demanded payment of the balance of my note. His reasons for so doing are stated in his certificate, (R.)

The next day, at the palace, I remonstrated with the Bey against this violation of faith and outrage offered to the dignity of my nation, mingling on the occasion something of those feelings which a sense of the personal indignities I had suffered at his court could not but excite in my own breast, with such plainness as to produce my expulsion from his kingdom. This may, indeed, have been a premeditated matter; for I am conscious that I had rendered myself politically obnoxious both to his and to the resentment of his minister, by having uniformly resisted their exorbitant exactions. During more than four years' agency at that court, I never yielded a concession incompatible with the dignity and interest of my country. This was to them an unprecedented ground to be assumed by a tributary consul! If, in any instance, I may have made a sacrifice, it has been to parry a certain danger, and chiefly occasioned by the delays of the United States in forwarding their peace stipulations, or to some incident in which I had no volition. Even the Bey himself, notwithstanding his decision in favor of his minister against me in the case before stated, bore testimony, in presence of every American present, to the zeal and integrity of my conduct as an agent, and even expressed his personal respect for me as an honest man; but alleged that my *head was too obstinate*, and said *he must have a consul with a disposition more congenial to the Barbary interests!*

Though I felt no regret in leaving the country, the manner in which I was hurried out of it left many of my individual concerns unsettled, vastly to my injury. The prohibitions to which I had been previously subjected by the Government, in consequence of my adherence to positions relative to the commerce of this Regency with the enemy, which duty compelled me to hold, had operated also greatly to my disadvantage; for which there is no remedy.

Having gone through this statement of events, which produced the items of my claim now before this honorable House, and brought into view the most considerable transactions of my agency, both as they relate to my exertions to keep the peace at Tunis, and to assist the operations of the war against Tripoli, I beg it may be considered that, so far as respects the latter, I have been but the chief acting agent of a measure which was recommended and urged not only by Mr. Cathcart, an agent of the Government, and acquainted with the probabilities of its success, but by every other agent and citizen of the United States with whom I could consult, and who were entitled to my confidence; a measure ultimately adopted by every commanding officer who has appeared on that station since it took shape, and approved by the Executive: that I have taken no steps in the measure but what resulted from the position in which I was placed, and the nature of my duty, and but what met the concurrence of Mr. Cathcart and such other officers of the Government as were on the ground: that, so far as my agency had any influence on the measure, it succeeded; and that, if we have not experienced all the benefits calculated to result from its full effect, it ought to be attributed to the *inertia* of a commander or commanders over whose conduct I had no control: that it was not apprehended any expenses to the United States would accrue from the measure; but, on the contrary, that such expenses as should be incident to its prosecution would be defrayed out of its success; and that it would be a public saving, both of life and property, as would eventually have been the case, if it had been prosecuted with suitable energy.

It may not be improper to recite, that my ship *Gloria* was to be employed on this emergency only until the

* Those Beys reciprocally respect each other's passports, even on an enemy's ship. And as they always give a passport for a year to prize-vessels when sold, it very much helps the sale of their prizes.

arrival of a commodore on the coast. But it was impossible to imagine his arrival would be delayed eleven months after the plan was mature for execution; or that, on his arrival, and finding it in that stage, he should make no effort to give it effect. He was entreated to send only one of his ships with the agents to the friendly Bashaw, in order to encourage his perseverance until he could bring the whole squadron to co-operate with him. This he refused, on a pretext that the ships were on short rations, and must all accompany him to Gibraltar to provision.

This may have been the case; but it is nevertheless true, that the whole squadron lay nine days after arriving at that port, without taking in even a biscuit or a bucket of water; the commodore was occupied with His Royal Highness the Duke of Kent, soliciting a court of admiralty to adjudicate upon David Valenzin, the Jew, whom he picked out of an imperial vessel near Malta. It is true that the first appearance of this commodore before Tripoli was not until the 22d May, 1803. It is true that during this term of a year, from his first arrival on the station, he never burnt an ounce of powder, except at a royal salute fired at Gibraltar in celebration of the birthday of His Britannic Majesty, or on similar occasions. And it is equally true, that, during the period of seventeen months he commanded the whole force of the United States in the Mediterranean, he was only nineteen days before the enemy's port!

I certainly feel no inclination to act the informer, nor would I state these facts were it not that those delinquencies have most deeply affected me, rifled me of my honor, and, for aught I know, reduced me to extreme poverty. Whereas, had I been supported with that energy, nay, with that integrity, which was due to the confidence of the Government in the commander-in-chief of the expedition, I should have saved both my honor and my property. I should at least have saved myself the mortification of this appeal to the equity and sensibility of the National Legislature, and, it is confidently believed, my country would have experienced lasting benefits from my exertions.

It is presumed the project with Hamet Bashaw is still feasible. The very circumstance of his existence is evidence of his holding a position formidable to the enemy; for it is well known, a Turkish despot never lets a rival exist whom he can destroy. And I must be permitted still to adhere to the opinion which has actuated my conduct in this affair, that it is the most eligible way of securing a permanent peace with that Regency; for there is no faith in treaties with the ruling Bashaw.

Besides the impression to be made on the world by this species of chastisement, it would have a beneficial influence on the other Barbary Regencies. To them the precedent would be dreadful, for it would be no very difficult matter, in case of war, to start a rival in either of those Regencies, the Government of Algiers being military elective; and the Beylique of Tunis, though hereditary, now held by usurpation. This may account, perhaps, for the Sapatapa having, after deliberation, seceded from his engagements with me in favor of re-establishing the legitimate Bashaw of Tripoli.

But whether the project be yet practicable or not, it is believed sufficient evidence has been produced to convince the understanding of every one, who is willing to be convinced, that the object which that enterprise aimed to secure was [worth an experiment. With the discretionary instructions I held, I should have thought myself chargeable with a criminal omission, had I not used every effort to secure it; for if a prominent occasion offered which might place the life and dominion of the enemy into our hands, would it not have been treacherous to have neglected it?

It may be asserted, without vanity or exaggeration, that my arrangements with the rival Bashaw did more to harass the enemy in 1802, than the entire operations of our squadron; yet the force sent into the Mediterranean that season was adequate to all the purposes of the war, and, with the favorable positions which had been secured, might have put an end to it in sixty days after arriving at the port, had the arrival been seasonable. This is not my solitary opinion; the Bey of Tunis himself, when hearing of the plan concerted between the Americans and the rival Bashaw, exclaimed "Seid Joseph is ruined!" meaning the ruling Bashaw of Tripoli. But it is now pretended the enterprise was abandoned on the score of economy! Oliver Cromwell searched the Lord, whenever he had occasion to veil his sinister views from men. Economy seems to be the mask of the day with us to disguise the most palpable and inexcusable neglects of duty; for it is hackneyed by every hypocrite whose baseness wants a shield for delinquency, or whose jealousy seeks to blast the merit of that vigilance and energy which cannot but upbraid his remissness. Hence, the very commander who recoils at the prodigality of seeing a single ship employed in the prosecution of a measure which might have decided the fate of the enemy, and at a moment when no alternative existed, seems wholly unconcerned at having employed the whole operative naval force of the United States an entire year in the Mediterranean, attending the *travels of a woman!*

Let it not be inferred from these strictures that your petitioner is an infidel to the doctrine of economy. On the contrary, he believes, but not in a misapplication of the term, nor a perversion of the principle, without the arrogance of believing himself capable of advising, may he not be permitted to ask, if this kind of concern for the public weal should have influence to circumscribe the provisions which the necessary operations of the present moment require on the Barbary coast, will it not betray us into degradations and sacrifices which will be felt by the latest generations of posterity? Can there be a doubt that the Regencies are all covertly leagued in the war? Is not the question at issue between them and the United States, whether we will yield ourselves tributary and subscribe to conditional articles of slavery, or take an attitude more analogous to our national glory and interest? Is there a citizen in America who would not rather contribute something extraordinary for an effectual resistance to the pretensions of these Beys, than by an illusive calculation of gaining by withholding those contributions; take the yoke of a Barbary pirate, subscribe to voluntary chains, and leave the blush of ages embalmed on our tombs?

Let my fellow-citizens be persuaded that there is no bound to the avarice of the Barbary princes; like the insatiate grave, they can never have enough. Consign them the revenue of the United States as the price of peace, they would still tax our labors for more veritable expressions of our friendship. But it is a humiliating consideration to the industrious citizen, the sweat of whose brow supports him with bread, that a tithe from his hard earnings must go to purchase oil of roses to perfume a pirate's beard!

It would be, indeed, something astonishing that those pitiful hordes of sea robbers should have acquired such an ascendancy over the small and even considerable States of Christendom, were it not easily accounted for upon commercial principles. It is true that Denmark and Sweden (and even the United States, following the example) gratuitously furnish almost all their materials for ship-building and munitions of war; besides the valuable jewels and large sums of money we are continually paying into their hands for their forbearance, and for the occasional ransom of captives. Holland and Spain bring them cash, naval constructors, engineers, and workmen in their dock-yards. Without these resources they would soon sink under their own ignorance and want of means to become mischievous. Why this humiliation? Why furnish them the means to cut our own throats? It is from a degrading counting-house policy in the cabinets of the more powerful nations of Europe, to keep these marauders in existence, as a check upon the commercial enterprise of their weak neighbors, and from a principle of commercial rivalry among the tributaries, which aims to supplant each other in the friendship of these chiefs by the preponderance of bribes; a principle, however, which ultimately defeats its own object; for the Beys, like apostate lawyers, take fees on both sides, and, by a rule of inversion, turn their arguments against the client who has the heaviest purse.

But what good reason is there why the United States should follow in the train of those tributaries? We have

not chosen to accept the right of free navigation, nor any other of the appendages of liberty as the grant of a European Power; and shall we humiliate ourselves to accept them as the fief of a Barbary pirate, because the circumscribed powers of Denmark and Sweden, economical Holland, and dormant Spain, afford us precedents? Or because it would be convenient to England and France? I don't know what need we have of Europe any more than that quarter has of the United States. It is an acknowledged fact that during the late war there was a period when the produce of the United States supported the existence of England. If we find her interfering in our foreign relations to the annoyance of our commerce, can we not retaliate the injury, by starving her in her own island? France is, perhaps, more invulnerable; but France has vulnerable points. She may recollect that Achilles perished of a wound in his heel. As for the other nations of Europe, have we not as little to fear as to hope from them? Why not, then, once more leave the beaten track of European policy and bad example, and once more demonstrate to the world that we have the means and the enterprise to defend and protect our national rights?

Is the inveteracy of habits an argument against this experiment? What hinders the Government of the United States from saying to those piratical descendants from the Isle of Lesbos, as the Romans to a Grecian pirate of antiquity, "Tuta! we can, by our arms, force you to reform the abuses of your bad Government!" The enterprise and intrepidity of a Rogers, a Preble, and a Sterret have proved to the United States that those Mussulmans are no more impregnable to a manly front than other savages.

In addition to the ordinary inducements of the Barbary States to commit piracies on our commerce, there is another incentive equally powerful, which may have escaped the notice of the people of the United States, and yet which affects only the United States. We are the rivals of Algiers and Tunis in one principal article of commerce in the Mediterranean, which is, bread corn. Immense quantities of that essential life article are annually shipped from both those Regencies to the ports of Spain and Italy, and occasionally to other ports of Christendom in that sea. This article of commerce at Algiers, as well as all others, is farmed by the Jew house of Bocri & Busnah, who are well known to have a preponderating influence in all the affairs of that Government.

At Tunis, the Government itself monopolizes the entire commerce of the kingdom. In both Regencies that rivalry cannot but excite a spirit of hostility to our commerce; more particularly so, as this is the chief article of exportation in both countries, from which the Governments receive their principal revenue, and an article which always commands ready sale and cash payment, or advantageous barter.

In case of a rupture with either, or both those regencies, a plentiful supply of this article to those ports in the Mediterranean, and a close blockade of the enemies' ports might bring them to their senses. It would be next to an invasion of their country, the most wounding blow which could be inflicted. It would convince them that they have as much need of our friendship as we have of theirs. Are not such the principles of reciprocity we should wish to establish?

I am aware that these remarks may be deemed irrelative to the subject of this exposition. They may not be found, however, foreign to the interest of the citizens of the United States. They are the result of observations taken on the spot; and will, probably, at some not very distant period, be found to contain substance.

But pardon, sir, I pray you, the digression, and allow me a moment to recapitulate the subject-matter of the case now submitted.

I believe it will satisfactorily appear that my taking on myself the responsibility of the Sapatapa's cargo was a measure compelled by the injunctions of duty towards my fellow-citizens, who were then in immediate danger; and not less so towards my country in general; and that, therefore, it is but reasonable I should obtain relief from my country against the sacrifices sustained by that event.

I believe it will also appear manifest that the measures pursued by me with Hamet Bashaw were influenced by no stronger motives than an ardent zeal to serve my country, by chastising an enemy who richly merits chastisement, in a way economical, effectual, and honorable; that this plan might have been seasonably effectuated if I had not been abandoned by the very characters on whom its execution ultimately depended; and that thus all expense to the United States would have been saved.

It is hoped it will be considered that, in any event of the issue of this project, but *one citizen of the United States can be particularly affected by it*. One, indeed, may be ruined! But, forgive the boldness of the appeal, would it become the honor and the magnanimity of my country to pass so severe a decision on upright intentions? Where is the country which ever called upon a general to reimburse the expenses of a battle or a campaign? If the expenses of the measures I have conducted, and for which I thought myself authorized to apply public funds, should be admitted to my credit, there may be found a small balance due to me from the United States. If not, I am at once a bankrupt and a beggar—nett product of the earnings of almost five years' exile!

I very well know that there is one, and perhaps two individuals, who have *been* in the Mediterranean, who would be willing enough to see this termination of my affairs—individuals who, with a view of shrouding positive delinquency in the imagery of malfeasance of office on my part, have anonymously come forward and stamped my conduct, before the public, with the epithets of *speculative* and *fraudulent*! Conscious I am that this nameless, blushless, accusing spirit merits not the attention of a refutation; it is, nevertheless, due to my country.

If, at any period of my agency, I had been actuated by motives of speculation, means have not been wanting which might have been employed in a manner not to have been detected nor evaded.

If I had received a tiskery for a thousand caffices of wheat, worth ten thousand dollars, which the Bey of Tunis tendered me as an *expression of his personal attachment*, when he was intriguing to obtain a promise for a ship of war, what mortal eye could have ferreted out the fraud? It would have been a transaction between him and me altogether secure from penetration. The tacit condition of receiving it would have been, on my part, only to write to the Government, stating the necessity of sending out the frigate as a preventive of war; this would have implied an *assumpsit* which could not have been evaded; my country would have sacrificed one hundred thousand dollars, ten per cent. of which would have been my compensation for manifesting a *disposition congenial to the Barbary interests!*

When the bankruptcy of Jaume & Shwatz happened at Leghorn, and their agent at Tunis, Julius Cæsar Alberganty was involved in the sum of one hundred and twenty thousand dollars, had I acknowledged him an American, certificates of which he held from our consuls in Italy, (Sartoris and Appleton,) and thus given countenance to the pretensions against the United States of the Algerine Jews, who were his chief creditors, a douceur of twenty per cent. on this sum was proposed as my commission for *urging so prudent a precaution against affronting the "Patent Doy of Algiers."*

When six Danish vessels were abandoned to me by their masters for a sum which the negotiator, Koefoed, acknowledges to his court not to be one-third their value, had speculation on the misfortune or misery of men influenced my conduct, is it reasonable to suppose I should have rendered them to their proprietors for the original sum paid as their ransom?

If this principle had actuated my agency in 1801, when passports for the Bey's merchantmen to Tripoli were demanded of me, in which I might have taken an interest, and in refusing which I put my life in jeopardy, is it not natural enough to suppose I would have sought some pretext to justify the concession? It would have been very

easy to say this was the only preservative of peace, and this reason would have been valid against all conjecture. And when this demand was again revived in 1802, and it was declared to me that a refusal on my part would produce a proscription from the court against me, do the sacrifices I made in adherence to my position look like a preference of my own interest or safety to that of the public?

Or, finally, when the Bey of Tunis ordered my ship *Gloria* to America with his letter to the President demanding a frigate, and furnished her with his passport for the purpose, if I had consulted my particular interest in the affair, is it reasonable to suppose that I would again hazard my personal safety, and, instead of obeying the Bey's mandate, profit of the protection of his passport to get the ship to Leghorn for sale at a certain loss? I sacrificed seven thousand dollars in the sale of that ship, and am without remedy. If I had yielded to the Bey's demand, or rather positive order, in this instance, and the pretext would have been a good one, the United States must have indemnified me in all the consequent expenses. But the flag of the United States has never been seen floating in the service of a Barbary pirate under my agency.

I do not arrogate to myself any peculiar merit in having rejected overtures and submitted to sacrifices; my situation rendered it incumbent on me; but if any consideration be due to the principles of analogy or parity of reasoning, the inference will be natural here, that, instead of abandoning the public interest to speculative views, I have sacrificed my own, as well as my personal tranquillity, in a fixed adherence to the duties of my trust. Stupidity alone could admit the idea that a man, in the exercise of reason, would forego so many secure opportunities to enrich himself by an indirect speculation, and yet create schemes of fraud at midday, and in the face of the world. I have a right to feel indignant at this *cowardly* attempt to assassinate my reputation!

In order to show what degree of respectability attached itself to my agency in the opinion of respectable Europeans on the spot, it may not be deemed vanity nor improper to subjoin here a translated copy of a letter from a gentleman of rank and consideration, dictated by the impulse of his feelings, on hearing of the events which occurred the day next before its date; and also of a certificate from my colleagues, the European agents, presented me through the medium of the Chevalier de Barthes.

[TRANSLATION OF THE LETTER.]

SIR, AND MUCH HONORED FRIEND:

MARSE, (two leagues from Tunis,) *March 7, 1803.*

We behold you then finally forced out of Tunis, after having for years endeavored honorably to support the interest of your nation without one moment enjoying, during this epoch, the trifling consideration vainly attached to the station of a consul in Barbary! We behold you at length the victim, I hope momentary, of a combination of events and intrigues, the origin of which, I may venture to say, may be traced to the peace of the United States with these Regencies—whose expedients, unhappily for the cause of humanity, the civilized world despise with too much haughtiness and ignorance, and whose ridiculous pretensions they flatter with too much patience and baseness. Your peace with Tunis, above all, was negotiated under the most unfavorable auspices. It ought, with some reason, to shock the personal pride of this Bey, that the Dey of Algiers, or rather his Jews, assumed an air of being your protectors, calculated to impress a notion of dependence on the Tunisian prince. This impolitic step gave him no exalted opinion of the genius of your Government; and, indeed, your inactive war with Tripoli can impress him with no great idea of your coercive powers.

Never had a consul so thorny a way to clear as yourself—an object so difficult of attainment. He who had the honor to represent your nation on your arrival here, by the slavish and cringing part he acted at this court, had the means and the baseness to sell your interests; the chief source, in my opinion, to which you may ascribe your subsequent political embarrassments.

Is it possible to doubt, for a single moment, the unfavorable opinion this man impressed on the Bey of your Government?

I will not conceal what I observed at the time of negotiating your treaty, that *the Bey of Tunis is not establishing a peace with the United States; it is a commercial speculation; F**** is his political factor, and will gain the commission!* I now venture to add, the Bey was right, the error was on the part of the United States. It is not astonishing that the successor of F****, taking a position firm and analogous to the station he came here to fill, should surprise the Bey by so singular a contrast. He had a right to doubt whether this firmness were peculiar to your individual character, or whether it was that which your Government wished to display here. Ought he not to say, *a nation, who begin their representation by one of my minions, have not the appearance of meaning to brave my pretensions?* This inadvertence in the choice of the first individual, who ought, plainly speaking, to fix in a degree the consideration which the United States should, in future, enjoy with this Regency, is a fault of which the actual consequences prove the magnitude, and the injurious impressions of which will with difficulty be eradicated: time will demonstrate this.

Pardon these reflections; the idea of your departure force them from me; friendship, founded in esteem, participates the injuries which a friend experiences. I do not offer you my condolence; duty discharged inspires not such a sentiment.

I am, sir, your devoted and faithful friend,

TO WILLIAM EATON, Esq., *Consul of the United States, &c.*

[TRANSLATION OF THE CERTIFICATE.]

We, the undersigned consuls and agents of the European Governments at the Regency of Tunis, certify that Mr. William Eaton, consul of the United States of America, has, on every occasion, supported the rights of his nation with dignity and integrity. It is with pleasure we give him this testimony of the truth and of our friendship.

Done at Tunis, the 10th March, 1803.

A. NYSSSEN,
Consul General of the Batavian Republic.
DEVOISE,

Commissary General and Charge of Affairs of the French republic, near the Bey.
HENRY CLARK,

British Charge of Affairs.
JOSEPH NODRIEZ,

Consul General and Charge of Affairs of His Catholic Majesty.
HOLCK,

His Danish Majesty's Consul General.

I ask nothing of my country but reciprocal support.

Accept, sir, the assurance of my profound respect.

WILLIAM EATON.

The Hon. the SPEAKER of the House of Representatives, U. S.

CITY OF WASHINGTON, February 16, 1804.

N. B. Touching at Algiers, Consul O'Brien came on board; he expressed surprise at seeing me; I sketched to him the event of my *congé* at Tunis; he said he had apprehended a squall, and expressed his reasons, which he reduced to writing, as follows:

"This will certify that, in October, 1802, a respectable Jew merchant from Tunis declared to me, and in the presence of Bocris and Busnacks, of Algiers, and also in the presence of Captain Morris," (Andrew,) "that the Sapatapa, or Tunisian minister, had declared to the said Jew that he would work the destruction of the American consul at Tunis; the Jew further added, that the Sapatapa said he was determined to have an American consul more pliable to his *vieus*."

"Given under my hand, this 20th day of March, 1803.

"RICHARD O'BRIEN."

[NOTE.—See No. 173.]

8th CONGRESS.]

No. 156.

[1st SESSION.

INDEMNITY FOR LEGAL EXPENSES INCURRED IN PROSECUTING A SUPPOSED BREACH OF THE ACT PROHIBITING THE IMPORTATION OF PERSONS OF COLOR INTO THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 7, 1804.

Mr. JOHN COTTON SMITH, from the Committee of Claims to whom was referred the petition of John Brooks and Nathaniel Peed, of the State of Virginia, praying to be reimbursed the legal costs taxed against them in an unsuccessful prosecution which had been commenced at their instance for a supposed breach of the law of the United States prohibiting the importation of negroes and persons of color, made the following report:

If public informers were not to incur the risk even of being subjected to the payment of costs, it may well be doubted whether the evils resulting from such prosecution would not greatly outweigh any benefits they might be otherwise calculated to produce.

Your committee do not perceive any peculiar circumstances attending the present application which ought to exempt it from the operation of those general principles affecting cases of this nature.

They are therefore of opinion that the petitioners have leave to withdraw their petition.

8th CONGRESS.]

No. 157.

[1st SESSION.

CONSULAR SERVICES AT MADRID.

COMMUNICATED TO THE SENATE, MARCH 10, 1804.

DEPARTMENT OF STATE, *March 8, 1804.*

The SECRETARY OF STATE, to whom was referred, by a resolution of the Senate of the 25th of January last, the petition of Moses Young, to consider the merits of the same, has the honor to make the following report:

It appears that Mr. Young was appointed consul of the United States at Madrid on the 11th of April, 1798, having been previously, (viz: about the month of October preceding,) by Mr. Humphreys, the minister plenipotentiary of the United States, appointed his private secretary, and charged with the superintendence of claims upon the Spanish Government, in behalf of citizens of the United States; that, on the recall of Mr. Humphreys, his appointment of private secretary to the minister ceased, and thereupon he was allowed, by the Executive, a compensation at the rate of \$1,350 per annum, to induce him to continue in the public service in the capacity of agent for claims; but it also appears that this allowance was not satisfactory to him.

It is certain that, during the last war, and ever since, a body of claims against the Spanish Government has been constantly pressing upon the attention of the representatives of the United States at Madrid. It has not been usual, nor could it be expected, that their ministers to foreign Governments should devote themselves to prepare such business for reception at the proper offices, and to attend its passage through them. Hence, at various times during the last war, agents were assigned at London and Paris to aid them in this branch of the public service; the ministers themselves considering it their duty to do no more than patronize and direct these agents, and fix general principles with the respective Governments whenever cases should happen involving new considerations. The agents at London were provided with salaries, and were allowed to receive commissions on their receipts for individuals who had appointed them their special private agents, but not otherwise. The agents at Paris, on the other hand, received no salaries, (until within a year or two past;) but it is understood that they satisfied themselves with commissions on their receipts.

That the services of Mr. Young, as agent at Madrid, were valuable and necessary to the public service cannot be doubted: for these, until the recall of Mr. Humphreys, he received no compensation from the United States,

and he informs me that he never charged nor received compensation from the individuals to whom he had rendered himself useful in his official capacity.

The Secretary of State, therefore, respectfully submits to Congress his opinion that Mr. Young be allowed a compensation as agent of claims at Madrid, at the rate of ———, from the date of his appointment by Mr. Humphreys, until the time when he ceased to be the private secretary of Mr. Humphreys.

The Secretary has also examined the other claim of Mr. Young, for an additional allowance as secretary to Mr. Laurens, on his mission to Holland in the year 1779, and finds that it has been barred by the act of limitation of the 12th February, 1793. Should that obstacle be surmounted, either by a general provision, or with reference to the peculiar circumstances of Mr. Young's case, the Secretary could add nothing to the inducements to a favorable consideration of his case beyond what is contained in the certificate of Mr. Laurens, dated 29th October, 1792; a copy of which is among the papers transmitted to the Secretary with the order of reference.

All which is respectfully submitted.

JAMES MADISON.

[NOTE.—See No. 210.]

8th CONGRESS.]

No. 158.

[1st SESSION.]

TRAVELLING EXPENSES OF OFFICERS OF THE ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 24, 1804.

Mr. NICHOLSON, from the committee, to whom was referred the bill from the Senate, entitled "An act for the relief of William A. Barron," made the following report:

That the contingent fund of the War Department is peculiarly applicable to the object of the expense mentioned in the act, and the rate of allowance for the [travelling expenses of the officers of the army has long since been established. If William A. Barron has any just claim against the Government for travelling on public service, the Secretary of War is fully authorized to settle it; and if a decision has been made against him, it is presumed to have been made upon established principles; and, in the opinion of the committee, ought not to be revised by the Legislature. A revision of decisions made by the proper officers, who have competent authority, would lead to incalculable trouble and inconvenience; and every claimant might, with equal propriety, call upon Congress to make him an allowance for a claim which the accounting officers of the Treasury did not believe to be just.

The committee conceive that it would not be regular to report that the act ought not to pass, but they recommend that the further consideration thereof be postponed until the first Monday in November next.

8th CONGRESS.]

No. 159.

[2d SESSION.]

INSPECTOR OF THE REVENUE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 12, 1804.

Mr. DANA, from the Committee of Claims, to whom was referred the petition of Margaret Ralston, widow of George Ralston, deceased, made the following report:

The petitioner states that her husband, while in office as inspector, was seized with a lingering disease, which, after confining him for a considerable time, put a period to his life. Conceiving that the wages of the deceased ought to be allowed during the period of his confinement, she applied to the collector of the port for that purpose. Her application to him proving ineffectual, she now solicits the interposition of Congress.

Inspectors of ports receive from the Government a *per diem* allowance; *actual* service can alone entitle the officer to his wages. This is clearly implied from the nature of the compensation; and such, it is believed, has been invariably the construction and the practice.

That the deceased was prevented by sickness from attending to the duties of his office was a misfortune which indeed entitles the petitioner to the compassion of individuals, but which does not seem to constitute a claim upon the national treasury.

Your committee are of opinion that the petitioner have leave to withdraw her petition, and the documents accompanying the same.

8th CONGRESS.]

No. 160.

[2d SESSION.]

INDEMNITY FOR INDIAN DEPREDATIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 22D OF JANUARY, 1805.

Mr. DANA, from the Committee of Claims, to whom was referred the petition of Alexander Scott, made the following report:

The petitioner makes the present application for himself, and as agent for the several parties concerned.

It is represented, that, in the month of February, 1794, William Scott, James Pettigrew, and John Pettigrew, of South Carolina, left that State with a view of establishing themselves in the neighborhood of the Natchez, and took with them twenty-one negroes, with goods and chattels to the value of more than \$1,000; that they reached the Holston river, and proceeded by water as far as the Muscle Shoals, where they were attacked, about the 9th day of June, 1794, by a party of Cherokee Indians, who put to death all the white people, and plundered and carried away the negroes with the good and chattels.

It is further represented, that repeated endeavors have been made, at great expense, to recover what was so plundered, without any other success than the recovery of a negro child; and that the ninth article of the treaty of 1798, concluded with the Cherokees, by obliterating all prior aggressions, has finally prevented the parties interested from recovering the negroes and the property before mentioned.

The petitioner, therefore, solicits relief from the United States.

The treaty referred to was concluded near Tellico, on Cherokee ground, on the 2d day of October, 1798. The following are the terms of the ninth article: "It is mutually agreed between the parties, that horses stolen, and not returned within ninety days, shall be paid for at the rate of sixty dollars each; if stolen by a white man, citizen of the United States, the Indian proprietor shall be paid in cash; and if stolen by an Indian from a citizen, to be deducted as expressed in the fourth article of the treaty of Philadelphia. This article shall have retrospect to the commencement of the first conferences at this place in the present year, and no further. And all animosities, aggressions, thefts, and plunderings prior to that day shall cease and be no longer remembered or demanded on either side."

On the 2d day of July, 1798, a *treaty of peace and friendship* between the United States and the Cherokee Indians was concluded on the bank of the Holston, near the mouth of the French Broad. That treaty expressed the desire of the parties to establish permanent peace and friendship, and contained various stipulations for removing the causes of war. The prisoners taken on either side, and then in captivity, were agreed to be restored. And it was stipulated that the United States should "cause the sum of \$1,000 to be paid annually to the Cherokee nation."

The next treaty between the United States and the Cherokee Indians was concluded in the city of Philadelphia, on the 26th day of June, in the year 1794. It states that the treaty concluded on the Holston river had not been fully carried into execution by reason of some misunderstandings, and mentions the parties as being "desirous of re-establishing peace and friendship in a permanent manner." By the third article of this treaty, the United States stipulated, "in lieu of all former sums, to furnish the Cherokee Indians with goods suitable to their use to the amount of \$5,000 yearly." The fourth article is expressed in the following terms: "And the said Cherokee nation, in order to evince the sincerity of their intentions in future, to prevent the practice of stealing horses, attended with the most pernicious consequences to the lives and peace of both parties, do hereby agree, that for every horse which shall be stolen from the white inhabitants by any Cherokee Indians, and not returned within three months, that the sum of fifty dollars shall be deducted from the said annuity of \$5,000.

The Muscle Shoals are within a tract which had not been relinquished or ceded by the Indians to the United States.

Whatever reasons might be urged for indemnification in the case of a Governmental renunciation of claims of individuals against the inhabitants or Government of any country professing to regard the public law of the civilized world, and having a formal system of administration, laws, revenues, tribunals, and a public force, such reasoning does not appear equally applicable to the present case. The committee do not consider the United States bound to guaranty the possession of negro slaves to individuals passing for no public purpose through the country of hostile savages.

The following resolution is recommended to the House:

Resolved, That Alexander Scott have leave to withdraw his petition, with the documents accompanying the same.

DEAR SIR:

WILLIAMSBURG, SOUTH CAROLINA, November 22, 1804.

Mr. Alexander Scott, of this county, has communicated to me his intention of going to the City of Washington, as agent of Alexander Pettigrew and others, to petition Congress, at their present session, for certain negroes taken from William Scott, and J. and J. Pettigrew, by the Indians, or compensation for them. Having had the pleasure of an acquaintance with you, I promised him to write to you, giving you what information I am possessed of on the subject. In doing this I deem it necessary to assure you, that I am no way interested in the object of the petition; I write purely to oblige him. The history of the business is therefore as follows:

Mr. William Scott, uncle to Alexander Scott, the agent above named, was a native of this county, and lived in it till he grew up; he then, while I was young, removed to the Natchez. My acquaintance with him commenced the last of the year, 1793, at the time he returned to this country, to receive a share of his father's estate, who had died not long before. Mr. William Scott had, as far as I knew, or had heard, supported a good character with the negroes he received of his father's estate, and some others that he purchased, making eight in number. He set out from this place in February, 1794, accompanied by Messrs. James and John Pettigrew, who took with them thirteen slaves, their own property, to return to the Natchez. With the Messrs. Pettigrew I was early and well acquainted; each of them had supported sober, honest, and industrious characters, and had a just and legal right in the said thirteen negroes which they took away from this place. Mr. W. Scott's right in the eight negroes which he carried away was also fair and just. In descending the Tennessee river in a boat, the said Scott and Pettigrews were cruelly murdered at the Muscle Shoals, by the Cherokee Indians, and plundered of every one of the said negroes. Mr.

Alexander Pettigrew, brother to those killed as aforesaid, attended at a treaty held not long afterwards with the said Indians, by Governor Blount and others, and laid in his claim to the said negroes; but either from inattention, or the want of fidelity on the part of Governor Blount, the said negroes were neither reclaimed nor recovered. As the aforesaid agents of our Government had it in their power to have recovered the said negroes, and were solicited to do so, and either omitted or neglected to do it, it appears therefore but just and reasonable that our Government should indemnify the present rightful claimants.

As this case is, perhaps, a novel one, I request you to give it your serious consideration, and do for Mr. Scott what you may deem right and just. The whole business, I assure you, from first to last is free from fraud or speculation.

I remain, dear sir, yours, with great esteem and regard,

R. WITHERSPOON.

General RICHARD WINN.

8th CONGRESS.]

No. 161.

[2d SESSION.

INCREASE OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 13, 1805.

Mr. DANA, from the Committee of Claims, to whom was referred the memorial of Richard Taylor, of Kentucky, made the following report:

The object of this memorial is to obtain an additional allowance of pension.

The memorialist states, that in a course of active and dangerous service, pending the late Indian war, during which he gave full satisfaction to his superior officers, he had the misfortune of being wounded in a sharp action, fought near Fort St. Clair, between a corps of Kentucky volunteers, under the command of General John Adair, and a body of Indians, commanded by the Little Turtle, by a rifle-ball in his groin, which passed through his body, fracturing his left thigh bone in a manner which has rendered him a cripple for life, thereby depriving him of the capacity of supporting himself by labor.

That after languishing under his wound from the 6th day of November, 1792, until the 3d of July, 1793, he was discharged from the hospital of the United States in a state of convalescence, but much debilitated, his wounds being at that time unhealed.

That at the time of being wounded, and for many months before, he received the daily pay of one hundred and twenty-five cents for his services on dangerous escorts between the Ohio and Fort Jefferson, and as a spy and guide.

That in consideration of his disability incurred in the public service, an application was made in his behalf for a pension; and he was placed on the list of invalid pensioners of the United States, at the rate of thirty dollars per annum, a sum which is insufficient for his maintenance in decency or comfort, and far from being in proportion to his pay while in service. The committee, from personal observation, are fully sensible of the serious nature of the disability incurred by the memorialist; and are led to believe that he was placed on the pension list at so low a rate in consequence of some mistake or want of information. The sum allowed to him is but the one half of a pension to a private soldier in ordinary service, and does not correspond to the allowance made in another case, similarly circumstanced.

On a view of the circumstances attending this case, the committee recommend the following resolution to the House:

Resolved, That the prayer of the memorial of Richard Taylor is reasonable and ought to be granted.

SIR:

COMMITTEE ROOM, *January 31, 1805.*

By desire of the Committee of Claims, I now transmit the memorial of Richard Taylor, with a request to be informed on what evidence he was placed on the list of pensioners, and what appears to have caused the deficiency between the rates of pension allowed to him, and to William Wells, and whether a full pension might not, at the present time, be allowed to him under the regulations which the President of the United States has been authorized to direct.

I have the honor to be, sir, with consideration, your very humble servant,

SAMUEL W. DANA.

The SECRETARY OF WAR.

WASHINGTON, *January 26, 1805.*

At the request of Captain Richard Taylor, of Kentucky, I do hereby certify and declare, that, pending the late Indian war, in the year 1791 and 1792, he served under my orders as a mounted volunteer from the State of Kentucky, in the several capacities of an escort, a spy, and guide, during which period his conduct was marked by a display of promptitude, zeal, and courage, which excited my highest admiration and could not be excelled. Pursuing this most dangerous of all military service, on the sixth day of November, 1792, in a sharp conflict between a body of Kentucky volunteers, commanded by the present General Adair, and a superior force of Indians, commanded by the Little Turtle, he received a most grievous wound in the left groin, which shattered his thigh bone near the head of it, exposed him to long and lamentable sufferings under my own observation, and has disabled him for life.

Mr. Taylor, at the time he was wounded, received one dollar and twenty-five cents per day for his services, and if bravery and ardor in a public cause can give claim to public patronage his title is irresistible.

JAMES WILKINSON, *Brigadier General.*

JANUARY 25, 1805.

I certify that William Wells, who was employed by General Wayne, as a spy and guide with the army, on the northwestern frontiers, was for that service allowed the pay and rations of a captain in the line, which was, by order of General Wayne, paid to the said William Wells by me.

C. SWAN, *Paymaster of the army.*WAR OFFICE, *January 26, 1805.*

To whom concerned:

I hereby certify that the above-mentioned William Wells stands on the books of this office as a pensioner of the United States, at the rate of two hundred and forty dollars per annum.

H. ROGERS.

SIR: WAR DEPARTMENT, *January 31, 1805.*

I have the honor to acknowledge the receipt of your favor of this day's date, covering documents in support of the claim of Richard Taylor to an increase of pension.

I should derive pleasure from having it in my power to yield the Committee of Claims precise information on the several points suggested by you, but the loss of the records and documents of this office by fire renders it utterly impossible, and I can only state generally that Richard Taylor appears to have been placed on the pension list by my predecessor in office, and doubtless on the fullest evidence which the nature of the case admitted, and, as the sum allowed was but one moiety of what might have been granted to a non-commissioned officer or private, I should doubt the propriety, even if the powers vested in this Department were competent to it, of revising the decision.

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

H. DEARBORN.

The Hon. SAMUEL W. DANA, *Chairman of the Committee of Claims.*5th CONGRESS.]No. 162.[2d SESSION.]

PAY OF THE GOVERNOR, SECRETARY, AND JUDGES OF THE LATE TERRITORY NORTHWEST OF THE OHIO, NOW STATE OF OHIO, CONTINUED UNTIL SUPERSEDED BY STATE APPOINTMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 18, 1805.

Mr. DANA, from the Committee of Claims, to whom was referred the memorial of Return Jonathan Meigs, Jun. made the following report:

The memorialist requests compensation for having performed the duties of a judge from the 29th day of November, 1802, until the 15th day of April, 1803, in pursuance of his commission as one of the judges of the Territory of the United States, northwest of the river Ohio.

An act of Congress, which authorized the formation of a constitution and State Government for the eastern division of that Territory, was approved on the 30th of April, 1802. In pursuance of which act, the representatives of the people of that division, having met in convention at Chillicothe, agreed to form a State by the name of Ohio, and, on the 29th of November, 1802, adopted a constitution accordingly. The legislative authority of the State was thereby vested in a General Assembly to be elected by the people, and organised as therein mentioned. And by the 25th section of the first article, the first session of the General Assembly was to commence on the first Tuesday of March, 1803.

According to the second article, the votes of the people for a Governor of the State were to be opened and published in presence of the General Assembly.

The 8th section of the 3d article required the Judges of the Supreme Court and of the courts of Common Pleas to be appointed by joint ballot of both Houses of the General Assembly.

The 3d section of the schedule is expressed in the following terms: "The Governor, Secretary, and Judges, and all other officers under the Territorial Government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution."

The subjoined communication from the Secretary of the Treasury will inform the House of the principle upon which the accounting officers have withholden all compensation from the Territorial Governor, Secretary, and Judges, for any services after the 29th of November, 1802.

A different principle appears to have prevailed in the House of Representatives at the second session of the seventh Congress. The following entry is found in the journal of the House for the 24th January, 1803:

"On a motion made and seconded, that the House do come to the following resolution:

"*Resolved*, That inasmuch as the late Territory of the United States northwest of the river Ohio have, by virtue of an act of Congress passed on the first day of May, one thousand eight hundred and two, formed a constitution and State Government, and have thereby, and by virtue of the act of Congress aforesaid, become a separate and independent State by the name of "Ohio;" that Paul Fearing, a member of this House, who was elected by the late Territorial Government of the Territory northwest of the river Ohio, is no longer entitled to a seat in this House.

"*Ordered*, That the said motion be referred to the Committee of Elections, that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House."

On the 31st of the same month the Committee of Elections reported the following resolution as their opinion thereon:

“*Resolved*, That Paul Fearing, the delegate from the Territory northwest of the river Ohio, is still entitled to a seat in this House.”

That gentleman accordingly retained his seat, and received compensation as the Territorial delegate, during the second session of the seventh Congress.

The committee owe respect to the opinion thus manifested by the House; and they consider the Territorial Government as having existed under the authority of the United States until the meeting of the Legislature on the first Tuesday of March, 1803, under the constitution of the State of Ohio.

That all the judges and other Territorial officers may receive the compensation to which they are entitled from the United States, equally with the memorialist, the committee propose the following resolution to the House:

Resolved, That the proper accounting officers be authorized to settle the accounts of the Governor, Secretary, and Judges of the late Territory of the United States northwest of the river Ohio, for their services, while acting in those capacities respectively, at any time before the first Tuesday of March, 1803.

SIR:

TREASURY DEPARTMENT, *December 12, 1804.*

I had the honor to receive your letter of yesterday, enclosing R. J. Meigs's petition.

The accounting officers of the Treasury considering the question of the time when the salaries of the several officers of the northwestern Territory had ceased as doubtful, applied to the Attorney General, and, in conformity with his opinion, settled the accounts and paid the salaries of those officers only to the 29th of November, 1802. On that day the Territory, by the act of the convention, became a State, and the Territorial officers would have ceased to exist, had not a provision been inserted in the schedule to the constitution declaring that the Governor and all other officers under the Territorial Government should continue in the exercise of the duties of their respective departments until the said officers were superseded under the authority of the constitution. It followed that those officers acted subsequent to the 29th of November, 1802, not under the authority of the United States, but by the permission of the convention of the State; and that they must necessarily, after that day, be considered as officers of the State and not of the United States.

However strictly legal that decision may have been, it is not less true that the Governor, Secretary, and Judges continued, for a certain period, to render services for which they have been compensated neither by the United States nor by the State of Ohio.

I have the honor to be, respectfully, sir, your most obedient, humble servant,

ALBERT GALLATIN.

Hon. Mr. DANA, *Chairman of the Committee of Claims.*

8th CONGRESS.]

No. 163.

[2d SESSION.

PROVISION FOR THE WIDOW OF AN INDIAN INTERPRETER, WHO WAS KILLED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 1, 1805.

Mr. DANA, from the Committee of Claims, to whom was referred the memorial of Nancy Flinn, made the following report:

The memorialist is the widow of Thomas Flinn, who was one of the interpreters and guides employed to accompany Colonel Harding and Major Trueman in bearing messages of peace from the Government of the United States to the hostile Indians, in the year 1792. After proceeding together for several days on their route from Cincinnati, Colonel Harding and Major Trueman separated, and took their courses for different places of destination. Thomas Flinn lost his life, with Colonel Harding, before they reached Sandusky.

The memorialist now requests some provision for the relief of herself and four orphan children.

It appears satisfactorily to the committee that Thomas Flinn was employed at the same time and on similar terms with William Smalley, another interpreter and guide. William Smalley was made prisoner by the party of Indians who killed Major Trueman, but escaped from captivity, and returned to his home, after an absence of more than seven months. The compensation allowed to him is ascertained by the annexed certificate from the paymaster of the troops of the United States.

It is well known that provision has been made by law for the families of Colonel Harding and Major Trueman. Although it may not be incumbent on the Government to allow an equal amount in the present case, yet the committee consider it but reasonable to make some provision for the relief of the memorialist and her children.

Without undertaking at this time to specify what should be the extent of such provision, the committee recommend the following general resolution to the House:

Resolved, That the prayer of the memorial of Nancy Flinn is reasonable, and ought to be granted.

9th CONGRESS.]No. 164.[1st SESSION.]

RANSOM FROM INDIAN CAPTIVITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of James Gilham, made the following report:

The petitioner asks the Government to reimburse certain expenses he has incurred in recovering his family from captivity amongst the Piankeshaw Indians.

Your committee, not being able to perceive on what principles the United States can be held liable to indemnify an individual in a case thus circumstanced, are of opinion that the prayer of the petition ought not to be granted.

9th CONGRESS.]No. 165.[1st SESSION.]

LOSSES ON A CONTRACT FOR ERECTING PIERS IN THE RIVER DELAWARE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Richard Sexton, made the following report:

It is stated by the petitioner that, in performing a contract made with the Government for the erection of two piers in the river Delaware, he has sustained serious losses, owing to misfortunes which he could neither foresee nor avoid, and which he conceives entitle him, if not to the justice, at least to the liberality of Congress.

Your committee are convinced the petitioner has not derived from his contract all the profit he might rationally have expected, if no disasters had occurred in the prosecution of the work. But does it therefore follow that the Government is bound, either in justice or in honor, to realize his prospects? Is it bound in all cases to take upon itself the risks, and, finally, to sustain the losses incurred by individuals in their contracts with the public without the right in any case to participate in their profits? These questions have been so repeatedly decided by the House that your committee cannot believe it necessary to give them a formal answer. They are of opinion that the prayer of the petition ought not to be granted.

9th CONGRESS.]No. 166.[1st SESSION.]

DEFALCATION OF A COLLECTOR IN KENTUCKY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Thomas Streshley, made the following report:

The petitioner, late a collector of revenue in the district of Kentucky, on his removal from office deposited in the hands of his successor certain arrearages of duties which he directed to be collected and paid over to the supervisor. This, it seems, was not done; and, in consequence of the neglect and breach of trust on the part of his agent, the petitioner has been prosecuted, and a judgment is rendered against him in favor of the United States for upwards of \$2000, which he prays may be remitted, as well as the ground of the fraudulent conduct of his successor, in consideration of the great embarrassments he himself experienced in the execution of his office. These grounds do not appear to your committee sufficient to constitute a just claim to the relief for which the petitioner applied. They therefore are of opinion that he have leave to withdraw his petition.

9th CONGRESS.]

No. 167.

[1st SESSION.]

REIMBURSEMENT OF THE COST OF TWO PIERS ERECTED IN MERRIMACK RIVER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 4, 1806.

Mr. CROWNSHIELD, from the Committee of Commerce and Manufactures, to whom was referred the petition of the merchants of Newburyport, in the State of Massachusetts, made the following report:

The petitioners state the great inconvenience in navigating their vessels by reason of the rocks and shoals to which they are exposed in the river Merrimack, notwithstanding buoys have been placed in several of the most dangerous of them, and supported at the expense of the United States. The rapidity of the current and numerous accidents arising from vessels and bodies of ice running against them, having worn away the chains by which they were fastened, the petitioners felt themselves justified in building two piers as a substitute for the buoys. The piers were erected in the summer of 1804, at the expense of \$1,385 60, which sum was raised by subscription among themselves. They now ask for a reimbursement of the money expended in erecting the piers. They did not make application to Government to defray this expense in the first instance, as it was doubted by many persons whether the piers could be so constructed as to withstand the force of the ice which runs in the Merrimack with great rapidity, but they were willing to make the experiment at their own hazard, and are now fully satisfied that they will answer the purpose contemplated; for, since they were erected, very large and heavy bodies of ice have passed down the river without doing them any injury. Newburyport is a place of considerable trade, and their navigation has already increased to upwards of twenty-eight thousand tons. There can be no doubt of the utility of piers in all great rivers; especially where they are placed as marks to avoid dangerous shoals, or to afford protection to vessels within them, as in the case of the piers in the river Delaware, for which an appropriation of \$30,000 was made by an act of the 6th of April, 1802. At Newburyport they were much wanted. But it does not appear that the petitioners were warranted in substituting piers for the buoys which had been placed there, and supported by the Government of the United States. If they had applied to Congress in the first instance, it is reasonable to suppose an appropriation would have passed, either for repairing the buoys, or building permanent piers; but, having omitted to make this application prior to erecting the piers, the committee are of opinion that the United States ought not to pay the expense. The money has not been expended under the direction of any agent appointed on behalf of the United States; and, although it has certainly been applied to a useful object, yet the committee conceive it would be an imprudent departure from established usage, to assume the payment of a debt contracted as this has been. The committee, therefore, submit the following resolution:

Resolved, That the petitioners have leave to withdraw their petition and the documents accompanying the same.

9th CONGRESS.]

No. 168.

[1st SESSION.]

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 10, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Amelie Eugenie Beaumarchais, representative of Caron de Beaumarchais, deceased, by T. A. Chevallié, her attorney, made the following report:

The accounts between the United States and the late Caron de Beaumarchais, have undergone a long and laborious investigation at the Treasury. On mature consideration, a balance has been found due from the United States to the estate of Mr. Beaumarchais of \$41,119 75; which sum is included in the estimates and will be covered by the general appropriation for the current year. The petitioner, feeling herself aggrieved by this result, (as her demand exceeded half a million of dollars,) makes the present application to Congress, as an appeal to their justice from the decision of the accounting officers.

From the importance of the case, as well to the United States as to the petitioner, your committee have given it their most deliberate attention; they have duly examined the numerous documents furnished them by the Secretary of the Treasury; they have patiently listened to the arguments and representations of the petitioner's agent, and they have sought information from whatever source it might be obtained, calculated in any degree to explain the mystery in which no inconsiderable part of the claim is involved.

Of the several articles of complaint stated in the petition, one only, in the opinion of your committee, merits consideration; the other items of the demand have been adjusted on principles long established at the Treasury, and repeatedly sanctioned by the House. It is alleged by the petitioner, "that the Comptroller, without any sufficient reason, deducted from her demand one million of livres, on pretence that the same was paid to Caron de Beaumarchais, by the Government of France for account of the United States, although there is no proof of any such payment."

Amongst the documents transmitted to the committee, is a copy of a letter dated 20th November, 1802, from the Secretary of the Treasury to the Secretary of State,* in justification of the decision already mentioned, which, it appears, had become the subject of a remonstrance to the Department of State, on the part of Mr. Pichon, the accredited agent of the French Government. This letter contains so clear and correct a view of the case, that your committee cannot present the subject to the House more advantageously than by incorporating it with their report. It is as follows:

"The claims of Mr. Beaumarchais against the United States were partly on account of some money advances in Europe; but principally for field artillery, military stores and clothing, shipped in 1776 and 1777. Although the artillery, and the greater part of the military stores, appeared to have been taken from the King's stores and arsenals, the French Government gave an official notification in 1779 to Congress, that the United States must account with Mr. Beaumarchais for those supplies.

*Not now to be found, nor the documents subsequently referred to in this extract.

"The accounts have been examined and stated by the Auditor of the Treasury in 1791, on equitable and liberal principles, leaving an apparent balance in favor of Mr. Beaumarchais, but with the reservation of a question relative to a sum of one million of livres tournois, which the Comptroller, after due examination, has considered as a just charge against Mr. Beaumarchais. In order to enable you fully to understand the reasons on which that decision (in which I concurred) was grounded, I do myself the honor to enclose copies of the following documents:

[See note on preceding page.]

"From those documents the following facts appear, and are not disputed by the parties:

"1st. The French Government furnished to the United States as aids and subsidies, nine millions of livres tournois, viz: three millions before the treaty of February, 1778, and six millions in 1781, which nine millions were a gratuitous assistance, confirmed as such by the contract of the 25th February, 1783.

"2d. Of the three millions above mentioned, furnished before the treaty of February, 1778, two millions were paid to Mr. Grand, banker of the United States, and the other million was paid by the French Government, on the 10th day of June, 1776, to some person for the use of the United States, but neither to Mr. Grand, nor to any other agent of the United States.

"3d. The payment of the last-mentioned million, and the date when furnished, were, as well as the name of the person to whom paid, known to Count de Vergennes, as Minister of Foreign Affairs. The fact itself, and the date were communicated by him, although he did not think proper to disclose the name of the individual who had received the money.

"4th. On the 10th June, 1776, the same day on which the million was, with the knowledge of, and probably through Mr. Vergennes' department, furnished by the Government of France to some person for the use of the United States, one million was, by order of Count Vergennes, paid to Mr. Beaumarchais, for which sum he was to be accountable to that minister.

"5th. When the American Government applied, through its proper organ, to the French Government, for the name of the person to whom the million had been advanced for their use, the Minister of Exterior Relations gave it as the result of his inquiries, that Mr. Beaumarchais was the man, and accordingly furnished the minister of the United States with a copy of Mr. Beaumarchais' receipt for that sum.

Such is the evidence which impressed a conviction that the advance of one million, made by the French Government on the 10th June, 1776, for the use of the United States, and the payment of one million, made by order of the Minister of Foreign Affairs to Mr. Beaumarchais, on the same day, were but one and the same transaction, and that the million having been, by a solemn contract, declared and acknowledged a gratuitous gift to the United States, was justly chargeable by them to Mr. Beaumarchais, who had received it.

On Mr. Beaumarchais' part, the receipt of the million is acknowledged, but a declaration made, that he accounted for it to the French Government. Of this, however, no proof is given; no official copy of that supposed settlement has been produced. Mr. Beaumarchais' own declarations on that transaction do not tend to elucidate the mystery, and the letter of the Minister of Finance, deposited by Mr. Beaumarchais' agent, so far as it proves any thing, corroborates the identity of the payment to Mr. Beaumarchais as being the advance made for the use of the United States, by showing that no other payment was made by the Royal Treasury to the United States during the year 1776.

"As the application which has rendered this communication necessary comes recommended by the French Government, permit me to observe, that the whole evidence on which the Treasury's decision is grounded, has been furnished to us by that Government. In 1783, the Minister of Foreign Affairs announced the existence of that gratuitous gift. In 1786, he declared it was made on the 10th June, 1776. In 1793, his successor informed us that it was paid on that day to Mr. Beaumarchais. If, for want of a proper or complete information, we have been led into an erroneous decision, it is to that Government we must apply for the means of rectifying it. We well know that they cannot wish us to pay a sum received twenty-six years ago, which, by solemn agreement, they have declared, and we have acknowledged, to be a gratuitous subsidy. But if, on the 10th June, 1776, another million, besides that paid to Mr. Beaumarchais, was advanced to any person for the use of the United States, either by the Royal Treasury, by the Minister of Foreign Affairs, or by any other Department of the Government of France, it is only in the records of that Government, that the evidence of that fact can be found; and, if it shall be produced, we shall not hesitate to discharge Mr. Beaumarchais, and to debit the proper person; but until such documents shall be furnished, as will ascertain such improbable fact, the officers of the Treasury are bound to consider the letter of the Minister of Exterior Relations as conclusive evidence in support of their decision."

No further communication seems to have been received from the French Government upon this subject until after the petition, now under consideration, was presented to the House, referred to the Committee of Claims, and by them transmitted to the Secretary of the Treasury. To him the French Minister addressed a letter under date of the 1st January, 1806, a copy of which is herewith communicated, and from which the following is a translated extract:

"In consequence of the report made by Mr. Pichon, of the steps he had, by direction of his Government, taken in favor of the heirs of Beaumarchais, and, on the representation of that family, on the subject of the said million, which was still charged to them, notwithstanding the constant denials made by Mr. de Beaumarchais of his having ever received any thing from the Government of France, the Minister of Exterior Relations ordered that the most exact researches should be made in the records of his Department, in order to obtain some elucidations respecting the above-mentioned million, to enlighten his judgment, and to determine how far Government ought to interest itself in that transaction, and in favor of the Beaumarchais family. It has resulted that in a file, entitled 'United States,' a receipt of Mr. Beaumarchais has been found, under the date of the 10th of June, 1766, (for a million*) which was given to him by orders of the King, for an object of secret political service, of which he reserved the knowledge to himself. (These are the identical words inserted in the said order;) also the account rendered in the same year, by Mr. de Vergennes to his majesty, of the application of that sum in conformity with his intentions; and also several letters proving that the same minister, solicited by the commissioners and agents of the United States to give some elucidations on the object to which the said million had been applied, and on the name of the person who had received it, had uniformly refused it, and when giving a new order to refuse it, had even caused it to be declared in 1786, that it would be inconvenient to grant the requested communication.

"In consequence thereof, the undersigned minister plenipotentiary has been authorized:

"1st. To renew the declarations made since 1778 to the commissioners of the United States, and, in 1779, by his predecessor, Mr. Gerard, to Congress, that the French Government had ever been unconnected with any of the commercial transactions of Mr. de Beaumarchais with the United States.

"2d. And to declare that the million given the 10th June, 1776, was given for an object of secret political service, of which the king had reserved the knowledge to himself; that it was immediately applied in conformity with his intentions, and the said application approved by him, as appears by the account rendered by Mr. de

* These words omitted in the original.

† Est resté constamment étranger à toutes les transactions, &c.

Vergennes, at the end of the year 1776; that it does not, therefore, appear either just or reasonable to confound that *political object* with the *commercial operations* of the same individual with Congress; and consequently, that no induction can be drawn against the said Beaumarchais, as a personal creditor of the United States, for supplies furnished by him to them, from the voucher communicated by the ex-commissary of external relations, Bouchot, to the American Minister, since it so evidently appears that the million in question had a secret destination.

"The undersigned Minister Plenipotentiary will observe, that by the forms used in France, in every secret operation, all the vouchers in support of the account are destroyed as soon as the competent authority has approved the expense; that the knowledge of the object to which the sums thus disbursed has been applied, remains only in the memory of the authority who gave the order, and of those who concurred in its execution; and that it cannot reasonably be supposed that Mr. de Vergennes should, even so late as 1786, have persisted in covering with a veil of mystery the application of the million in question, had it been given on account of the supplies furnished by Mr. de Beaumarchais."

A satisfactory reply to the foregoing remarks will be found in the letter from the Secretary of the Treasury, addressed to the Committee, and herewith presented. As this contains a summary statement of Mr. Beaumarchais' account, and a copy of his receipt already mentioned, the following extract is deemed necessary to be given:

| | Livres. |
|--|---------------|
| The balance reported by the Auditor in favor of Mr. Beaumarchais, was, | |
| 1st January, 1791, for principal, - - - - - | 771,703 15 7 |
| And for interest, - - - - - | 1,508,528 2 1 |
| From which deducting the deductions made by the Comptroller, those which relate to the million only excepted, viz: - - - - - | 79,965 12 5 |
| | 104,552 19 9 |
| Would leave for the balance on 1st January, 1791, principal, - - - - - | 667,250 15 10 |
| And interest, - - - - - | 1,428,562 9 8 |
| To which adding for interest on the principal, 1st January, 1791, to 3d February, 1806, - - - - - | 604,186 14 6 |
| | 2,700,000 0 0 |

Would make an aggregate of 2,700,000 livres, equal to five hundred thousand dollars.

"In a contract concluded on the 25th February, 1783, between His Most Christian Majesty and the United States of North America, signed by Count Vergennes and Benjamin Franklin, which may be found in the appendix to the 12th volume of the printed journals of the old Congress, it was thought proper to recapitulate the amount of the preceding aids granted by the King to the United States, and to distinguish them according to their different classes, and, after stating the several loans obtained from or guaranteed by France, the last class was designated in the following words:

"In the third class; are comprehended the aids and subsidies furnished to the Congress of the United States, under the title of gratuitous assistance, from the pure generosity of the King; three millions of which were granted before the treaty of February, 1778, and six millions in 1781; which aids and subsidies amount, in the whole, to nine millions livres tournois. His majesty hereby confirms, in case of need, the gratuitous gift to the Congress of the said thirteen United States."

"It was afterwards discovered that only two millions had been thus received by the United States, before the treaty of February, 1778; and, to an application made to Count Vergennes, in 1786, for the purpose of ascertaining when, and to whom, the other million had been paid, an answer was returned, that the said million was paid on the 10th day of June, 1776, (a date prior to the arrival of any of the commissioners of the United States in France;) but a copy of the receipt was refused, and the minister did not think proper to disclose the name of the person who had received the money. On a subsequent application, made in 1794, to the French Government, the Minister of Exterior Relations gave it as the result of his inquiries, that Mr. Beaumarchais was the person to whom the said million had been advanced, and accordingly furnished the Minister of the United States with a copy of Mr. Beaumarchais' receipt for that sum, and in the following words: "I have received from Monsieur du Vergier, agreeably to the orders transmitted to him, of Monsieur the Count de Vergennes, dated the 5th current, the sum of one million, for which I will account to my said sieur de Vergennes. At Paris, this 10th June, 1776. (Signed,) Caron de Beaumarchais. Good for one million of livres tournois."

"No doubt remains, that the advance of one million made by the French Government, on the 10th of June, 1776, for the use of the United States, and the payment of one million on the same day by order of the Minister of Foreign Affairs to Mr. Beaumarchais, were but one and the same transaction; for it appears by the letter of the Minister of Finance, a copy of which is annexed to the document (C,) that no other payment was made by the Royal Treasury to the United States, during the year 1776; and, by the French minister's note, (D,) that Mr. Beaumarchais' receipt, and the settlement of his account, together with the correspondence above mentioned with Count Vergennes on that subject, were found in the same file of papers, (*dossier*;) and that that file was entitled '*United States*.' The million being thus identified, and having, by a solemn contract, been declared and acknowledged a gratuitous gift of France to the United States, has been considered as justly chargeable by them to Mr. Beaumarchais, who had received it."

To these copious details, it would seem almost superfluous to add a single remark, further than to refer the House to the numerous documents accompanying this report. It may not, however, be improper to observe, that two points only present themselves for examination. Did Mr. Beaumarchais, on the 10th of June, 1776, receive from the French Government one million of livres in behalf or for account of the United States? If so, has he, or his representative at any time, accounted with the United States for its expenditure?

The affirmative of the first question is irresistibly proved, not only by the evidence already referred to, but even by the admission of the petitioner's agent; notwithstanding the allegation in the petition, that no proof existed of any such fact.

In the second place, it is not pretended that any account of the expenditure has been rendered in form to the United States. But to silence all claim on their part, it is averred that the money was received for a *secret political purpose*, (acknowledged to be beneficial to the United States,) and that the *French Government* was and still is satisfied that the whole sum was duly applied to the object.

Admitting an agent or trustee might thus acquit himself of accountability to the party alone interested in his operations, a supposition directly opposed to the clearest and best established rules of justice as applicable to individuals, still what is the evidence that a regular account of the disposition of this sum has ever been given even to the Government of France? Was the receipt either taken up or cancelled by Mr. Beaumarchais? or did he pro-

cure from the proper organ of the Government a release, or any other document, purporting his discharge from the liability created by the original instrument? Is it to be believed "the forms used in France" require, that in such cases, "all the vouchers in support of the account, as soon as the competent authority has approved the expense, are destroyed," whilst the original receipt for the money is carefully preserved? and that a secret agent, when once made accountable, can never afterwards be discharged?

The declarations of Count de Vergennes, on which so much reliance is placed, are rather enigmatical than otherwise. Nor do the declarations of the minister, in his note of the 1st January last, afford a satisfactory solution of the question; especially when to these declarations is opposed the undisguised disclosure of the responsibility of Mr. Beaumarchais to the United States, which was made in form by the French Government in 1794.

That the services rendered by Mr. Beaumarchais to the United States during their revolution were highly meritorious, is readily admitted. Whether these services entitle the petitioner to the bounty of Congress, is not now submitted to the consideration of the committee. They are restricted to the inquiry whether she has a rightful demand upon their justice. And, from every view they have been enabled to take of the subject, the claim does not appear to them to rest upon a solid basis.

Your committee are of opinion that the petitioner have leave to withdraw her petition.

D.

WASHINGTON CITY, 1 Janvier, 1806.

Le ministre plénipotentiaire de Sa Majesté Impériale et Royale, soussigné, a reçu de M. Chevallié, agent des héritiers Beaumarchais, copie d'une pétition qu'il a adressé à l'honorable Congrès des Etats Unis, au sujet du règlement du compte des fournitures faites par le feu M. de Beaumarchais aux dits Etats Unis, par laquelle il paraît que messieurs les commissaires de la comptabilité ont porté au débit du feu M. de Beaumarchais un million qu'ils ont supposé qu'il aura reçu du Gouvernement de France au compte de ses fournitures.

D'après le compte rendu par M. Pichon des démarches qu'il a faites en faveur des héritiers Beaumarchais, sur la recommandation du Gouvernement, et d'après les representations de cette famille au sujet du dit million, qui se trouvait toujours porté à leur débit, malgré les constantes dénégations faites par M. de Beaumarchais, qu'il n'avait jamais rien reçu du Gouvernement de France, le Ministre des Relations Extérieures ordonna qu'il serait fait dans les archives de son département les recherches les plus exactes pour se procurer des éclaircissements sur le million dont il s'agit, éclairer sa justice, et déterminer le degré d'intérêt que le Gouvernement devait prendre dans la suite de cette affaire, et au sort de la famille Beaumarchais.

Il est résulté qu'il y a été trouvé dans un dossier intitulé "Etats Unis," un reçu de M. de Beaumarchais sous la date du 10 Juin, 1776, pour un million, qui lui a été donné par ordre du Roi, pour un objet de service politique secret dont il se réservait la connaissance (ce sont les propres mots insérés dans le dit ordre;) et le compte rendu à Sa Majesté de l'emploi de cette somme, suivant ses intentions, dans la même année, par M. de Vergennes, et plusieurs lettres qui prouvent que ce même ministre, sollicité par messieurs les commissaires et agents des Etats Unis de donner des renseignements sur la destination du dit million, et sur le nom de la personne qui l'avait reçu, s'y est constamment refusé; et a même fait déclarer en 1786, qu'il y aurait de l'inconvénient à accorder la communication demandée, en donnant un nouvel ordre de le refuser.

En conséquence, le ministre plénipotentiaire soussigné a été autorisé:

1^o. A renouveler les déclarations faites depuis 1778, à messieurs les commissaires des Etats Unis, et au Congrès en 1779 par M. Gérard, son prédécesseur, que le Gouvernement François est resté constamment étranger à toutes les transactions mercantiles de M. de Beaumarchais avec les Etats Unis.

2^o. Et à déclarer que le million donné le 10 Juin, 1776, à M. de Beaumarchais, l'a été pour un objet de service politique secret, dont le Roi s'est réservé la connaissance; que l'application en a été faite immédiatement suivant ses intentions, et approuvée par lui; ainsi qu'il paraît, par le compte rendu par M. de Vergennes à la fin de la dite année 1776, qu'ainsi il ne paraît ni juste ni raisonnable de confondre cet objet politique avec des opérations mercantiles du même particulier avec le Congrès; et que, par conséquent, on ne peut tirer contre lui, Beaumarchais, en sa qualité de créancier personnel des Etats Unis, pour fournitures à eux faites par lui, aucune induction de la pièce communiquée par l'ex-commissaire des relations extérieures, Buchot, au ministre Américain, puisqu'il paraît si évidemment que le million dont il s'agit a eu une destination secrète.

Le ministre plénipotentiaire soussigné observera que d'après les formes usitées en France dans toutes les opérations secrètes, toutes les pièces à l'appui du compte sont détruites aussitôt que l'autorité a approuvé la dépense; et qu'en conséquence, la destination des sommes y employées reste seulement dans la mémoire de l'autorité qui en a donné l'ordre, et de ceux qui ont concouru à son exécution; et qu'on ne peut avec raison supposer que M. de Vergennes eut persisté même en 1786 à couvrir du voile de mystère la destination des fournitures faites par M. de Beaumarchais.

Le ministre plénipotentiaire, d'après les déclarations et observations ci-dessus, recommande, au nom de son Gouvernement, à la loyauté et à l'honneur des Etats Unis, les héritiers d'un particulier, qui, ayant hasardé pour leur service sa fortune toute entière, ne leur a laissé d'autres ressources pour payer ses créanciers, et pour tout bien, que sa créance sur les Etats Unis, auxquels son zèle et son activité ont été si essentiellement utiles pendant la guerre, qui leur a valu leur liberté et leur rang parmi les Puissances; que les Congrès précédents lui en ont témoigné plusieurs fois leur satisfaction, dans les termes les plus honorables.

Le ministre plénipotentiaire, en adressant à Monsieur le Secrétaire de la Trésorerie les déclarations et détails ci-dessus, pour en appuyer le rapport qui lui est demandé par le Congrès, le prie d'agréer les assurances de sa haute considération.

TURREAU.

[TRANSLATION.]

WASHINGTON CITY, January 1, 1806.

The undersigned, minister plenipotentiary of His Imperial and Royal Majesty, has received from Mr. Chevallié, agent of the heirs of Beaumarchais, a copy of a petition which he has presented to the honorable Congress of the United States, on the subject of the settlement of the account of supplies furnished by the late Mr. de Beaumarchais to the said States; by which it appears that the accounting officers have debited the late Mr. de Beaumarchais with a million, supposed to have been received by him from the Government of France, on account of the said supplies.

In consequence of the report made by Mr. Pichon, of the steps he had, by directions of his Government, taken in favor of the heirs of Beaumarchais, and on the representation of that family, on the subject of the said million, which was still charged to them, notwithstanding the constant denials made by Mr. de Beaumarchais of his having

ever received any thing from the Government of France, the Minister of Exterior Relations ordered that the most exact researches should be made in the records of his department, in order to obtain some elucidations respecting the above-mentioned million, to enlighten his judgment, and to determine how far Government ought to interest itself in that transaction, and in favor of the Beaumarchais family. It has resulted, that in a file entitled "United States," a receipt of Mr. Beaumarchais has been found, under the date of the 10th June, 1776, (for a million*) which was given to him, by orders of the King, for an object of secret political service, of which he reserved the knowledge to himself, (these are the identical words inserted in the said order;) also the account rendered in the same year by Mr. de Vergennes to His Majesty, of the application of that sum in conformity with his intentions; and also several letters, proving that the same minister, solicited by the commissioners and agents of the United States to give some elucidations on the object to which the said million had been applied, and on the name of the person who had received it, had uniformly refused it; and when giving a new order to refuse it, had even caused it to be declared, in 1786, that it would be inconvenient to grant the requested communication.

In consequence thereof, the undersigned minister plenipotentiary has been authorized:

1st. To renew the declarations made since 1778, to the commissioners of the United States, and in 1779 by his predecessor, Mr. Gerard, to Congress, that the French Government † had ever been unconnected with any of the commercial transactions of Mr. de Beaumarchais with the United States. 2d. And to declare that the million given the 10th of June, 1776, was given for an object of secret political service, of which the King had reserved the knowledge to himself; that it was immediately applied in conformity with his intentions, and the said application approved by him, as appears by the account, rendered by Mr. de Vergennes, at the end of the year 1776; that it does not, therefore, appear either just or reasonable to confound that political object with the commercial operations of the same individual with Congress; and, consequently, that no induction can be drawn against the said Beaumarchais, as a personal creditor of the United States, for supplies furnished by him to them, from the voucher communicated by the ex-commissary of external relations, Buchot, to the American minister; since it so evidently appears that the million in question had a secret destination.

The undersigned minister plenipotentiary will observe, that by the forms used in France, in every secret operation, all the vouchers in support of the account are destroyed as soon as the competent authority has approved the expense; that the knowledge of the object, to which the sums thus disbursed has been applied, remains only in the memory of the authority who gave the order, and of those who concurred in its execution; and that it cannot reasonably be supposed that Mr. de Vergennes should, even so late] as 1786, have persisted in covering with the veil of mystery the application of the million in question, had it been given on account of the supplies furnished by Mr. de Beaumarchais.

The minister plenipotentiary, in consequence of the preceding declarations and observations, recommends, in the name of his Government, to the justice and honor of the United States, the heirs of a man, who, having risked his whole fortune in their service, has left no other resource to pay his creditors, no other estate to his family, but the debt of the United States; to whom his zeal and activity were so essentially useful during the war which secured their liberty, and gave them a rank amongst nations, that the former Congress gave him, several times, assurances of their satisfaction in the most honorable terms.

The minister plenipotentiary, in addressing the preceding declaration and details to the Secretary of the Treasury, in order that they may accompany his report to Congress, requests him to accept the assurances of his high consideration.

TURREAU.

SIR:

TREASURY DEPARTMENT, *January 27, 1806.*

I have the honor to enclose several documents respecting the late Mr. Beaumarchais' claim.

The Treasury settlement (marked A) shows the principles on which the account, which is for arms, military stores, and other supplies, furnished at the commencement of the revolutionary war, has been adjusted; and exhibits a balance due to Mr. Beaumarchais' estate of \$41,119 75, with interest from the first day of January, 1791; which balance has been included in the annual estimates of the appropriations necessary for the service of the year 1806.

For the grounds of the Comptroller's decision on three of the points complained of by the petitioner, viz: the commission, rate of exchange, and charge for sale of cordage at the Cape, I beg leave to refer to the Comptroller's letter, (marked B,) and to the documents accompanying the same.

The letter of the Secretary of the Treasury to the Secretary of State, (marked C,*) together with the documents thereunto annexed, and the French minister's note of the 1st instant, (marked D,) relate to the million of livres charged to Mr. Beaumarchais as an advance made to him by the French Government on account of the United States.

Should Congress be of opinion that he ought not to be charged with that sum, but that the account has, in other respects, been settled on proper principles, the balance due would be as followeth, viz:

| | | | | | |
|--|---|---|-------------------|------|------------------------------|
| The balance reported by the Auditor in favor of Mr. Beaumarchais was, on | | | | | |
| 1st January, 1791, for principal, | - | - | - | | Livres, 771,703 15 7 |
| And for interest, | - | - | Livres, 1,508,528 | 2 1 | |
| From which deducting the deductions made by the Comptroller, those which relate to the million only excepted, viz: | - | - | 79,965 | 12 5 | & 104,552 19 9 |
| Would leave for the balance, on 1st January, 1791, principal, | - | - | | | 667,250 15 10 |
| And interest, | - | - | 1,428,562 | 9 8 | |
| To which adding for interest on the principal from 1st January, 1791, to 3d February, 1806, | - | - | 604,186 | 14 6 | |
| | | | | | <u>2,032,749 4 2</u> |
| | | | | | <u>Livres, 2,700,000 0 0</u> |

Would make an aggregate of 2,700,000 livres, equal to five hundred thousand dollars.

In a contract concluded on the 25th of February, 1783, between His Most Christian Majesty and the United States of North America, signed by Count Vergennes and Benjamin Franklin, which may be found in the appendix to the 12th volume of the printed journals of the old Congress, it was thought proper to recapitulate the amount of the preceding aids granted by the King to the United States, and to distinguish them according to their different

* These words omitted in the original. † Est resté constamment étranger à toutes les transactions.

classes, and, after stating the several loans obtained from or guarantied by France, the last class was designated in the following words: "In the third class are comprehended the aids and subsidies furnished to the Congress of the United States, under the title of gratuitous assistance, from the pure generosity of the King; three millions of which were granted before the treaty of February, 1778, and six millions in 1781; which aids and subsidies amount, in the whole, to nine millions livres tournois. His Majesty hereby confirms, in case of need, the gratuitous gift to the Congress of the said thirteen United States."

It was afterwards discovered that only two millions had been thus received by the United States before the treaty of February, 1778; and, to an application made to Count Vergennes, in 1786, for the purpose of ascertaining when, and to whom, the other million had been paid, an answer was returned that the said million was paid on the 10th day of June, 1776, (a date prior to the arrival of any of the commissioners of the United States in France,) but a copy of the receipt was refused, and the minister did not think proper to disclose the name of the person who had received the money. On a subsequent application made in 1794, to the French Government, the Minister of Exterior Relations gave it, as the result of his inquiries, that Mr. Beaumarchais was the person to whom the said million had been advanced, and accordingly furnished the minister of the United States with a copy of Mr. Beaumarchais receipt for that sum, and in the following words: "I have received from Monsieur de Vergier, agreeably to the orders transmitted to him, of Monsieur the Count de Vergennes, dated the 5th current, the sum of one million, for which I will account to my said sieur Count de Vergennes. At Paris, this 10th June, 1776. Signed Caron de Beaumarchais. Good for one million of livres tournois."

No doubt remains that the advance of one million made by the French Government on the 10th June, 1776, for the use of the United States, and the payment of one million, on the same day, by order of the Minister of Foreign Affairs to Mr. Beaumarchais, were but one and the same transaction: for it appears by the letter of the Minister of Finance, a copy of which is annexed to the document C, that no other payment was made by the royal treasury to the United States during the year 1776; and, by the French minister's note D, that Mr. Beaumarchais' receipt and the settlement of his account, together with the correspondence abovementioned with Count de Vergennes on that subject, were found in the same file of papers, (*dossier*,) and that that file was entitled "United States." The million being thus identified, and having, by a solemn contract, been declared and acknowledged a gratuitous gift of France to the United States, has been considered as justly chargeable by them to Mr. Beaumarchais, who had received it.

It is urged, in behalf of the claimant, that it is highly improbable that the million should have been advanced on account of the supplies to be furnished by Mr. Beaumarchais. 1st, Because it was as early as 1778, and has uniformly since been declared by the French Government that they had no concern whatever in his commercial transactions with the United States. 2d, Because it is now in proof that the money was advanced for secret services of a political nature.

That argument could not, by the officers of the Treasury, be taken into consideration, because they were bound to require positive proof of the application of the money, in order to credit Mr. Beaumarchais for the expenditure.

But without wishing to diminish the weight which it may have with Congress, it must be observed, that the declaration of the French Government should be taken in its strictly literal sense, and as I understand it, excludes only a supposition that they had any concern in the commercial risks, profits, or losses of Mr. Beaumarchais. That it was not intended to convey the idea that they had not made to him sales or advances on account of his supplies, may be inferred from the fact, that the artillery and a considerable part of the military stores were taken from the King's stores and arsenals. Nor would it be extraordinary that advances made in 1776, in order to enable an individual to furnish warlike supplies to the United States, should have been considered by the French Government as an expense for a *secret political service*.

It is further objected that Mr. Beaumarchais having fairly accounted to his own Government, and to their satisfaction, for the application of that million, must be considered as discharged from any accountability to the United States.

It is evident that if he was rightfully charged by the United States for that sum, it is to them, and not to the French Government, that he is accountable. The solemn declaration that that million was a gratuitous gift to the United States, seems inconsistent with the supposition that it was not applied as an *aid and subsidy*, but given without their consent and knowledge to an individual, responsible for its application, not to the Government who had received, but to that who gave the subsidy. And that answer, so far as relates to the French Government, appears conclusive. The only question which, in the view I have taken of the subject, seems to admit of a doubt, is, whether, as the declaration made in the contract of 1783 between the two Governments is the foundation of the claim of the United States, Mr. Beaumarchais can legally be made responsible for the effect of an instrument subsequent by several years to the delivery of the supplies, to which he was not a party, and of which he does not appear to have had any notice.

Although Mr. Beaumarchais account was not definitively settled by the Comptroller till 1805, the Auditor's report was made as early as 1793. The charge of one million is the only point relative to it which has come under my notice; and the documents herein enclosed contain all the evidence on that subject in this Department. His own declarations on that point may be seen in a memorial, dated Hamburg, April 10, 1795, written in the French language, and deposited in the Treasury, but which, as it seems to have been rather intended for Congress, is also enclosed. Should the committee think proper to investigate the merits of the original claim, with which I am unacquainted, the invoices, correspondence, and documents, which are voluminous, will be transmitted.

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

ALBERT GALLATIN.

Hon. JOHN COTTON SMITH, *Chairman of the Committee of Claims.*

[NOTE.—See Nos. 174, 179, 181, 183, 249.]

9th CONGRESS.]

No. 169.

[1st SESSION.]

REWARD TO THE INVENTOR OF A NEW METHOD OF MOUNTING GUNS FOR FORTIFICATIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 17, 1806.

Mr. VARNUM, from the committee to whom was referred the petition of Andrew Joseph Villard, made the following report:

Mr. Villard appears to be the inventor of a new method of mounting heavy cannon for the defence of forts and batteries, which exhibits the probability of being very useful. By this method of mounting cannon, a gun with a caliber which will carry a twenty-four pound shot, is raised two feet from its natural bed in fifteen seconds, by the labor of four men, and let down from its elevated position to its bed on the carriage in the same space of time, and with the same number of men. In the common mode of mounting cannon for the defence of forts and batteries, they cannot be elevated more than from four to five feet from the platform on which they are placed, without subjecting the gunners to great inconvenience in loading them; hence they can only be levelled over the parapet, and can only be aimed through the embrasures of the rampart; in which case the gun and the men who attend it are constantly exposed to the enemy's fire through the embrasures. By the method proposed by Mr. Villard embrasures will not be necessary. The rampart may be carried up in a solid mass, seven feet above the platform on which the guns are placed. The expense in building the walls will be considerably diminished, and yet they will form a much stronger bulwark against an enemy's fire. The men who manage the gun will be much more secure from danger. The gun will not be exposed to an enemy's shot, except at the very instant when it is levelled and fired. It is elevated above the top of the rampart, and by means of a swivel-wheel, on which the rear part of the carriage rests, can instantly be aimed in any direction. The moment it is discharged, it is lowered down to its safe position behind the rampart.

It is contemplated, in the Department of War, to mount a considerable number of heavy battery cannon on carriages of this new construction.

Mr. Villard is now employed in making those carriages, at the same rate of pay as would be allowed any other man qualified for superintending the mounting of cannon on common battery or travelling carriages. He seems desirous that the United States should enjoy the benefits resulting from his invention; but, at the same time, conceives himself justly entitled to some compensation for it. The committee are of opinion that justice, as well as policy, require that the invention should be rewarded by the public. They therefore submit the following resolution:

Resolved, That there be paid to Andrew Joseph Villard one thousand dollars out of any money in the treasury not otherwise appropriated, in full compensation for his invention and improvement in the mode of mounting heavy battery cannon.

SIR:

WASHINGTON, *February 4, 1806.*

The committee of the House of Representatives, to whom has been referred the petition of Andrew Joseph Villard, on the subject of mounting cannon, request such information on that subject as is within your Department, in answer to the following questions:

- 1st. Was Mr. Villard the inventor of the method of mounting cannon referred to in his petition?
- 2d. Is it in the contemplation of the Department to make use of the invention for mounting cannon in the forts of the United States?
- 3d. What emoluments has Mr. Villard received from the United States, by employment, in consequence of the invention?

I am, sir, with high respect, your obedient servant,

J. B. VARNUM.

Hon. HENRY DEARBORN, Esq., *Secretary of War.*

SIR:

WAR DEPARTMENT, *February 14, 1806.*

To the queries contained in your letter of the 4th current, relating to the petition of Andrew Joseph Villard, on the subject of mounting cannon, I have the honor of returning the following answers:

1st. Mr. Villard is considered the original inventor of the gun-carriage alluded to; and, from such experiments as have been made, it is believed to be a useful and important improvement upon any gun-carriages heretofore in use.

2d. It is in contemplation to mount a considerable number of heavy battery cannon on such carriages.

3d. Mr. Villard has been employed in mounting heavy cannon, and is still employed, on such pay only as would have been given to any other man qualified for superintending the mounting of cannon on common battery or travelling-carriages.

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

H. DEARBORN.

Hon. JOSEPH B. VARNUM.

SIR:

WASHINGTON, *March 5, 1806.*

In obedience to your commands, I beg leave to state the advantages arising from my improvement in the mode of mounting cannon for fortifications.

In the usual mode of mounting cannon it is necessary to have embrasures, which are expensive, liable to be torn by the enemy's shot, and leave the guns and men exposed to the enemy's fire.

When cannon are mounted on my plan, a solid bank of earth, seven feet six inches high, from the platform, without the masonry and embrasures, completely protects the guns and men, except at the very instant when the gun is levelled and fired, and even then only one man is exposed.

On the usual construction the enemy can see where the guns are placed, and can aim to destroy them; by my invention, the guns are completely out of sight, and cannot be injured but by a random shot.

Where there are embrasures, the guns can only be fired in a direct line; by my invention, each wing of the battery can flank an enemy advancing in front; or, if advancing in the rear, or on the flanks of the battery, the guns can be instantaneously wheeled about to bear upon them.

I am, sir, most respectfully, your obedient servant,

A. J. VILLARD.

Honorable General VARNUM,

Chairman of the committee to whom was referred the petition of A. J. Villard.

| | | | | |
|---|---|---|---|-----------------|
| The first twenty-four pounder I mounted in Philadelphia, and cost | - | - | - | \$447 36 |
| I now mount them at the United States' work-shop, at Greenleaf's Point, for | - | - | - | 359 50 |
| Difference, | - | - | - | <u>\$ 87 86</u> |
| At Greenleaf's Point I have mounted a twenty-four pounder in the usual manner, cost | - | - | - | \$381 00 |
| Mounted on my construction, the cost is | - | - | - | 359 50 |
| Difference, | - | - | - | <u>\$ 21 50</u> |

From which it appears that my construction is not only a saving in the expense of mounting the guns, but a saving in the expense of erecting forts, besides the advantages of security from the fire of the enemy.

| UNITED STATES, | To Robert McKoy, Dr. | PHILADELPHIA. |
|-----------------|--|------------------|
| March 17, 1804. | 8 hubb bands for gun carriage, 52½ lbs. at 13 cents, - | \$6 79 |
| | 2 bolts, 22 inches long, 6¾ lbs. at 20 cents, - | 1 35 |
| | 4 bolts, 17 inches long, 12 lbs. at 20 cents, - | 2 40 |
| | 15 bolts, 30 inches long, 135¾ lbs. at 20 cents, - | 27 15 |
| | 1 brass bog pattern, - | 67 |
| | Drilling, boring, and filing 8 brass boxes, at 50 cents, - | 4 00 |
| | Large screw driver, - | 80 |
| | 2 straps and bolts for the lower carriage, 63¾ lbs. at 18 cents, - | 11 47 |
| | 4 arms, 241¾ lbs. at 15 cents, - | 36 26 |
| | 4 bolts, for the arms, 113½ lbs. at 17 cents, - | 19 29½ |
| | Turning do. from end to end, - | 4 00 |
| | 1 double wrench, - | 1 33 |
| | Tire for wheels, 185½ lbs. at 13 cents, - | 24 11½ |
| | Tire nails, 36¾ lbs. at 13 cents, - | 4 77 |
| | Cap squares, bolts, shoulder-plates, &c. 194½ lbs. at 18 cents, - | 35 10 |
| | 2 bolts, washer, &c., 11¼ lbs. at 20 cents, - | 2 25 |
| | Plates and rivets, for wheels, 16½ lbs. at 13 cents, - | 2 14½ |
| | 2 saws, 160½ lbs. at 16 cents, - | 25 68 |
| | 2 plates and bolts, &c. for hanging the jack, 101 lbs. at 15 cents, - | 15 15 |
| | 2 hubb boxes, 26 lbs. at 16 cents, - | 4 16 |
| | Ironing the axletree, 17¾ lbs at 16 cents, - | 2 84 |
| | Ironing the castor wheel, 111¾ lbs. at 20 cents, - | 22 75 |
| | Turning the wheel, - | 1 25 |
| | 2 stops, slides, guards, bolts, washers, &c. for the saws, 44½ lbs. at 20 cents, - | 8 85 |
| April 25, 1804. | 1 large jack screw, 366 lbs. - | 50 00 |
| | 8 brass boxes, 56 lbs. at 40 cents, - | 22 40 |
| | 4 days' work (extra) by myself and journeyman, - | 12 00 |
| | | <u>348 88½</u> |
| | Wheelwright and carpenter's bill, - | 98 48 |
| | Total amount, - | <u>\$447 36½</u> |

Expense of mounting a twenty-four pounder, on my construction, at Greenleaf's Point, Washington City.

| | | | | |
|---|---|---|---|------------------|
| Iron work for the carriage, 702 lbs. at 20 cents, - | - | - | - | \$140 40 |
| Cast iron, - | - | - | - | 79 10½ |
| Timber for the carriage, - | - | - | - | 16 00 |
| Workmanship for the carriage, - | - | - | - | 30 00 |
| Jack screw, - | - | - | - | 80 00 |
| Painting, - | - | - | - | 8 00 |
| Freight and carriage of iron and timber, - | - | - | - | 6 00 |
| | | | | <u>\$359 50½</u> |
| In Philadelphia the mounting of a twenty-four pounder, cost | - | - | - | \$447 36½ |
| In Washington, - | - | - | - | 359 50½ |
| Difference, | - | - | - | <u>\$ 87 86</u> |

Estimate of the cost of a twenty-four pounder, in the usual manner.

| | | | | |
|---|---|---|---|-----------------|
| Timber for gun carriage, - | - | - | - | \$16 00 |
| Timber for wheels, - | - | - | - | 6 00 |
| Making wheels, - | - | - | - | 16 00 |
| Timber for axletree, - | - | - | - | 1 00 |
| Making the carriage, - | - | - | - | 12 00 |
| 1,100 lbs. of iron, wrought, at 20 cents, - | - | - | - | 220 00 |
| Painting, - | - | - | - | 4 00 |
| Brass nails, - | - | - | - | 6 00 |
| Timber, iron, and workmanship, - | - | - | - | 100 00 |
| | | | | <u>\$381 00</u> |

9th CONGRESS.]

No. 170.

[1st SESSION.]

INDEMNITY FOR LOSS SUSTAINED BY THE IMPRESSMENT OF A VESSEL BY THE BEY OF TUNIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 25, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the memorial of Daniel Cotton, made the following report:

The memorialist represents that, in the year 1800, he chartered to Ebenezer Stevens, navy agent, the ship called the *Anna Maria*, for a voyage from New York to Tunis, with a cargo for account of the Government. That he delivered the cargo in safety, and, thereupon, under the pretext of the twelfth article of the treaty, between the United States and the Bey of Tunis, the latter seized the vessel for the purpose of taking a cargo of oil to Marseilles; that the freight allowed him by the Bey was very inadequate, and that the United States are therefore bound to make good the deficiency.

On examining the documents accompanying the memorial, it will be found that after the return of the *Anna Maria* to Tunis from Zerbi, whither she went to take in the oil, and before the voyage to Marseilles, the cargo was purchased of the Bey's minister, by William Eaton, Esq., the American consul, who chartered the vessel of the captain and supercargo, at a freight which it was expressly stipulated should cover her entire service from the time she was first detained by the Bey until the delivery of her cargo at Marseilles.

This transaction must be construed to exonerate the Government from that liability to the memorialist which he considers as resulting from the treaty before mentioned. It is, therefore, unnecessary to state other points existing in the case, an examination of which would not vary the decision.

Your committee are of opinion that the memorialist have leave to withdraw his memorial and the documents accompanying the same.

[NOTE.—See No. 180.]

9th CONGRESS.]

No. 171.

[1st SESSION.]

CLAIM OF A POSTRIDER WHO WAS SHOT WHILE CARRYING THE MAIL IN THE CREEK NATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 29, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Josiah H. Webb, made the following report:

The petitioner, while employed in carrying the mail of the United States in August last, from Coweta to Fort Stoddert, was shot through the body by some person unknown. He is now in a languishing condition, under the care of the commanding officer at Fort Stoddert, destitute of the means of present subsistence; and, from the nature of his wound, it is not probable he will be able to provide for his future support.

A letter from the Postmaster General addressed to the committee, and accompanying this report, confirms the foregoing statement, and recommends the petitioner's case to the humane provision of Congress. And when it is considered that the petitioner is now within the exclusive jurisdiction of the Government of the United States, in a part of the country where no regulations are yet adopted for the support of the poor; that he is under the immediate charge of an officer of the Government, who must either permit the petitioner to suffer for want of the necessaries of life, or maintain him at his own private expense, there can be little doubt that it is the duty of the National Legislature to extend its aid to an individual thus circumstanced.

Of the nature and extent of the relief which ought to be afforded to the petitioner, your committee are not yet fully advised; at present they respectfully submit to the House the following general resolution:

Resolved, That the prayer of the petition is reasonable, and ought to be granted.

SIR:

GENERAL POST OFFICE, *March 26, 1806.*

I am favored with your letter of yesterday, covering the petition of Josiah H. Webb, requesting that you may be furnished with such information on the subject as I possess, and my opinion of its merits.

Josiah H. Webb was employed by Francis Abraham, who acted as agent for this office in carrying the mail from Coweta to Fort Stoddert. His statement of facts is conformable to those which have been made to me by Mr. Abraham and the Postmaster at Fort Stoddert, who agree in the opinion that Webb will never be able to do any active business, if he should recover.

The Postmaster at Fort Stoddert, Lieutenant E. P. Gaines, has informed me in a letter, dated the 8th of December, 1805, of which I have enclosed an extract, that Webb was conveyed to him, as the agent of this Department, on an expectation that the expenses of his removal would be paid, and that he would support him; and I understand that he still remains at Fort Stoddert at his expense.

His being wounded while in the service of the public, would not, perhaps, be a sufficient reason why the public should provide for his expenses and support. When such an occurrence happens in a settled country, the regulations for the support of the poor would be sufficient. But this case happened in the Indian country, where there is no provision of that nature; and, after his arrival at Fort Stoddert, the recentness of the settlements there, and other circumstances, have not bettered him in that respect. On this account, it appears to me that the public ought to provide something for the expenses already incurred, and for his future support.

I have the honor to be, your obedient servant,

GIDEON GRANGER.

HON. JOHN C. SMITH, *Chairman of the Committee of Claims.*

Extract of a letter from Edmund P. Gaines, Esq., Postmaster at Fort Stoddert, on the Mobile, dated

DECEMBER 8, 1805.

Webb, the postrider, who was shot through the body, when carrying the mail in the Creek nation, on the 18th of August last, is now at this place unable to get out of his bed, with his wound so bad as to render it very doubtful whether he will recover or not. He has no friends in this country and no means of sustenance. The Indians brought him, by water, to this place; and, as he had been disabled when carrying the mail, he looks to me for support. Will an allowance be made at the General Post Office for expenses in bringing him to this place, and having him attended until his recovery? Be pleased to inform me.

I have the honor to be, very respectfully, sir, your obedient servant,
EDMUND P. GAINES, *Postmaster.*

9th CONGRESS.]

No. 172.

[1st SESSION.]

INDEMNITY FOR A HOUSE BURNT WHILE OCCUPIED AS THE WAR DEPARTMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 1, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the petition of Rebecca Hodgson, widow of Joseph Hodgson, deceased, made the following report:

That the petitioner's husband, when living, leased to Samuel Dexter, as Secretary of War, a dwelling-house, in the city of Washington, for the use of the War Department: that, amongst other things, it was covenanted by the lessee to *surrender the demised premises, at the expiration of the term, in good repair; ordinary decay and inevitable casualties excepted*: that the house was consumed by fire, not occasioned by lightning, nor tempest, nor by the fault or negligence of the lessee; but, as is rendered highly probable from the evidence, *by a serious defect in the original construction of the building*: that a suit was instituted against Mr. Dexter, upon the covenant before-mentioned, which terminated in his favor, on the ground that, if any liability grew out of the transaction, it attached to him in his official, not in his individual capacity; in which case the Government, and not the officer, was to be considered accountable: that no other question relating to the merits seems to have been agitated by the Supreme Court of the United States, where the cause was ultimately decided: and that it remains for the Legislature to determine whether, from the foregoing statement, the Government is bound, in justice, to make the reparation prayed for by the petitioner.

From an attentive consideration of the subject, your committee can discover no sufficient reasons for recommending the desired relief. They are of opinion that the prayer of the petitioner ought not to be granted.

[NOTE.—See No. 244.]

9th CONGRESS.]

No. 173.

[1st SESSION.]

CONSULAR SERVICES AT TUNIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 9, 1806. *

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the letter from William Eaton, addressed to the Speaker, made the following report:

The present applicant preferred his memorial to Congress in 1804, praying the liquidation of certain claims against the United States, which arose from his consular agency at Tunis. The House did not think proper, at that time, to comply with his request, from an apprehension then entertained that the adjustment might be made by the officers of the Treasury, without the aid of Congress. It has since appeared that the accounting officers do not consider themselves clothed with the competent authority for that purpose. The request of the petitioner now is, that some mode may be devised to effect the settlement he has so long desired.

Your committee find there are *mutual* claims subsisting between the United States and the petitioner, a precise statement of which has not been submitted to their examination. Indeed, they are neither qualified nor disposed to become a board of auditors. If they were, they possess not the means of ascertaining the balance due either to or from the petitioner. They are of opinion that, as the transactions which form the items of the petitioner's demand took place during his residence at Tunis, in the capacity of consul, and are intimately connected with the operations of the Department of State, it would be expedient to specially authorize the accounting officers, under the direction of the Secretary of that Department, to adjust the accounts subsisting between the Government and the petitioner upon principles of justice and equity. Accordingly the following resolution is respectfully submitted:

Resolved, That the proper accounting officers be authorized and directed to liquidate and settle the accounts subsisting between the United States and William Eaton, late consul at Tunis, upon just and equitable principles, under the direction of the Secretary of State.

SIR:

WASHINGTON CITY, *March 10, 1806.*

On the 20th of February, 1804, I had the honor to petition Congress for relief, concerning certain items in my account against the United States, for expenses incurred in the execution of my consular duties at Tunis, which were not considered, by the proper accounting officers, to come within the legal exercise of their discretion. The proceedings had on the petition seem not to have removed that obstacle to a settlement, as will appear by the following letters I have lately addressed to the honorable Secretary of State, and his answer:

SIR:

WASHINGTON CITY, *November 27, 1805.*

Permit me to request that my unsettled accounts, long since submitted for decision, may be reviewed, compared with facts, and admitted or rejected. In case I should again be obliged to apply to Congress, I believe it would now be no difficult matter to convince that body that, if my arrangements, out of which some of the most considerable items have arisen, and which were inconsiderately and hastily rejected, had been properly respected, we should have saved the United States four or five millions of dollars. I believe it will be no difficult task to show them that I have consumed eight years of my life, and embarked all the property I possessed or have acquired, in establishing the point that *our relations with Barbary may be maintained without the humiliation of tribute*; and that, in doing this, I have made no cession of their honor nor interests, which my efforts could resist. I hope the Government are already convinced of the truth of these facts.

The Committee of Claims have, nearly two years since, plainly expressed their opinion, by a report to the House, that a competence existed in the ordinary authority to adjust and settle my claims. It would be peculiarly gratifying to me if they may be there adjusted and settled, and with as little delay as possible. It would be injurious to me to be obliged to pass the winter at the seat of Government. My finances are low, and I am extremely desirous of returning to domestic life.

I have received a formal letter from the Chevalier Don Antonio Porcile, stating that he had been released from my claim against him by an act of the Government. It is certain that the only surety I held for his fidelity, and such as the usage of the country where the debt was contracted admitted, has been set at liberty, in conformity to instructions from the Department of State. I expressed my wish to the acting commodore, Rodgers, when in Tunis bay, that the brig Franklin, or one of the other homeward bound vessels, might be permitted to touch at Cagliari, to renew my claim; but he could not reconcile the indulgence to his sense of duty; consequently my tour to the Mediterranean afforded me no opportunity to prosecute my claim at the court of Sardinia. I therefore desired to transfer this claim to the Government, together with the document I hold in support of it.

I have the honor to be, with perfect respect, sir, your very obedient servant,

WILLIAM EATON.

Hon. Mr. MADISON.

SIR:

WASHINGTON CITY, *February 27, 1806.*

I am constrained to reiterate my solicitation of November 27, that some decision may be had on my accounts submitted for settlement; or, if a settlement should still be thought not within Executive discretion, that I may have this decision under your authority in season to revive my claims before Congress the present session. I am extremely sorry at being obliged to be so importunate on this subject, but the state of my finances compel.

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

WILLIAM EATON.

Hon. Mr. MADISON.

SIR:

DEPARTMENT OF STATE, *March 1, 1806.*

In answer to the letter in which you bring the subject of your claims, arising while you were the consul at Tunis, again before this Department, I have to observe that no new evidence has been received since the letter to the Committee of Claims, of which a copy is enclosed, was written, except the statements of Doctor Davis. These, as you will perceive, tend to prove the actual extortion from you of ten thousand dollars by the minister of the Bey of Tunis, and the rate at which the Gloria might have been freighted during the period for which you charge her services to the United States.

Whilst, according to the principles explained in the letter to the Committee of Claims, the Legislature is considered as best adapted to the dispensation of relief in the particulars in question, the indemnity respecting the case of Porcile, which subsequent events have determined you to add to your claims, seems to require the same recourse.

You will be pleased to observe that I have purposely abstained from entering into the circumstances and merits of those claims, since a comprehensive examination of them, as well as the equitable considerations flowing from them, will doubtless be produced by the application, necessary to be made to Congress, to whom all the explanations afforded by the archives of this office will be accessible.

I have the honor to be, sir, very respectfully, your most obedient,

JAMES MADISON.

General EATON.

Wherefore, I am constrained again to ask the consideration of Congress, that they will examine the document in support of these claims, view the tendency of the measures, out of which they chiefly arose, towards the attainment of peace, and decide for me as equity shall dictate. And, in order to place the subject in a fair view, I beg leave again to submit the statement which accompanied my original petition, together with the document by which it is supported.

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

WILLIAM EATON.

To the honorable SPEAKER of the House of Representatives of the United States.

SIR:

DEPARTMENT OF STATE, *March 26, 1806.*

In answer to your letter of the 21st instant, enclosing the application of William Eaton, Esq. and the various documents to substantiate it, I find it unnecessary to add much to the explanations they contain.

The answer which I had the honor to give to your letter of the 20th January last, respecting the claim of Mr. Cotton, the development of Mr. Eaton's views and inducements relative to his transactions respecting the Anna

Maria, as contained in his letter of the 6th March, 1801, to the Department of State, and his statement to the House of Representatives of the 16th February, 1804, will, I presume, enable the committee to appreciate the equity of this part of the claim, which appears to be derived from an attempt, disastrous to himself, to secure, by combining with a private mercantile operation, the interest of the owners of the Anna Maria, placed at hazard by the Government of Tunis, and to protect in some degree also the national harmony with that Regency. It may not be improper to add, that any supposed impolicy of the consuls in the Barbary States engaging in commerce ought not to impress an unfavorable character upon this transaction, since no legal or executive prohibition existed, and because a commercial intercourse between the United States and Tunis was earnestly desired by the Government of the former, as expressed in the year 1800, to the Bey of Tunis by the President of the United States, and by the Secretary of State to Mr. Eaton.

Second. It appears that, for the promised good offices of the minister of Tunis, in promoting Mr. Eaton's views in the employment of Hamet Bashaw against Tripoli, ten thousand dollars were stipulated in the event of success; and that, though the condition on which it was to be paid was not performed, that sum was retained from Mr. Eaton by the minister. Of the fact of the detention of the money there is no doubt; whilst the cause of it appears to be best explained by the zeal with which Mr. Eaton endeavored to avail the United States of Hamet Bashaw's pretensions to the throne of Tripoli, a mode of acting against that Regency which was retrospectively sanctioned by the Executive.

Third. Springing from the same source with the last is Mr. Eaton's claim for the service and demurrage of the ship Gloria. It would be superfluous to recapitulate the circumstances respecting her employment in and discharge from the public service, as they are already stated at large; it will be sufficient to observe that the instructions given to the Auditor for the settlement of Mr. Eaton's accounts contemplate the allowance of a reasonable rate of compensation whilst she was in actual service, and that it remains for Congress, if they see cause, to sanction the balance of the claim for the detention of the vessel at Tunis, and until she discharged her crew at Leghorn.

Fourth. The last head of Mr. Eaton's claims respects Anna Porcile, a Christian captive, ransomed by him from slavery. To the enclosed extracts from the communications of Mr. Davis respecting the affair, it would have been desirable to add the instructions given for his guidance by the Department of State. The official copy of them, however, being mislaid, it may be desirable to obtain another from Mr. Davis, who is daily expected to arrive in this city. Should this not happen, or should he not be possessed of the original, the substance of the instructions will be communicated from memory, if the committee desire it.

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

JAMES MADISON.

Hon. J. S. SMITH, Esq. *Chairman of the Committee of Claims.*

Extract of a letter from George Davis, Esquire, acting as consul of the United States at Tunis, to the Secretary of State, dated

MAY 30, 1806.

On the 30th, Mr. Devoize, the French consul, concluded the contract for the liberation of the slaves of St. Pierre's one hundred thousand Spanish dollars.

It thus far concerns the Government that the claim of William Eaton, Esquire, for seventeen thousand piasters of Tunis, paid for the ransom of one of His Sardinian Majesty's subjects, will be brought to an issue. In the instructions left me by Mr. Eaton, I am directed to place that demand to the account of the United States; I have done so, and, as their representative, presented my claims to the agents concerned in the purchase. Were I acting as the private agent of Mr. Eaton, it certainly would be perverting his views and intentions by adhering to the laws of Barbary, which authorize me to hold the *ransomed* as a slave; but, as that of a Christian Government, it would be disgracing my country, and can only tend to destroy that respectable footing I at present hold among my colleagues. No exertions shall be wanting to procure the reimbursement; when I am satisfied my hopes are groundless, I trust the Government will acquiesce in the propriety of my making a virtue of necessity, in abandoning the claim.

Extract of a letter from George Davis, Esquire, acting as consul, &c., to the Secretary of State, dated

JULY 3, 1803.

On the 18th I was at Bardo, to seek some means for the reimbursement of the money advanced by Mr. Eaton. The Bey desired me to appeal to the French consul, as being the agent concerned in that purchase; I objected, adding that the French consul could have no interference with my affairs; that it was impossible his excellency could have included the debtor of the United States in the general purchase; and that I appeared to ask that protection and justice he had promised to my Government. After some discussion, in which he strongly urged my appeal to Mr. Devoize, he informed me that the *agent of the republic* should be called to the palace, on the following morning, to advise him of the circumstance.

Desirous of bringing to a final conclusion the unpleasant affair I have been compelled to enter into, the enclosed letters passed between the French consul and myself on the 22d and 23d. On the 24th, I was again at Bardo; the Bey desired me to appear at the palace on the following morning, when my demands should be satisfied. On the 25th the French and Dutch consuls were called: the former had some conversation with the Bey before I was admitted. After paying the usual compliments, I was desired to state, before the two consuls, the nature of my demand; I repeated—"the payment of seventeen thousand piasters, advanced by the ex-consul William Eaton, Esq. for the ransom of one of His Sardinian Majesty's subjects; a sufficient security, or the retention of the individual as a hostage, until I could receive advice from my Government." His excellency answered that the French consul having assured him that he was in no way authorized to reimburse me, or to assume the debt, or guaranty the payment, there was but the last alternative; that I had the right to demand the whole, or any part of the family, if I imagined that would expedite, or give greater security for the payment; that, in the mean time, he had directed the French consul to write to the company who had authorized him to make the purchase. I informed his excellency that, as it was an *obligatory measure* on my part, I only demanded the individual; he then observed that the French consul had stated they were in distress, and demanded a support from me; I replied, that the feelings of humanity had already led me, as an *individual*, to inquire into their situation, and assure them of my aid, should they prove in want; that this, however, was to be considered as an act of charity, to be guided by my feelings and judgment; that, in relation to the demand of his excellency, I should at all times comply, without hesitation, to the laws of his

regency, *applicable to my situation*, and for which my Government was responsible. I therefore begged to be informed if it was the usage, and what was the allowance? The Bey seemed somewhat surprised at the question. The French consul immediately replied, "All Christian nations support their prisoners." I neither noticed the *reproach nor weight of the remark*, but again repeated my question. The Bey hesitated a moment, and answered, that it was not the usage of his country; that no demand was made on his part; and that he only stated for my information the intimation given him. I assured his excellency that, though they could not be supported by my Government, they should neither suffer, nor prove a charge to the country. On the 28th, I received the enclosed protest. Not acknowledging any tribunal except that already referred to, or any authority which could demand of me a reason for my public transactions, I immediately offered the annexed reply; it is, however, certain, that no court of justice, except the one I appealed to, would have given a similar decision. As I have not the *carte franche* of the girl, or any written contract, no obligation of the father, nor the Bey's receipt, or any paper which acknowledges the payment made by Mr. Eaton, I have only to add that the mutual instructions of Mr. Eaton and Commodore Morris compel me to prove the unwilling instrument of her detention: the first placing it as a public debt; the orders of the second leaving me no discretionary powers of any nature. I have again written to Commodore Morris, and, with his acquiescence, shall feel myself perfectly authorized to relinquish the further prosecution of the claim, fully satisfied that I have no longer reason to hope for the recovery of any part of the sum.

MONSIEUR:

Ayant été informé depuis quelque temps que vous avez été chargé de racheter tous les esclaves de l'île de St. Pierre, *sans exception*, je vous prie de me faire savoir si la demoiselle Anna Porcile en est du nombre, ou si vous avez eu la commission de satisfaire les demandes de Mr. William Eaton, ex-consul des Etats Unis, pour 17,000 piastres de Tunis, dont je suis chargé, au nom de mon Gouvernement, d'en réclamer le payement, pour le rachat qu'il fit de la dite demoiselle; et vôtre reponse, monsieur, aura guider mes démarches pour tâcher de recouvrir le remboursement que m'est dû.

Agrérez, monsieur, les sentimens de ma plus parfaite estime.

GEORGE DAVIS,

Chargé des affaires des Etats Unis à Tunis.

A Monsieur DEVOIZE,

*Commissaire Général des relations commerciales
de la république Française, à Tunis.*

Le commissaire général, chargé des affaires de la république Française près le Bey de Tunis, à Monsieur George Davis, chargé des affaires des Etats Unis de l'Amérique à Tunis.

MONSIEUR:

TUNIS, le 4 Messidor, an 11, (23 Juin, 1803.)

Je vien de recevoir la lettre que vous m'avez fait l'honneur de m'écrire pour me demander si Mademoiselle Anna Porcile est comprise dans le rachat général que je viens de consommer des individus enlevés sur l'île de St. Pierre. Cette demoiselle était libre long-temps avant que je fusse chargé de cette négociation, et je n'ai reçu aucun ordre pour satisfaire Mr. Wm. Eaton, vôtre prédécesseur, des dix-sept mille piastres Tunisiennes dont il a fait les avances pour prix de sa rançon.

Agrérez, monsieur, l'hommage de ma considération la plus distinguée.

DEVOIZE.

Extrait des minutes de la chancellerie du commissariat général de la république Française à Tunis.

Ce-jourd'hui, neuf Messidor, l'an onzième de la république Française, 28 Juin, (V. S.) nous, chancelier du commissariat général de France en cette ville de Tunis, à la requise de la demoiselle Anna Porcile de l'île de Sardaigne, nous nous sommes rendus dans sa maison d'habitation, où étant avons trouvé la dite demoiselle Porcile, laquelle a dit qu'elle a été surprise, avec douleur, d'apprendre du gardien Bachi qu'à la demande du consul d'Amérique, son excellence le Bey de Tunis avait refusé d'accorder la permission pour son départ. La dite demoiselle Porcile est bien persuadée que le consul d'Amérique n'a aucune sorte de titre pour s'opposer à son départ, et, par conséquent, que la justice du Bey a été surprise; mais comme elle est bien aise de mettre un terme à son injuste détention, elle a déclarée protester contre le consul d'Amérique de tous ses dommages, intérêts, ainsi que des frais de son séjour à Tunis et de celui de la dame Barbe Porcile, sa mère, qui devra rester auprès d'elle, priant et requérant nous, dit chancelier, de notifier le présent acte à Mr. Davis, chargé du consulat d'Amérique, pour qu'il ait en prompt réponse précise, et de lui signifier, à déclarer les motifs en vertu desquels il s'oppose à la délivrance du Teskérét pour son départ, et à représenter, en même temps, les titres justifiant son opposition, ignorant la dite demoiselle Porcile, qu'elle ait pris aucune engagement qui ait pu la placer sous la dépendance du dit sieur consul d'Amérique, nous requérant acte de ce que dessus à elle concédé. Fait et passé en présence des citoyens Philippe Ponsard et Guayroard, témoins requis, signés avec la dite demoiselle Porcile et nous, dit chancelier; signés à l'original Anna Porcile, Philippe Ponsard, Guayroard, et J. B. Adanson, chancelier.

Laquelle déclaration protestative ci-dessus a été desuite notifiée par nous, dit chancelier du commissariat général de France, à Mr. Davis, chargé du consulat d'Amérique, pour qu'il n'en pretende cause d'ignorance, et qu'il en ait à satisfaire aux interpellations qu'elle renferme, et donné copie au dit sieur Davis, parlant à sa personne.

A Tunis, l'an et jour que dessus.

Pour copie conforme:

J. B. ADANSON, *Chancelier.*

Nous, Jacques Devoize, commissaire général, chargé d'affaires de la république Française, près le Bey de Tunis, certifions à tous qu'il appartiendra, que le chancelier, J. B. Adanson, qui a signé la copie ce-contre, est chancelier de ce commissariat, aux écritures et seing du quel foi doit être ajoutée, tant en jugement que hors. En témoin de quoi, nous avons signé les présentes, et à icelles fait apposer le sceau accoutumé de ce commissariat.

A Tunis, le neuf Messidor, l'an onzième de la république Française.

DEVOIZE.

Answer.

TUNIS, June 28, 1803.

The right, which renders me the unwilling instrument of your detention having been recognised, and acknowledged by his excellency the Bey, in the presence of the consuls of the republics of France and Batavia, an appeal should be made to his excellency, and not to me, who have no authority to lessen or change the grievances of which you complain.

GEORGE DAVIS,

Charged with the affairs of the United States of America.

To Miss ANNA PORCILE.

Extract of a letter from George Davis, Esq., acting as consul, &c. to the Secretary of State, dated

SEPTEMBER, 1803.

Commodore Morris declines any interference in the affair of the Sardinian slave, ransomed by Mr. Eaton. She still remains in Tunis, and almost lives on common charity. Unwilling as I am to importune you, sir, on any subject of this nature, I cannot, in justice to myself and country, as well as my feelings as a man, withhold my solicitations for your commands on this subject; their whole fortune in Sardinia does not amount to one-fourth the sum, and the Government refuses any interference.

Extract of a letter from the Department of State to George Davis, at Tunis, dated

DECEMBER 26, 1803.

Whatever may be Mr. Eaton's individual claims upon the Sardinian lady he ransomed, you will carefully abstain from representing either to the Regency of Tunis, or otherwise, that the United States possess any right or claim to hold her in the condition of a slave. It has not been considered how far Mr. Eaton could charge her ransom to the public, nor is it known that he intends to do so; but it is certain that, if they are chargeable with it, it would neither comport with their sentiments, nor those of their Government, to enforce any claim involving the disposal of her person. It, therefore, depends upon your own judgment how far, as an individual, the friend of Mr. Eaton, or his agent, you will take any steps, and what they may be, for securing his reimbursement.

WASHINGTON, March 28, 1806.

I certify the above to be a true and faithful extract from the original letter to me directed.

GEORGE DAVIS.

SIR: DEPARTMENT OF STATE, February 27, 1804.

I have had the honor to receive your letter of the 23d, enclosing Mr. Eaton's petition, with sundry documents respecting the subject of it.

The enclosed copies of two letters from this Department to the Auditor of the Treasury, and of those to which they are answers, will manifest the course which the three items of his claim, now in question, have heretofore taken in the executive offices. It will also appear from them that the first two items, (viz. the demurrage of the Anna Maria, and the charge made for the ship Gloria,) have been referred to the Auditor for his decision; and that the last item, viz. a sum of money alleged to have been extorted from Mr. Eaton, by the minister of the Bey of Tunis, was rejected, as, under all the circumstances of the case, not admissible under any proper exercise of the discretion vested in the Executive. This determination was guided by the consideration that the claim was rather for an indemnity for a loss sustained in his private and mercantile concerns, represented as brought upon him by the course of his public agency, than for compensation for services rendered, or reimbursement of money paid in the exercise of his office; and that, on this account, as well as the absence, from the nature of the case, of full and formal proof of the fact of extortion, it was thought to be better adapted for the interposition of the Legislature, whose power of dispensing relief in peculiar cases, like the present, is less circumscribed than that of the Executive.

With respect to the claim for the Anna Maria, it will be sufficient to observe, that it has been unreservedly referred to the Auditor, for his decision upon the merits, with a communication of the documents deemed necessary for its elucidation; and that, on this account, it might be considered premature or irregular for me to anticipate his decision. Permit me, therefore, to suggest, that on a communication with him, the committee may obtain such information as may enable them to form a just opinion respecting it, should it be requisite to bring it into their deliberation, circumstanced as it is at present.

It will be observed, that the Auditor has been instructed to consider the Gloria as a vessel retained for giving and receiving intelligence; and accordingly to settle her hire, at a reasonable rate, for the period she may have been actually employed in such service. Should, however, the footing on which this part of his claim has been placed, be deemed by Mr. Eaton narrower than he conceives substantial justice to demand, it will remain with Congress to provide such more extensive relief as they may judge equitable; it being my opinion, for reasons analogous to some of those stated above, in relation to the indemnity claimed for the extortion by the Bey's minister, that Congress are alone competent for such a mode of relief; and this opinion is more strongly confirmed by the negative decision made upon the claim at the Navy Department, where it was presented for settlement in the shape of an incident to the naval establishment.

I have the honor to be, sir, with great respect, your most obedient servant,

JAMES MADISON.

JOHN C. SMITH, Esq.

SIR: DEPARTMENT OF STATE, February 11, 1804.

I return the documents enclosed in your letter of the 19th ultimo, in relation to Mr. Eaton's accounts. On a view of the contingent expenses, as now specified and explained, it seems proper that they be admitted, as far as the items of which they consist are comprised within the rules established by my letter of the 11th July last; and the following may also be admitted, viz: customary presents at public feasts; expenses of horses and carriages;

repairs of the house and appurtenances; hire of boats; portorage; postage; sums paid to couriers, and small presents to messengers coming on public business.

On the reference of the demand on account of the Gloria to the Navy Department, it was rejected under the idea that no such addition could be made to the naval establishment without an express legal sanction; but, from the nature of the service for which she was destined, she may be looked upon as retained for giving and receiving intelligence. Under this impression, her hire may be settled at a reasonable rate for the period she may have been actually employed in such service.

The last charge of \$10,131 78, under date of August, 1802, is, under all the circumstances of the case, not admissible under any proper exercise of the discretion vested in the Executive.

As the Bey of Tunis has admitted the receipt of the military and naval stores due to him in consideration of the peace, it may be omitted to charge Mr. Eaton with them.

I am, very respectfully, sir, your obedient servant,

JAMES MADISON.

RICHARD HARRISON, *Esq. Auditor of the Treasury.*

SIR:

TUNIS, *April 25, 1801.*

I have received your favor of 23d March, of the current year, as also one of an earlier date. I assure you, sir, you are under no special obligation to me for any services rendered your family. Whatever I may have done for them may be placed rather to a general than particular account. I took them into my house at the instance of a friend, who represented them as objects of charity; and I permitted them to remain here nine months, because they had no other place to lay their heads; but I ordered them out of my house because they forgot the respect due both to my honor and their own. I ransomed your daughter Anna, because, being in my house, both the honor of my flag and my own sensibility dictated it; and I shall duly expect the reimbursement of my disbursements on that account, because my situation and my arrangements will neither admit of sacrifice nor delay. I have, therefore, drawn on you for the sum of seventeen thousand piasters of Tunis, being the amount of your obligations to the late Sidi Mustafa Cogeá, deceased, which, when paid, will be in full of the ransom of your said daughter Anna. I cannot doubt but the time you have passed at your estates may have enabled you to have made provisions for the payment, though your letters to me are silent on the subject. It is incumbent on me to treat this affair with perfect frankness, because, as I am in daily expectation of receiving permission to retire from service, it is necessary that my affairs be held in constant readiness to embrace this event. If, therefore, any delay should happen in the reimbursement of the sum in view, I shall find myself in the painful situation to transfer the liberty of your daughter Anna, as a pledge to some one who will advance my disbursements on this security. Wishing a speedy enfranchisement to your wretched fellow-citizens who are now here in chains, and wishing yourself and family many and happy days,

I am, with great regard, sir, your most obedient servant,

WILLIAM EATON.

Al Signore Don ANTONIO PORCILE.

SIR:

COPENHAGEN, *July 11, 1801.*

His Majesty the King having been informed of your kind proceedings towards his subjects, who last year had the misfortune of being made slaves by the Tunisians, as also of the service which you have rendered the owners of six of the captured ships, by venturing to purchase them at the instances of the masters, and restoring them since to the said owners, though upon a somewhat precarious security for getting reimbursed your expenses; and of the friendly assistance which you have lent Commodore Kofeod, as he addressed himself to you, has been most graciously pleased to order us to transmit you the gold box ornamented with the initials of his royal name; which will be delivered to you along with this letter, and which you will please to accept, as a token of His Majesty's most high satisfaction with regard to the services which you have rendered the nation. It is peculiarly pleasing for us, sir, to fulfil His Majesty's orders on this subject, as we entertain the highest sense of your very liberal and meritorious conduct, which suits entirely those relations of friendship and intimacy which subsist, and we trust will continue still increasing, between both Governments; and it shall be our particular care to give orders to the Danish consuls, on the coast of Barbary, that they shall avail themselves of every opportunity that may occur, for being of any service to the interests of the Government of the United States, and of individuals of the American nation, which, we are happy to learn, has already been done by His Majesty's consul at Tripoli.

Captain Holck, of the navy, who will have the honor to deliver you this letter, has been appointed His Majesty's consul at Tunis. We beg leave, sir, to recommend him to your friendly attentions, which he most assuredly will endeavor to secure, by the ties of mutual esteem and confidence; and we must particularly request for him, that you, sir, might be pleased to give him the advice and directions which a newly-arrived stranger always, and especially in the country where you live, stands so much in need of.

We are, with perfect esteem, sir, your very obedient servants,

STIENBILLE,
E. SCHIMMELMANN,

The members of the board for the affairs relating to the States on the coast of Barbary.

TO WILLIAM EATON, *Esq.*

Consul of the United States of America at Tunis.

Copy, by translation, of a letter from the Chevalier Antonio Porcile to the President of the United States.

YOUR EXCELLENCY:

CAGLIARI, *July 22, 1804.*

The kindness which I have experienced from your Government, as well as your excellency, who co-operated with them in the liberation of my daughter, Maria Anna Porcile, from the chains of slavery, in which she languished six years in Tunis, affords the justest reason that I should evidence to you those sentiments of perfect gratitude and most lively acknowledgments with which my whole family are sensibly penetrated.

The generosity which souls thus beneficent have been pleased to exercise towards an unhappy daughter, has fully consoled an afflicted family, who, for many years had lived overwhelmed in grief. She is restored to the bosom of a tender father and distressed husband of a consort, who, with this beloved daughter, whom the barbarians

had ravished from them, had been left destitute of the hope of liberation, but for the kind officers of this illustrious nation of the new world, which excites the admiration of all Europe; kind offices, indeed, which I shall forever recognise. And I can never cease to express my sensibility that this has also assuaged the tears of another daughter, wretched companion of the earliest misfortunes of her parents and sister, which she incessantly shed on account of a too cruel separation after her departure from Tunis; a kind office, in short, which preserved the honor of a young lady, exposed among a ferocious people, insensible to all feelings but those of violence and brutality.

But since my daughter enjoys, in the bosom of her country and her family, her perfect liberty, the chains of slavery being broken asunder, we have only to express our unbounded gratitude towards the United States, as well as to your excellency, for unmerited favors, as great as they were unexpected; and to address our humble but most ardent prayers to the Supreme of Beings, that he will shower abundantly on your excellency, and upon this great and generous nation, all those blessings and prosperities which their virtues so justly merit.

This generosity, indeed, inspires me with boldness to ask yet another favor, which would complete the felicity of this daughter, whom yourself and Government have had the goodness to protect; which is, that you would compel the Bey of Tunis to restore to her the value of about two thousand dollars, plundered from her in jewels and other effects, while in slavery, and in which he was a sharer. The embarrassed state to which the pillage of my house has reduced my fortune, compels me to be careful even of trifles.

A sense of gratitude prevails on me to tender to the United States my humble services, cordially wishing to demonstrate that gratitude by my obedience; soliciting that you will be pleased to command me in the service of the republic, in such manner as may suit your own convenience; and praying your excellency to have confidence in my zeal and exactness for the service of the powerful and wise nation whom I have so much reason to admire, that I may have the means by my exertions to make some small returns, to the citizens who may visit this port, for the interest you have been pleased to take in the liberation of my daughter.

Your excellency's most obedient and most humble servant,

The Chevalier ANTONIO PORCILE.

SIR:

DEPARTMENT OF STATE, WASHINGTON, *May 20, 1801.*

Your letters of 2d and 18th September, 6th October, 1st, 9th, 10th, 13th, 15th, 16th, 19th, 21st, and 25th November, and 8th December, have been received since the date of Mr. Lincoln's letter, by the Grand Turk, which sailed from New York in March last, with the third cargo of regalia for Tunis.

The proofs, which have been given by the Bashaw of Tripoli of hostile designs against the United States, have, as you will learn from Commodore Dale, determined the President to send into the Mediterranean a squadron of three frigates and a sloop of war, under the command of that officer. Should war have been declared or hostilities commenced, this force will be immediately employed in the defence and protection of our commerce against the piracies of that Regency. It is hoped that the contagion will not have spread either to Tunis or Algiers; but should one or both of them have followed the perfidious example, their corsairs will be equally repelled and punished.

The policy of exhibiting a naval force on the coast of Barbary has long been urged by yourself and the other consuls. The present moment is peculiarly favorable for the experiment, not only as it is a provision against an immediate danger, but as we are now at peace and amity with all the rest of the world, and as the force employed would, if at home, be at nearly the same expense, with less advantage to our mariners. The President has, therefore, every reason to expect the utmost exertions of your prudence and address in giving the measure an impression most advantageous to the character and interests of the United States. In effecting this object, the means must be left in a great degree to your knowledge of the local and other circumstances, which cannot be understood at this distance. You will, of course, take due pains to satisfy the Bey that the United States are desirous of maintaining peace with all nations who are willing to live in peace; that they have given abundant evidence of their disposition to cultivate the friendship of the Barbary Regencies, and of himself in particular; and that if the flag of the United States should be engaged in war with either of them, it will be a war of defence and necessity, not of choice or provocation. You will also give every friendly explanation and assurance, on this occasion, which may be requisite for the consuls and agents of other Powers residing at Tunis.

You are authorized to inform the Bey of Tunis that a vessel is now preparing to take in the cargo, which will complete the regalia due to him, and that no time will be lost in getting her on her voyage. The jewels, to the amount of 40,000 dollars, have, as you know, been ordered to be prepared in London. On the 20th December last, Mr. King wrote: "I have concluded to take immediate measures to provide the jewels enumerated in the list furnished by Mr. Eaton. Some of the articles can be soon prepared and sent; others, including the arms, and almost all the jewellery, will require a long time to be prepared." If they are essential to the preservation of peace, and the benefits of the treaty with the Bey, they must be yielded to him. The demand is, nevertheless, deemed so extortionate, that the President expects from you every practicable exertion to get rid of it, or as much as circumstances will permit you to withhold. The articles withdrawn from the present may be preserved to be applied on some future occasion which may demand them.

It will be agreeable both to the humanity of the President and the policy of your situation to render kind offices to the British, and all others within your consulate; but you cannot be permitted to accept an appointment from any other Government than the United States.

The ship purchased by you, being foreign built, is excluded, by a construction of our laws, from having a Mediterranean pass.

The President has taken into consideration your request of leave of absence, and thinks it might be too injurious to the affairs of the United States, especially during the present critical state of the Mediterranean. You will, perhaps, be the less anxious yourself for such an indulgence, which seems to have been suggested by the collision of sentiments between Mr. O'Brien and you, when you learn that Mr. O'Brien is to be replaced, at his own request, by another consul general. The return of the squadron will furnish a safe opportunity for transmitting your accounts to Government.

I conclude with enjoining on you the most cordial and respectful communications with Commodore Dale, and the ready assistance of him with all such useful information and other good offices as it may be in your power to render; and with offering you my sincere wishes for your success in all your measures for advancing the welfare of our country.

I am, sir, very respectfully, your most obedient servant,

JAMES MADISON.

To WILLIAM EATON, Esq., *Consul of the United States, Tunis.*

SIR:

UNITED STATES' FRIGATE BOSTON, AT SEA, *March 31, 1802.*

You are hereby authorized to capture any cruisers belonging to the Bey of Tripoli, agreeably to the laws of the United States, which William Eaton, Esquire, our consul, will furnish you with, and written instructions how you are to act; and his orders you will follow until the arrival of our squadron from the United States.

You will return back to Tunis, and get the ship *Gloria* under your command refitted, and in order, with all possible despatch. You will receive from the purser one barrel of beef and one of pork.

I am, sir, your humble servant,

DANIEL McNIELL.

Capt. JOSEPH BOUNDS, *United States' ship Gloria.*FRIGATE BOSTON, OFF ALICANT, *August 22, 1802.*

We, the subscribers, being at the consular house of the United States at Tunis, in March last, it was represented to us by the consul, William Eaton, Esq., that the former and rightful sovereign of Tripoli was then at Tunis, where he had been for several years, having been about ten years before driven from his throne by the present reigning Bashaw, his brother, who being now at war with the Swedes and Americans, he had become fearful of the overtures which might be made to the *ci-devant* Bashaw by them, and in consequence had requested the Bashaw of Tunis to order him out of his Regency, which was accordingly done. At the same time the reigning Bashaw offered his brother the government of Derne, in Tripoli, if he would return, which offer was supposed by Mr. Eaton to have been made with a view of getting him in his power.

Mr. Eaton then requested our opinions respecting getting the *ci-devant* Bashaw in our power, either by treaty and as a friend, or, should he persist in going to Tripoli, to endeavor to take him as an enemy after his leaving port. We accordingly gave it as our opinion that it would be a primary object with the United States to get this man in their power; that, having possession of him, an end might very easily be put to the war, by taking him on board of one of our ships, and ordering all our force before Tripoli, and there offering the Bashaw, their former sovereign, to the people, which, if accepted, peace might be made immediately, and on our own terms; or, on their refusal, to batter down their fortifications.

In consequence of which Mr. Eaton had several interviews with him, and made him offers of going on board some one of the American men of war, or of going to Leghorn with a salary, until the arrival of the commodore; which, however, was not accepted by the Bashaw, who insisted on going to Tripoli, and that in a few days.

Mr. Eaton informed us of his last resolution, and that a Russian ship was actually in port, ready for and waiting his going on board. As there was no time to be lost, he again requested our advice on the propriety of putting the *Gloria*, an armed ship of his own, then lying in port ready for sea, into the service of the United States, and sending her off immediately with despatches to Captain McNiell of the Boston frigate, who was supposed to be either at Malta, or off Tripoli. We gave it as our opinion that it would be highly proper not only to put her into the service for this business, but even to keep her so for the purpose of sending despatches, or to facilitate his escape from Tunis, should this business give umbrage to the Bashaw of that Regency, &c.

At each of these conferences were also present Doctor William Turner, surgeon of the frigate Philadelphia, and Captain Bounds, of the armed ship *Gloria*, who also agreed with us in opinion.

The *Gloria* was accordingly sent off the next morning, and fell in with Captain McNiell coming out of Malta, who highly approved of what had been done, and gave Bounds, master of the *Gloria*, a warrant or commission until the arrival of the commodore.

GEORGE G. COFFIN,
CHARLES WADSWORTH.

[TRANSLATION FROM THE ITALIAN.]

TUNIS, *February 20, 1803.*

Seid Ahmet Gurgi, late Governor of Mengia in Tripoli, agent of Seid Hamet Bashaw, the legitimate sovereign of Tripoli, personally appeared in the consulate of the United States of America, and informed William Eaton, Esq., consul of said States, as follows:

That the said Seid Hamet Bashaw continued waiting an answer from the said consul, concerning the secret engagement entered into between them, previously to his departure for Malta: and also concerning the agreement the Bashaw there made with the American commander.

The said agent further informed that he had received letters from sundry persons in the kingdom of Tripoli; that the Arabs, discontented with the reigning Bashaw, had revolted against him, and had taken the side of Hamet Bashaw; that the Arabs revolted immediately on the said Bashaw's arrival in the territory of Tripoli, a measure they could not prosecute before through fear of the reigning Bashaw; and that the said Hamet Bashaw waited for nothing but the arrival of the Americans by sea to block the port of Tripoli; and that, as soon as blockaded, he is ready to move against Tripoli with his army.

That a nephew of the said Seid Hamet Bashaw, who was at Cairo, having been banished from Tripoli by the reigning Bashaw, when informed that his uncle had come to the kingdom of Tripoli, left Cairo with the few people he had with him; and, having arrived into the territory of Tripoli, was joined by multitudes of Arabs, both foot and cavalry; and that he now waited the advice of his uncle, when he should march and join him with his army; that the camp of the nephew was fixed about two days' march nearer the city of Tripoli than that of the uncle; that the said agent hourly expected a secret courier with despatches, &c.

The preceding information was translated from Arabic by the American dragoman, and compared by the abovenamed Seid Ahmet Gurgi, in presence of

AMBROSE ALLEGRO,
Secretary of said consulate of the United States.

N. B. When the foregoing information was communicated to the commodore, by Ahmet Gurgi, and confirmed by his colleague, the Bashaw's secretary, he was in possession of a copy of a letter from the Secretary of State to the consul at Tunis, from which the following is an extract:

SIR:

VIRGINIA, *August 22, 1802.*

Not having your last letters by me, I cannot refer to their dates, nor particularly to their contents. The most important part of them communicated the plan concerted with the brother of the Bashaw of Tripoli, for

making use of him against the latter, in favor of the United States. Although it does not accord with the general sentiments or views of the United States to intermeddle with the domestic contests of other countries, it cannot be unfair, in the prosecution of a just war, or the accomplishment of a reasonable peace, to turn to their advantage the enmity and pretensions of others against a common foe. How far success in the plan ought to be relied on cannot be decided at this distance, and with so imperfect a knowledge of many circumstances. The event, it is hoped, will correspond with your zeal and with your calculations. Should the rival brother be disappointed in his object, it will be due to the honor of the United States to treat his misfortune with the utmost tenderness, and to restore him, as nearly as may be, to the situation from which he was drawn, unless some other proper arrangement should be more acceptable to him. This wish of the President will be conveyed to Commodore Morris and Mr. Cathcart, with a suggestion that, in the event of peace with the ruling Bashaw, an attempt should be made to insert some provision favorable to his brother, &c.

JAMES MADISON.

SIR:

TUNIS, *March 4, 1803.*

On the 22d ultimo, 8 o'clock, A. M., Commodore Morris, in the United States' frigate Chesapeake, with the frigates John Adams and New York, anchored in the road of the Gorelette. On their appearance in the offing I sent my dragoman for the Bey's permission to go on board. He returned at 11 o'clock with a refusal. The Bey required the commodore should previously report himself. I immediately started for the Gorelette; and, under pretext of going on board the schooner Enterprise, permission for which I held, passed the commandant of the castle, and went to the squadron; next day made report, and obtained a passport in form. Commodore Morris had already received my letter of 26th January, stating the Bey's reclamation for the prize, reported in my communications of February 1st. I now put into his hands the information of which enclosure A* is a copy. On the 24th the commodore wrote the Bey enclosure B, which I delivered the same day. The Bey proposed that the commodore should come on shore, and that the validity of the prize should be verified at Tunis; signifying, at the same time, in unequivocal terms, that if this proposition were not acceded to, he would declare war. On the 25th I reported his answer to the commodore. In consequence of which, on the 26th, he descended ashore; but was not admitted to an audience till the 28th. The ground of argument, which has heretofore been detailed, relative to the Bey's reclamation, was now gone over again; and the commodore declared his intention to order the prize to Gibraltar for adjudication; when the Bey explicitly told him that, except the investigation should be had on the spot, and the property belonging to his subjects restituted, he would *place the United States in the same situation as they were with Tripoli!* The commodore consented, on condition that the Bey would rest the issue on the evidence to be adduced from the regular papers found on board the prize; and that he would waive all pretensions to such property as should not appear *bona fide* to belong to his subjects. To this the Bey agreed; and an officer was sent on board for the papers; but, by reason of contrary winds, did not arrive till the 1st instant.

At the audience with the Bey he insisted on his right of commerce with Tripoli, in defiance of an actual blockade; although he would consent that we might *turn away* his vessels. That right was contested. The Bey replied, that we might, if we pleased, capture his vessels; but that we should, in the issue, lose two for one. The commodore met this menace by signifying that, in case of resorting to reprisal by way of indemnity against regular captures, he might possibly lose three for one. The question was then asked the Bey, whether, in case of seizure on our part of contraband articles, destined to Tripoli by his subjects, he should think of reclaiming such articles? He answered, "We Turks are not in the habit of *thinking* for futurity. It will be seasonable enough to discuss this subject when circumstances should render it necessary."

On the 27th and 28th the commodore had interviews at the American house with Ahmet Gurgi, the agent of Hamet Bashaw, who stated that the Bashaw waited only for the co-operation of our squadron to proceed to invest Tripoli; that he could bring to the assault thirty thousand troops; but that he should have need of a supply of fifteen or twenty barrels of powder, and sixteen thousand dollars to assist his operations. The commodore refused any subsidy, but agreed to furnish twenty barrels of powder; and engaged to bring his force before Tripoli in the month of June ensuing to co-operate with Hamet Bashaw.

The agent requested the commodore to give him a passage to Derne, in order, without delay, to communicate this arrangement to the Bashaw. This was not convenient. The critical state of affairs at Algiers required the immediate appearance of the squadron at that place; and want of provisions would oblige them to proceed thence to Gibraltar.

At half past 11, A. M., 2d instant, the papers of the prize in question came ashore; and, at 4, P. M. the Bey's commercial agent, accompanied with the principal proprietor in the cargo, and the master of the vessel, attended at the American house to examine the facts. It appeared from the manifests, that this claimant had, *bona fide*, a considerable share in the cargo; and the commodore agreed to order its restitution. Thus, it appears, that the appearance of the squadron has tranquillized affairs here for the moment.

I have the honor to be, &c.

WILLIAM EATON.

TUNIS, *March 4, 1803.*

A true statement of facts.

RICHARD V. MORRIS.

The above transactions, stated by Mr. Eaton, and signed by Commodore Morris, took place in my presence, are collated with my notes, and are a true and concise statement of facts. In testimony of which, I hereunto subscribe my name.

JAMES LEANDER CATHCART.

Hon. Mr. MADISON.

The Bashaw, Bey of Tunis, to the President of the republic of the United States of America.

[TRANSLATION.]

MR. PRESIDENT:

TUNIS, *September 8, 1802.*

With equal pleasure and satisfaction I have seen arrive, and have received successively, all the military and naval stores, as well as the superb jewels, which your Government has sent forward for my Regency and myself,

* Affidavit of Ahmet Gurgi.

in execution of our conditions for the confirming and consolidating the harmony and alliance which, thank God, have been established, and actually subsist between us.

While I am happy to give you this assurance, indeed sincere, of my full contentment, I ought not to dissemble that I do not, at the same time, see myself treated with the same distinction and the same regard that you have had for your other friends; and since I am equally one, I avow to you, with frankness, as I have already declared to Mr. Eaton, your consul, that it would have been infinitely agreeable to me if you had also made me a present of a vessel of war.

Mr. Eaton, not finding it convenient to charge himself with the communication of this demand to you on my part, I am determined to testify to you directly, by the present, that it would be very agreeable to me that you should send me a good frigate of 36 guns, which would add to the high esteem I have for your nation, and would more and more cement the ties of our friendship, which on my part I shall maintain firm and inviolable.

Convinced as I am, beforehand, Mr. President, that this demand, taken into consideration, will obtain the full effect which I expect from it, I renew to you the assurance of my most distinguished esteem; and I pray Almighty God to have you in his holy keeping.

HAMUD BASHAW,

Bey, Prince of Princes of Tunis, the city well guarded, the abode of happiness.

[NOTE.—See No. 155.]

9th CONGRESS.]

No. 174.

[1st SESSION.]

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 11, 1806.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred the memorial of Amelie Eugenie Beaumarchais, made the following report:

This representation seems intended as an answer to the report of your committee, presented on the 10th of last month. [See No. 168.] How far such a procedure is consistent with the respect due to the House, your committee do not pretend to decide. They take the liberty, however, to observe that it would ill comport with their sense of propriety to make a formal reply.

The only part of the memorial which, at this time, merits regard, is the mistake charged upon the committee in reporting the admission of the agent as evidence against the memorialist. The precise tenor of the remarks made by the agent cannot now be recollected. The committee may have stated the effect of his observations, instead of the exact words. They are not conscious of any incorrectness. If any has occurred, it must have been in consequence of the ready assent given by the agent to the following passage in the letter from the Secretary of the Treasury:

“No doubt remains that the advance of one million made by the French Government on the 10th June, 1776, FOR THE USE OF THE UNITED STATES, and the payment of one million on the same day, by order of the Minister of Foreign Affairs to Mr. Beaumarchais, were but ONE AND THE SAME TRANSACTION.”

Nevertheless, your committee are free to declare that, in forming their opinion, the admission of the agent was not considered by them as *material evidence*; and they sincerely hope the House will act under no different impressions.

[NOTE.—See Nos. 168, 179, 181, 183, 249.]

9th CONGRESS.]

No. 175.

[1st SESSION.]

INDEMNITY FOR THE ILLEGAL CAPTURE AND THE SUBSEQUENT LOSS OF A SHIP AND CARGO, BY A NAVAL OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 12, 1806.

The SECRETARY OF STATE, to whom, on the 28th ultimo, was referred, by the House of Representatives, the petition of Jared Shattuck, has the honor to make the following report:

DEPARTMENT OF STATE, April 9, 1806.

That it appears that the petitioner's ship, the *Mercator*, and her cargo were detained in the year 1800, by Lieutenant Maley, commanding the schooner *Experiment*, a vessel of war of the United States, and ordered to Cape François for examination by Commodore Talbot: that whilst they were in possession of Lieutenant Maley's prize-master, they were seized by the British privateer General Simcoe, carried to Jamaica, and condemned in the court of vice-admiralty, as prize to the said privateer: that the condemnation took place after a claim had been duly

filed on behalf of the present petitioner, in the said court; that on an application being made to the Executive for restitution, a judicial investigation was suggested; and as Lieutenant Maley was represented as being insolvent and absent, the attorney for the district of Pennsylvania, in pursuance of instructions given to him, entered his appearance in an amicable suit, "with a view to a judicial investigation of the case," but it was stipulated, "that a final decree in the suit against William Maley should not, in any degree, involve a decision upon the question, whether the United States are responsible; which question was to remain open to be determined wherever else it may be proper."

That in February term last a judgment in the last resort was given against Lieutenant Maley for the sum of \$33,864 55, by the Supreme Court of the United States, to which the suit had been removed by the counsel of the United States. [See the decree, No. 190.]

That limiting the consideration to what has been done by the Legislature in similar cases, to the general policy of the United States to favor the redress of wrongs on the high seas, and to the particular features of this case, with the personal circumstances of Lieutenant Maley, it is the opinion of the Secretary of State that provision ought to be made for the payment of that sum, and the costs of suit, to the petitioner.

All which is respectfully submitted.

JAMES MADISON.

[NOTE.—The voluminous papers that accompanied this report were burnt in the conflagration of the Capitol in 1814. For a report on this case and other papers, see Nos. 190, 234.

9th CONGRESS.]

No. 176.

[2d Session.]

APPLICATION FOR A PENSION BY A DISMISSED OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1806.

Mr. HOLMES, from the Committee of Claims, to whom was referred the petition of William Monday, made the following report:

The petitioner states that he served as a lieutenant in the revolutionary war, and was attached to the regiment commanded by Colonel Philip Van Cortlandt; that, in the engagement of the 19th of September, 1777, with the British army under General Burgoyne, he received a bad wound in one of his legs, from which he suffered considerably. Notwithstanding this misfortune, he continued in the service, until he was arrested upon a charge of disobedience of orders, while the army lay before Yorktown, in Virginia. He was there tried, and broke of his commission, not more than two days before the surrender of Lord Cornwallis. The petitioner complains of the hardship of his sentence, and prays, as he was disabled in the service of his country, to be placed on the pension list.

Supposing the facts stated by the petitioner to be fully substantiated, yet your committee do not deem it expedient to recommend, in favor of the petitioner, a relaxation of the rules prescribed by the law, passed at the last session of Congress, for the benefit of persons who were disabled by known wounds in the revolutionary war; nor can they admit the propriety of inquiring into the justice of the sentence of the court-martial, by which he was dismissed the service. They therefore submit the following resolution:

Resolved, That William Monday have leave to withdraw his petition, and the papers accompanying the same.

9th CONGRESS.]

No. 177.

[2d Session.]

CLAIMS BARRED BY THE STATUTES OF LIMITATION THAT OUGHT TO BE PAID.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1807.

Mr. STANTON, from the committee appointed "to inquire whether any, and, if any, what description of claims against the United States are barred by the statutes of limitation, which in reason and justice ought to be provided for by law," made the following report:

That all claims for services rendered, and supplies furnished or done, prior to the 4th of March, 1789, are barred by sundry resolutions of Congress, passed in the years 1785 and 1787, and by laws of the United States, passed 2d February, 1793, and on the 3d March, 1795, and on the 9th July, 1798. Your committee are of opinion that justice and sound policy require that all just and equitable claims against the United States, which are thus barred, should be fully paid and satisfied. We therefore recommend the following resolution:

Resolved, That all just and equitable claims against the United States, for services rendered and supplies furnished during the revolutionary war with Great Britain, and for Loan Office certificates, final settlement certificates, indents of interest, and balances credited on the books of the Treasury, which are now barred by any law of the United States, ought to be provided for by law.

9th CONGRESS.]

No. 178.

[2d SESSION.]

ARREARS OF PENSION OVERPAID.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 19, 1807.

Mr. HOLMES, from the Committee of Claims, to whom was referred the petition of Jonathan Snowden, made the following report:

This petition was presented to Congress at the first session of the eighth Congress and at the last session, but was never finally acted upon by the House. The reports made by the respective committees to whom it was referred are herewith presented. It appears, that by virtue of an act passed the 3d of March, 1803, making provision for persons that have been disabled by unknown wounds received in the service of the United States during the revolutionary war, the petitioner was placed on the pension list. The Secretary of War, through a misconstruction of the proviso to the second section of that law, settled with and paid to the petitioner \$1,799 44 $\frac{2}{3}$, as a balance due for arrearages of pension, after deducting his commutation. A doubt afterwards arising as to the true meaning of the proviso, the Attorney General was consulted, who decided that no arrearages of pension could be allowed prior to the 1st day of January, 1803, except so far as to offset the commutation received by the applicant. In pursuance of this decision, the Secretary of War requested the petitioner to refund the money thus paid by mistake. To be permitted to retain this sum is the object of application. Your committee are of opinion that the statute ultimately received a correct construction; they therefore submit the following resolution:

Resolved, That the prayer of the petition of Jonathan Snowden ought not to be granted.

The Committee of Claims, to whom was referred the petition of Jonathan Snowden, report:

The petitioner, who has been placed on the list of invalid pensions under the act passed at the last session, making "provision for persons that have been disabled by known wounds received in the service of the United States, during the revolutionary war," now complains of the construction which that act has received, in his case, at the War Department. The Secretary of War, it appears, misapprehending the true import of the second section, had allowed and paid to the petitioner \$1,799 44 $\frac{2}{3}$, as arrearages of pension, after deducting the amount of his commutation. On conferring, however, with the Attorney General of the United States, the Secretary became satisfied that, from a fair interpretation of the act, no arrearages were to be allowed prior to the 1st day of January, 1803, further than to offset the commutation of half-pay received by the applicant. He accordingly has called upon the petitioner to refund the money thus advanced to him by mistake. To be permitted to retain this sum is the object of the present application. Your committee, believing that the Secretary of War has finally adopted the genuine meaning of the statute, and that it would be inexpedient to extend its operation in this respect, are of opinion that the prayer of the petition ought not to be granted.

SIR:

WAR DEPARTMENT, December 22, 1803.

Some doubts having been suggested as to the true construction of the proviso annexed to the second section of the act of the 3d of March last, in relation to placing persons of a certain description on the list of military pensioners, the same has been submitted to the consideration and decision of the Attorney General of the United States, whose construction of said proviso is, so far as respects the calculation of pensions, which may be found due to officers under said act, that no discrimination ought to be made between such officers as *have*, and such officers as *have not* received commutation of half-pay; that the provision alluded to was intended to operate merely as an "offset" for commutation, and not to throw a balance in favor of the officer who had been in the receipt and enjoyment of commutation. Hence it results, that in an adjustment of your pension at this office, in March last, founded on a different construction of the law, which must yield to that given by the constitutional law character of the Government, that you have received \$1,799 44 $\frac{2}{3}$ more than *now* appears due. The whole sum admitted to your credit in the settlement above referred to, from the 1st of January 1784, to the 4th of March, 1803, after deducting commutation, was \$1,834 97. Your pension from the 1st of January to the 4th of March, 1803, which is included in the last-mentioned sum, amounts to \$35 52 $\frac{2}{3}$, which, deducted from the aggregate amount, leaves the above-mentioned sum of \$1,799 44 $\frac{2}{3}$, which I request you will refund to the Commissioner of Loans for the State of New Jersey; in failure of which, stoppages of your pension must be made until the United States are reimbursed the amount; after which you will continue to receive and enjoy a pension as already fixed, at the rate of \$16 66 $\frac{2}{3}$ per month.

I am, sir, very respectfully, your obedient servant,

H. DEARBORN.

Lieutenant JONATHAN SNOWDEN.

9th CONGRESS.]

No. 179.

[2d SESSION.]

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO CONGRESS, FEBRUARY 6, 1807.

To the Senate and House of Representatives of the United States:

FEBRUARY 6, 1807.

The Government of France having examined into the claim of Mr. de Beaumarchais against the United States, and considering it as just and legal, has instructed its minister here to make representations on the subject to the Government of the United States. I now lay his memoir thereon before the Legislature, the only authority competent to a final decision on the same.

TH: JEFFERSON.

[TRANSLATION.]

SIR:

WASHINGTON, *January 14, 1807.*

I have the honor to address to you, enclosed, an answer to the objections made by the Secretary of the Treasury to a complete settlement with the heirs of Mr. Beaumarchais. This answer is annexed to the note which I have had the honor to address to you on this subject.

Accept, sir, a new assurance of my high consideration.

TURREAU.

To Mr. MADISON, *Secretary of State.*

[TRANSLATION.]

Note of the Minister Plenipotentiary of France to the Secretary of State.

WASHINGTON, *January 14, 1807.*

The undersigned, minister plenipotentiary of His Imperial and Royal Majesty to his excellency the President of the United States of America, has the honor to remind the Secretary of State, that, at the beginning of last year, and during the session of Congress, Mr. Chevallié, attorney in fact of the heirs of Mr. de Beaumarchais, took various steps with the Secretary of the Treasury to obtain a liquidation of the debt contracted by the United States with the said Mr. de Beaumarchais.

At the request of the attorney in fact, to whom the Treasury opposed a receipt of Mr. de Beaumarchais, in order to place to the debt of his heirs *a million of livres tournois*, the undersigned addressed, on the 1st of January, 1806, to the Secretary of the Treasury, an official note, which left no doubt of the destination of the million in dispute, the employment of which, agreeably to the orders of the King, was consecrated to a special and secret service, and, consequently, which had not and could not have any connexion with the transactions, bargains, supplies, and, generally, with any mercantile operations which Mr. de Beaumarchais might have been concerned in with the Government of the United States of America.

This note, or rather this official declaration of the minister plenipotentiary of France, ought to have removed the only obstacle which was opposed to the entire liquidation with the heirs of Mr. de Beaumarchais, because the justice of their claim is demonstrated to conviction; and they were far from expecting that the Secretary of the Treasury would still retain doubts upon the legitimacy of their credit.

The heirs of Mr. de Beaumarchais now confide their interest to the protection of the French Government, as well as to the justice of the Federal Government; and the undersigned, in declaring to the Secretary of State, that this affair, on being examined in France with the most scrupulous attention, has presented to the judgment of the most enlightened and impartial men nothing but an incontestable conclusion in favor of the heirs of Mr. de Beaumarchais, will add, that it is no longer to Mr. Chevallié, it is no longer to a mere attorney in fact, that the said heirs have recourse to obtain a justice too long refused, but to the French Government itself, which calls with confidence, and through the organ of its minister plenipotentiary, the attention of the Secretary of State to interests no less sacred than the cause which produced them.

When the French Government raises its voice in favor of the unfortunate heirs of Mr. de Beaumarchais, the undersigned thinks it useless to recall to view the nature and importance of the services which their author rendered to the cause of independence. It would be to turn the mind back towards a period equally glorious for the two nations, but that France, always generous, knows how to forget, because the United States remember it.

After the ministerial declaration respecting the employment of the million, a declaration, which doubtless (and as a consequence of those mutual sentiments of respect and confidence which Governments ought to have for communications of this nature) would have been sufficient for the Secretary of the Treasury, if his powers had not been so limited; it is the duty of the undersigned, agreeably to the formal and repeated instructions which he has received in this respect, to address himself directly, and in the name of his Government, to that of the United States, and to request from the Secretary of State that at length justice should be done to the claim of the heirs of Mr. de Beaumarchais; a claim which the French Government would not have honored with its support, if it were not founded upon the immutable principles of reason and of right.

The undersigned seizes with eagerness this occasion of offering to the Secretary of State the homage of his high consideration.

TURREAU.

[TRANSLATION.]

Claim of Mr. Beaumarchais to a million against the United States, as payment for supplies which he furnished them.

OBJECTIONS OF THE TREASURY OF THE UNITED STATES.

Objection. "It was afterwards discovered that only two millions out of the three granted as a gratuitous gift, before the treaty of February, 1778, had been thus received by the United States; and to an application made to Count de Vergennes in 1786, for the purpose of ascertaining when and to whom the other million had been paid, an answer was returned that the said million was paid on the 10th day of June, 1776; but a copy of the receipt was refused, and the minister did not think proper to disclose the name of the person who had received the money. On a subsequent application made to the French Government, the Minister of Foreign Relations gave it as the result of his inquiries, that Mr. de Beaumarchais was the person to whom the said million had been advanced, and accordingly furnished the minister of the United States with a copy of Mr. de Beaumarchais' receipt for that sum.

"No doubt remains that the advance of one million, made by the French Government, on the 10th June, 1776, for the use of the United States, and the payment of one million on the same day, by order of the Minister of Foreign Affairs to M. Beaumarchais, were but one and the same transaction."

Answer. Before answering the objections of the Treasury of the United States, it is of importance correctly to state the question, which forms the subject of the present claim; because, by this means, all suppositions foreign to it will be avoided.

Did M. Beaumarchais receive from the Government of France a million on account of his supplies to the United States? This is the question.

The identity of the date given by M. de Vergennes, and of the receipt of M. de Beaumarchais, communicated by M. Buchot, has until now been the cause of a delay of justice on the part of the Treasury of the United States to the heirs of M. de Beaumarchais, and of the prejudices which the Treasury has conceived against this claim.

In M. de Beaumarchais, we are to perceive and recognise two characters: one, the secret agent of the French Government; and the other, a furnisher of supplies to the United States.

As secret agent of the Government of France, he received a million on the 10th June, 1776; in the same year M. de Vergennes, who had caused it to be given to him, and who had imposed upon him the obligation of rendering an account to himself for it, presented that account to the King, who approved of it, and gave a discharge to M. de Beaumarchais. If M. Buchot, in communicating this receipt, had intimated, at the same time, that in the same file, and annexed to the receipt itself, were the account rendered to the King [and the approbation in the margin signed by the King himself, certainly the Treasury would not have pretended a right to charge to the account of supplies by M. de Beaumarchais a million for which he had accounted, and from which he had been discharged by the authority which had given it to him.

As a furnisher of supplies to the United States, he did not receive the said million, and, consequently, he is a creditor, and will remain a creditor of the United States for this sum, until it is paid to him. Among the nine millions given as a free gift by the King, three were stated by the convention of 1783 as having been before 1778. Of these three the United States had the use of only two; and it is of that which is wanting that they require an account from M. de Beaumarchais.

Although the nine millions in question have been formally acknowledged to have been received by the convention of 25th February, 1783, signed by the American commissioners, and ratified by Congress; and although this public act discharges M. de Beaumarchais from all accountability, nevertheless, the Government of France, in order to fulfil the claims of justice, as well as the desire of the United States to know what has become of this million, causes its minister plenipotentiary to declare:

1st. That the French Government has always remained a stranger to all the mercantile transactions of M. de Beaumarchais with the United States.

2d. That the million given on the 10th of June, 1776, to the said Sieur de Beaumarchais was for a secret political service, of which the King reserved to himself the knowledge.

3d. That the account of the employment of the said million was presented at the close of 1776 to the King, and approved by him.

4th. That M. de Beaumarchais has been discharged from it by His Majesty himself.

5th. And lastly, that the said million was not given on account of his supplies.

This declaration confirms those which have been made on divers occasions by M. de Vergennes and M. Gerard, as well as the American ministers in France as to Congress, that the French Government has remained a stranger to the mercantile operations of M. de Beaumarchais; and that he became a creditor of the United States at the same time that he became a debtor of the King for the articles which he had permission to take from his arsenals, and which became his own property.

M. de Vergennes, in ordering a refusal to tell to whom the said million was given, and in causing it to be declared, in 1786, that it was inconvenient to tell, proves equally that it was a secret, and that the said million was not given on account of the supplies of M. de Beaumarchais. For, to suppose the contrary, would be to think that this minister wished a million more to be paid by the United States to M. de Beaumarchais than was due to him. This opinion would shock whomsoever that was acquainted with the probity of M. de Vergennes.

Objection. "It is urged in behalf of the claimant, that it is now in proof that the money was advanced for secret services of a political nature. That argument could not, by the officers of the Treasury, be taken into consideration, because they were bound to require positive proof of the application of the money, in order to credit M. Beaumarchais for the expenditure."

Answer. When the Treasury debited the account of M. de Beaumarchais with the said million, it had not the declaration of the Government of France that the said million had been employed in a political secret service, and had not been given on account of supplies. Now this circumstance is known, it may balance the account. It can be no more disputed that the King, who gave the nine millions, had the power of employing one of them towards the views and to the advantage of the cause which he supported, than his ministers can be required to disclose the object of the service in which it was employed; because it is a secret which they ought to keep, and which M. de Vergennes declared it inconvenient to communicate even ten years afterwards.

The Secretary of the Treasury is so well persuaded of it, that he says, in his report, it must be observed that the declaration of the French Government should be taken in its strictly literal sense.

After an opinion thus expressed, and which manifests the respect and attention we owe to the declarations of a Government, it is justly believed that he would not have hesitated to strike the balance of M. Beaumarchais' account without comprising in it the said million, if he had not found himself bound by the premature opinion of his predecessors, and by the limitation of his powers.

Objection. "Nor would it be extraordinary that advances made in 1776, in order to enable an individual to furnish warlike supplies to the United States, should have been considered by the French Government as an expense for a secret political service."

Answer. Did the Government of France keep it as a secret from the United States that it had given permission to M. Beaumarchais to obtain cannon, muskets, &c. from the magazines of the King? No.

Why, therefore, would it have made a secret of this million, if it had been given for the same articles?

Can it be supposed that the King gave a million to pay himself?

It will not be disputed, that, at the epoch of the treaty of 1778, which united the two Powers, there remained no longer any secret about M. de Beaumarchais having, before this time, furnished cannon, muskets, &c., taken from the magazines of the King. The arms of France engraved upon these pieces published the secret.

The convention of 1783 openly avowed that three millions gratuitously given by the King had been given before the treaty of 1778.

Thus the destination of the million given on the 10th of June, 1776, must be looked upon as very extraordinary, and as a secret; and it cannot, with justice, be debited to M. de Beaumarchais on account of his supplies.

Objection. "It is further objected, that M. de Beaumarchais, having fairly accounted to his own Government, and to their satisfaction, for the application of that million, must be considered as discharged from any accountability to the United States."

Answer. Is it correct to say, that an accountability is not due to a third party not named in the deed or obligation?

If this principle cannot be brought into doubt, M. de Beaumarchais, or rather the Government of France, says, M. de Beaumarchais has received from me a million, for which he is to account to me; he has rendered this account to me, I have approved it, and I have given him a discharge.

The transcript of this receipt will demonstrate to conviction the truth as well as the justice of what has been just advanced.

Copy of the receipt.

"I have received from M. du Vergier, agreeably to the orders which have been given to him by the Count de Vergennes, on the 5th current, the sum of a million, of which I will render an account to my said Sieur de Vergennes.

"At Paris, the 10th June, 1776.

"CARON DE BEAUMARCHAIS."

From whom did M. de Beaumarchais receive a million, according to this receipt?

From M. de Vergennes, by the hands of M. du Vergier.

To whom did his own receipt, and the will of him who gave him the million, impose upon him the obligation of accounting?

To M. de Vergennes.

Who received this account?

M. de Vergennes.

Who approved of the account, and gave M. de Beaumarchais a discharge?

The King himself, who gave the said million and who ordered the destination of it.

The candor and the justice of the Secretary of the Treasury equally oppose, after this exposition of the said receipt, the demand of an account of the said million from M. de Beaumarchais; for, if even the account had not been rendered to the Government of France, no power, no person, (unless he was delegated to its rights by a special power,) could demand it; for M. de Beaumarchais, by his billet, is made a debtor of the Government of France; and, if it had been otherwise, he might as well have been the debtor of any other Power, or of any other person, as of the United States.

If M. de Beaumarchais were paid by the United States, does the Secretary of the Treasury think, that, possessed of his original receipt, he could prosecute him before any court of justice, and hope to recover the amount contained in the said receipt?

If his opinion should be in the affirmative, what risk would the United States run in paying the Beaumarchais family? because they would be certain of recovering what they paid.

To start a doubt, and yet draw from this doubt a conclusion in your favor, is contrary to justice; and, by removing the doubt, we remove the consequences.

M. de Beaumarchais, by his obligation, is accountable only to the Government of France. The above observations prove it to a demonstration.

Objection. "It is evident, that if he was rightfully charged by the United States for that sum, it is to them, and not to the French Government, that he is accountable. The solemn declaration that the million was a gratuitous gift to the United States, seems inconsistent with the supposition that it was not applied as an aid and subsidy, but given without their knowledge to an individual, responsible for its application, not to the Government who had received, but to that who gave, the subsidy."

Answer. He has rendered this account, the King has approved it, and he has been discharged from it. The million was given for a political secret service. Why would not the Secretary of the Treasury wish to look upon the destination given by the King to that one of the nine millions which is missing as an aid and subsidy, because this destination (which is a secret, and will always remain one,) can have no other object than to favor the views and to assure advantages to the United States, and may be denominated *aid and subsidy*?

The present Government of France has made all possible research, in order to enlighten its equity and its justice in an affair which interests a family, whose head employed all the fortune which he ought to have left it to the support of the American cause; and it is, after the most intimate conviction that this sum is due to M. de Beaumarchais, that it has charged its minister plenipotentiary to declare anew, that the million given on the 10th June, 1776, to M. de Beaumarchais was employed in a secret service; that an account of it has been rendered to the King, and approved by him; and that it was not given on account of supplies furnished by the said Beaumarchais to the United States.

TURREAU.

WASHINGTON, January 14, 1807.

[NOTE.—See Nos. 168, 174, 181, 183, and 249.]

9th CONGRESS.]

No. 180.

[2d SESSION.]

INDEMNITY FOR LOSS SUSTAINED BY THE IMPRESSMENT OF A VESSEL BY THE BEY OF TUNIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1807.

Mr. HOLMES, from the Committee of Claims, to whom was referred the memorial of Daniel Cotton, made the following report:

The memorialist states that he had, in the year 1800, chartered his ship, called the Anna Maria, of New York, about 500 tons burden, to Ebenezer Stephens, the then agent for the United States, to take a cargo for account of the American Government, from the port of New York to Tunis; that said ship accordingly pursued her voyage, and safely delivered said cargo into the Bey's arsenal at Tunis, on the 23d day of December of that year; and was thereupon immediately seized by the Bey, and ordered on a voyage, first to Zerbi, there to take in a part

of a cargo of oil, thence return to Tunis to take in a full cargo, and thence proceed under the Bey's direction to Marseilles. That the memorialist, who was sole owner of said ship, had given very different instructions to his captain when he should reach the port of Tunis; but the seizure was avowedly made by the Bey under the pretext of a right stipulated to him by the treaty with the United States, then but recently entered into, and not promulgated at the time the memorialist undertook said voyage, with his own Government.

The 12th article of the treaty affording this pretext of seizure to the Bey, reads thus: "That in case the Government shall have need of an American vessel, it shall cause it to be freighted, and then a suitable freight shall be paid to the captain, agreeably to the intention of the Government, *and the captain shall not refuse it;*" and yet in defiance of this stipulation, that "a suitable freight shall be paid," it was not until two weeks of contest and detention that the Bey would agree to pay any freight at all, and then one so extremely inadequate to the voyage, it did not equal the fourth part of the freight the memorialist had the right to expect, and had actually received on the outward voyage for his own Government. That freight (and it was but a usual one for a ship of the burden of the *Anna Maria*) amounted to the sum of \$17,486 64, and all that the Bey would consent to pay on this latter voyage was but the sum of \$4,000.

It is therefore for this loss, this deficiency of freight, the memorialist throws himself on the justice of the Government, and claims to be remunerated.

From the documents accompanying the memorial, the above statement of facts and history of the case are amply and satisfactorily shown to the committee; and although in the event a second charter-party was entered into between William Eaton, Esq., the then consul of the United States at Tunis, and the captain of the ship, assuming something of the aspect of a voluntary transaction, the single circumstance that no more additional freight was stipulated therein than equalled the additional detention, which had occurred, would seem sufficient to do away such impression, if any such had existed. Yet this fact appears otherwise well authenticated both by the affidavit of Captain Coffin, who was also supercargo of the ship, and by sundry statements under the hand of Mr. Eaton himself, expressly holding out as the inevitable consequence of the original wrong, the arrest, and subsequent duress, in which the captain and ship were held to sail at the Bey's pleasure, and in his service. The measure, indeed, presented itself to the captain at the moment as the only alternative to extricate himself and crew from the danger of being thrown into a miserable state of bondage and slavery in that barbarous Government. This its tyrant had then threatened to do, if his wishes were longer resisted.

The committee impressed, therefore, with the peculiar hardships of the case of the memorialist, and considering his losses as directly flowing from the unfortunate article of the treaty in question, think it but reasonable and just such further allowance should be made him, as to make good that deficiency of freight of which he complains; and with this view of the case would beg leave to offer the following resolution:

Resolved, That the accounting officers of the Treasury, under the direction of the Secretary of State, be authorized to adjust and settle the claim of Daniel Cotton, for the detention and use of his ship called the *Anna Maria*, from the _____ day of _____ in the year 1800, when she was arrested by the Bey of Tunis, until the _____ day of _____ following, when she discharged her Tunisian cargo at Marseilles, allowing him while in port the usual rate of demurrage, and while on the voyage the usual rate of freight, agreeably to the burden of said ship.

Accompanying the report of the Committee of Claims on the petition of Daniel Cotton, made on the 19th February, 1807.

NEW YORK, May 17, 1800.

Ebenezer Stevens will agree to freight Mr. Cotton's ship, the *Anna Maria*, for Government, and pay him at the rate of two shillings sterling per cubic foot, sales measurement, and pay him the half of the amount of freight at the sailing of the ship for the port of destination, in a draught on the purveyor of the United States, at ten days' sight, the premium on freight and two months interest thereon, at six per centum, to be first deducted.

The whole of the cargo to be reduced to cubic feet, iron excepted.

The above propositions, with the conditions annexed, are agreed to by

DANIEL COTTON.

CHARTER-PARTY.

This charter-party, indented and made at the city of New York, in the United States of America, this sixteenth day of August, in the year one thousand eight hundred, between Daniel Cotton, of the said city, merchant, only owner of the American ship called the *Anna Maria*, of New York, of the one part, and Ebenezer Stevens, Esq. agent for and on account of the United States of America, of the other part, witnesseth: That the said Daniel Cotton, for the consideration hereinafter mentioned, hath granted and to freight letten, and by these presents doth grant, and to freight let, unto the said Ebenezer Stevens, as agent aforesaid, the said ship *Anna Maria*, for a voyage to be made from the port of New York to Tunis, on the coast of Barbary, in Africa. And the said Daniel Cotton doth hereby covenant and agree with the said Ebenezer Stevens, that the said ship, as soon as the cargo, now loading by said Ebenezer Stevens, shall be completed, shall be made ready for sea, and, the dangers of the seas and restraint of rulers excepted, shall proceed with said cargo to Tunis, aforesaid; and that her crew shall there deliver the said cargo, over her side and within reach of her tackles, to the consul or agent of the United States residing there; and that the said Ebenezer Stevens shall have, and is hereby allowed, thirty-four working days to receive the said cargo, to commence from the time said ship shall be ready, at the port of Tunis, to deliver the same in manner customary at that place; and the said Daniel Cotton doth further covenant and agree with the said Ebenezer Stevens, that the said ship shall, during all the said intended voyage from New York to Tunis, as far as in her power, be kept and maintained in good order, and well manned, victualled, and apparelled, fit for merchants' use, at the cost of him, the said Daniel Cotton. And the said Ebenezer Stevens, as agent aforesaid, doth hereby covenant and agree with the said Daniel Cotton, to load said ship with a cargo for Tunis, and that he will have an agent provided at that place who will receive the said cargo, as the same shall be tendered over her side and within reach of her tackles, in the usual or customary manner; and that he, the said Ebenezer Stevens, will pay the said Daniel Cotton, for the freight of said cargo, at the rate of two shillings British sterling, per cubic foot, sales measurement; and that one-half of the amount of the freight shall be paid at the time of the departure of the said ship with said cargo from New York, by a draught of said Ebenezer Stevens on the purveyor of the United States, at ten days' sight, in favor of said Daniel Cotton; the premium on freight and two months' interest thereon at six per cent, to be first deducted; and the other half part of said freight shall be paid by said Ebenezer Stevens, on advice at New York of the arrival of said ship and delivery of said cargo at Tunis, agreeably to the bills of lading thereof,

by a draught as above mentioned at ten days' sight. And it is hereby agreed between the said parties, that the whole of the cargo shall be reduced to cubic feet, iron excepted, to be paid at the rate of four pounds sterling per ton; and the said Ebenezer Stevens doth also further covenant with the said Daniel Cotton, that if the said ship, through the default or neglect of the said Ebenezer Stevens, or the consul or agent of the United States at Tunis, shall be detained longer in unloading at Tunis than the time hereinbefore allowed, he will pay demurrage to the said Daniel Cotton or his agent, at and after the rate of fifty dollars per day for each and every day she shall be so detained; and for the true and faithful performance of all and singular the covenants and agreements aforesaid on the part of the said parties respectively, they bind themselves, their heirs, executors, and administrators, each to the other, in the sum of ten thousand dollars. In witness whereof, the said parties to these presents have hereunto interchangeably set their hands and seals.

DANIEL COTTON, [L. s.]
EBENEZER STEVENS, [L. s.]

Sealed and delivered, being first duly stamped, in the presence of

JOHN KEESE,
CHARLES S. DOUGHTY.

This charter-party indented and made at the city of Tunis, in Barbary, this fourth day of January, in the year one thousand eight hundred and one, between George G. Coffin, master and supercargo of the American ship called the Anna Maria, owned by Daniel Cotton, a citizen of New York, in the United States of America, of the one part, and William Eaton, Esq., agent and consul of the United States aforesaid, for the city and kingdom of Tunis, of the other part, witnesses: That whereas it is stipulated in the twelfth article of the treaty subsisting between the said United States and the said kingdom of Tunis, "In case where the Government (meaning the Government of Tunis,) shall have need of an American merchant vessel, it shall be freighted, and a convenient freight paid to the captain, agreeably to the intention of the Government, which the captain shall not refuse." And whereas the prime minister of the Bey of Tunis, Sidi Jusuf Sapatapa, in virtue of said subsisting article, has demanded said ship Anna Maria to take a cargo of oil at the island of Zerbi, to deliver said cargo at Marseilles, and there take a return cargo, to be delivered at Tunis; and has agreed with said William Eaton, to pay a freight of four thousand Spanish dollars, exclusive of primage, all risks of danger of the seas and restraint of powers being on the part of the said Sidi Jusuf; the said George G. Coffin, for the consideration hereinafter mentioned, hath granted and to freight letten, and by these presents does grant and to freight let, unto the said William Eaton, as agent aforesaid, the said ship Anna Maria, for a voyage to be made as aforesaid; and the said George G. Coffin does hereby covenant and agree with the said William Eaton, that the said ship shall immediately proceed to the island of Zerbi; shall there receive her cargo of oil, which shall there be delivered on board; shall thence return to Tunis, and thence proceed to Marseilles in France, and that her crew shall there deliver her cargo over her side, to the commercial agent of the said Sidi Jusuf; that she shall there allow twenty-five fair working days, over and above the ordinary days of quarantine, for the delivery of said cargo and for the embarkation of her return cargo, to commence from the time said ship shall be ready at the port of Marseilles to deliver her cargo in manner customary at that place; and shall thence return without delay and deliver said return cargo at Tunis aforesaid; and the said George G. Coffin does further covenant and agree with the said William Eaton, that, during all the said intended voyage from Tunis to Zerbi, from Zerbi to Tunis, from Tunis to Marseilles, and from thence until her said return cargo shall be discharged at Tunis, that the said ship, as far as in his power, shall be kept and maintained in good order, and well manned, victualled, and apparelled fit for merchants' use, at the cost of him, the said George G. Coffin; and the said William Eaton, as agent aforesaid, does covenant and agree with the said George G. Coffin, for and in consideration of said services well and faithfully performed, as aforesaid, that he, said William, will pay him, said George, four thousand Spanish dollars, with primage as aforesaid, in bills of exchange on the Government of the United States, payable thirty days after sight, to him said George, or his order; and the said William Eaton, as agent aforesaid, does further covenant and agree with him, the said George G. Coffin, that in case the said sum of four thousand Spanish dollars and primage should be found, after the discharge of the return cargo at Tunis, an insufficient freight, certificates shall be given from this office, attested by the said William Eaton and by the said George G. Coffin, ascertaining the time said ship Anna Maria shall have been employed in performing said voyage, and that one indifferent person to be appointed by the Government of the United States, and another to be appointed by the owner of said ship Anna Maria, shall consider and determine what further compensation should be allowed for the said service of said ship; and, in case these two indifferent persons so appointed shall not agree on such further sum to be allowed, a third indifferent person shall be by them chosen, a majority of whose opinions shall decide what further consideration shall be allowed as aforesaid; and this decision, when declared according to the true intent and meaning of this charter-party, shall bind and oblige the United States for the prompt payment of whatever sum may or shall be so decided upon as a full and sufficient compensation for the services of the said ship Anna Maria, as above covenanted.

In witness whereof, the said parties to these presents do hereunto interchangeably set their hands and seals.

GEORGE G. COFFIN,
WILLIAM EATON.

In presence of JEAN EMILE HUBERT.

MARCH 10, 1804.

I certify the above and foregoing to be a true copy from the original.

WILLIAM EATON.

This charter-party, indented and made at the city of Tunis, in the kingdom of Tunis, this sixth day of March, one thousand eight hundred and one, between George G. Coffin, of the city of Hudson, in the State of New York, in the United States of America, master and supercargo of the ship called the Anna Maria, belonging to Daniel Cotton, merchant, of New York, aforesaid, of the one part, and William Eaton, Esquire, agent and consul of the United States of America for the city and kingdom of Tunis, of the other part, witnesses: That the said George G. Coffin, for the consideration hereinafter mentioned, has granted and to freight letten, and by these presents does grant and to freight let, unto the said William Eaton, the said ship Anna Maria, for a voyage to be made from the port of Tunis, aforesaid, to Cette, in France: and the said George G. Coffin does hereby covenant and agree with the said William Eaton, that the said ship, as soon as the cargo now loading by the said William Eaton shall be completed, shall proceed with said cargo to Cette, aforesaid, and that her crew shall there deliver her cargo over her side, and within reach of her tackle, to the agent of the said William Eaton, who shall be there provided, (dangers of the seas and constraint of Powers excepted,) and that the said William Eaton shall have, and is hereby allowed, twenty-five fair working days to discharge said cargo, to commence from the expiration of the quarantine said ship shall be compelled to perform in France: and the said George G. Coffin does further covenant and agree

with the said William Eaton that the said ship shall, during all the said intended voyage from Tunis to Cette, as far as in his power, be kept in good order, and well manned, victualled, and apparelled, fit for merchants' use, at the cost of him, the said George G. Coffin: and the said William Eaton does hereby covenant and agree with the said George G. Coffin to load the said ship with a cargo for Cette; and that he will have an agent provided at that place, who will receive the said cargo, as the same shall be tendered over her side and within her tackle, in the usual and customary manner; and that he will pay the said George G. Coffin, for the freight of said cargo, five thousand Spanish dollars, out of the avails of said cargo, immediately on its being sold, and the money realized thereon at Cette aforesaid; which sum of five thousand Spanish dollars, when paid as aforesaid, shall be in full consideration both for the freight of said cargo and for the detention of said ship from the moment of the discharge of her cargo at Porto Farina on the twenty-fourth day of December last, until the expiration of the time allowed for her discharge at Cette, as above covenanted, any preceding covenants, charter-parties, or agreements to the contrary notwithstanding; but each and every fair working day said ship shall be detained for the discharge of her cargo at Cette, over and above the time allowed, the said William Eaton hereby covenants and agrees with the said George G. Coffin to pay demurrage forty-four Spanish dollars; and for the true and faithful performance of all and singular the covenants and agreements aforesaid, on the part of the said parties respectively, they bind themselves, their heirs, executors, and administrators, each to the other, in the sum of twenty thousand Spanish dollars.

In witness whereof, the said parties to these presents hereunto interchangeably set their hands and seals.

GEORGE G. COFFIN,
WILLIAM EATON.

In presence of T. E. ALEMBERT.

MARCH 10, 1804.

I certify that the above and foregoing is a true copy from the original.

WILLIAM EATON.

WASHINGTON CITY, *March 10, 1804.*

The demand from the Bey of Tunis, for the detention for service of the Anna Maria, was some days previous to the discharge of that ship, as reported to the Department of State, by official communication, dated December 20, 1800.

W. EATON.

MARCH 10, 1804.

N. B. Under the critical circumstances that I took on myself the responsibility of the Sapatapa's cargo, and not being sure that Government would indemnify me for the expenditures and losses which had arisen, or might arise, from the transaction, I could not consent to offer more than the freight stipulated in the charter-party. The conduct of Captain Coffin, therefore, became a matter of necessity, if not of compulsion.

W. EATON.

Extract from William Eaton's statement, presented the 20th February, 1804.

No sooner had the Anna Maria discharged her cargo at the Bey's arsenal, (December 23d,) than he arrested her in his port, under pretext of a right ceded by the twelfth article of treaty, and ordered her to take in a cargo of oil for Marseilles. I contended that a fair construction of that article only went to authorize him to use our merchant vessels, found in his port, on emergencies, and refused to permit the ship to go into his merchant service. He, as usual, pointed to Algiers; mentioned the example of the American frigate being sent to Constantinople in the service of that Dey, and again accused me of want of accommodation. I could not admit the example of aggression at Algiers as authority for my submitting to it at Tunis. Menace was used. The contest continued till January 4, 1801, when the Sapatapa (the Bey's prime minister) consented to stipulate a freight, though inadequate to the service, to be paid to the captain; and the ship departed for the island of Gerbi, January 8th, to receive the chief of her cargo, and returned to Tunis to complete it, February 20th.

Meantime a decree from the Sublime Porte had compelled the Bey of Tunis, who had made a truce without consulting the Grand Seignior, to resume his position in the war with the French republic; and the minister now refused either to fulfil his contract, to discharge the ship, or to pay demurrage for her detention, but insisted on sending her to London.

The minister required me to compel a compliance on the part of the captain. It was impossible to convince him that I was not clothed with a power to do it. He threatened war. I affected indifference, and the ship was held in arrest until the 6th day of March following, when the dispute appeared to be drawing to a serious issue; for the court, I was assured by respectable authority, had determined to seize both the ship and crew as an indemnity for the impediment, occasioned by her resistance to the cargo going to a seasonable market. It was at this crisis that I consented to become myself responsible for the cargo, in order to get the ship and people out of their hands.

STATE OF NEW YORK, ss.

George G. Coffin, late master of the ship Anna Maria, of New York, maketh oath in due form of law, that the Bey of Tunis forced said ship into his service, as stated by her owner in his memorial lately presented to the Congress of the United States; and that this deponent was thereby compelled to enter into the two charter-parties with William Eaton, Esquire, agent of the United States, as is set forth in said memorial; and that the sum of five thousand dollars, mentioned in the said memorial, is all the payment this deponent received for or on account of the use of said vessel in the service of the said Bey.

GEORGE G. COFFIN.

Sworn the 5th day of December, A. D. 1804, before me, at New York,

JOHN KEESE, *Public Notary.*

George G. Coffin, within named, further deposes, that the ship *Anna Maria*, mentioned in the foregoing affidavit, was not discharged of her cargo from Tunis, at Marseilles, until after the 20th day of May, 1801; and that, to the best of his present recollection, it was on or about the 25th day of said month of May.

GEORGE G. COFFIN.

Sworn the 7th day of December, 1804, before me,

JOHN KEESE.

Sir:

WASHINGTON CITY, *January 6, 1807.*

At the request of Mr. Cotton, I have the honor of stating to your committee, in the case of the *Anna Maria*, that I could not have thought myself justifiable in permitting her to go to London under the arbitrary arrest of the Bey of Tunis, because it would have been yielding to a precedent, the injurious consequences of which could not be calculated. The Bey would not enter into any charter-party for freight, nor, indeed, engage any specific sum for the voyage more than that stipulated for the voyage to Marseilles. The resolution he at length took to seize the ship and crew dictated to me the policy of taking on myself the responsibility of the cargo, with the view of averting a greater evil; hence resulted a necessity on the part of the captain to go to Marseilles. I have already expressed my reasons for not offering to Captain Coffin a more liberal freight; and although I have no recollection of his objecting to the terms, I am fully satisfied that he would have embraced any terms to have extricated himself from the danger which suspended over himself and crew—the danger of slavery.

From every information I have gathered of what might have been the profits to the owners of the *Anna Maria* for the same detention and service, in ordinary employment, I have no hesitation in expressing my opinion that the sum of five thousand dollars, which I consented to pay, is a very inadequate indemnity to the said owners for their sacrifice.

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

WILLIAM EATON.

Honorable CHAIRMAN of the *Committee of Claims.*

Sir:

WASHINGTON CITY, *February 18, 1807.*

In entering into a charter-party with George G. Coffin, captain and supercargo of the ship *Anna Maria*, March, 1801, after having been induced to assume on myself the responsibility of her cargo, I did suppose that the United States would be exonerated from any further expense on account of detention and service of that ship, arising out of claims on the part of the owners. Nor does it recur to me that the captain expressed any uneasiness at the terms I engaged. He may, however, have restrained his real feelings at that time, under an apprehension of renewed violence on the part of the pirate of Tunis.

Since my return to the United States I have been convinced, from certificates of respectable merchants in the city of New York, and from other evidence, that the compensation to the owners was very inadequate to the sacrifice incurred by the ship being turned out of her course, and by her long detention.

I can add nothing, as to matter of fact, on this subject, more than your committee possess in the document before them; but if my opinion were to have any consideration in the decision of this claim, it would go to influence a report in favor of the claimant; being fully persuaded of the equity of Mr. Cotton's receiving further indemnity.

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

WILLIAM EATON.

The Honorable CHAIRMAN of the *Committee of Claims.*

[NOTE.—See No. 170.]

9th CONGRESS.]

No. 181.

[2d SESSION.]

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1807.

Mr. HOLMES, from the Committee of Claims, to whom was referred the message of the President of the United States, transmitting a memorial of the French minister, on the subject of the claim of *Amelie Eugenie de Beaumarchais*, heir and representative of the late *Caron de Beaumarchais*, made the following report:

This claim was presented to Congress at their last session by the agent of the representative of the late *Caron de Beaumarchais*, and a report was made thereon by the Committee of Claims, which was not finally acted upon by the House. The documents presented with that report, and the memorial of the French minister, transmitted with the President's message, contain a full statement of all the material facts and principles involved in the consideration of the case. As these papers accompany the present report, your committee do not deem it necessary to detail particularly the circumstances attending the charge of one million of livres, made of the United States, in their account with *Caron de Beaumarchais*, (which is the foundation of the present application.) The claimants have uniformly contested the correctness of this charge, declaring that Mr. *Beaumarchais* had settled with the French Government for the same, conformably to the tenor of his receipt. The substance of this declaration is now confirmed by the French Government, through their minister, in the following words:

“That the million given on the 10th of June, 1776, to M. de *Beaumarchais*, was employed in a secret service; that an account of it has been rendered to the King, and approved by him; and that it was not given on account of supplies furnished by the said *Beaumarchais* to the United States.”

The source whence this declaration proceeds renders it unnecessary to allude to any corroborative circumstances in support of the fact; but, as questions of law may arise in investigating the case, your committee think the course most consistent with the principles of justice, to which the United States have always adhered, would be to submit the claim generally to the consideration of the Secretary of State, with instructions to report to Congress at their next session; that he might consult the Attorney General upon any questions of law arising in the course of the investigation, and furnish Congress with any other information that would tend to elucidate the subject. They therefore submit the following resolution:

Resolved, That the message of the President of the United States, transmitting a memorial of the French minister on the subject of the claim of Amelie Eugenie de Beaumarchais, legal representative of the late Caron de Beaumarchais, be referred to the Secretary of State, and that he be directed to report thereon to Congress at their next session.

[NOTE.—See Nos. 168, 174, 179, 183, 249.]

10th CONGRESS.]

No. 182.

[1st SESSION.]

CLAIM FOR ADVANCES ON ACCOUNT OF THE FRIGATE ALLIANCE, IN 1780.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1807.

TREASURY DEPARTMENT, December 7, 1807.

The SECRETARY OF THE TREASURY, to whom was referred the petition of Beniot Schweighauser, of the House of Schweighauser & Dobrée, representatives of John Daniel Schweighauser, late of Nantes, in France, respectfully reports:

That the following facts, although principally extracted from the statements and accounts presented by the petitioner, are believed to be substantially correct.

John Daniel Schweighauser, then agent of the United States in the ports of Britany, did, in the year 1780, through his correspondents Puchelberg & Co., of L'Orient, make advances, on account of the United States' frigate Alliance, amounting to 31,668 livres 12 sols and 3 deniers; which advances, from causes not perfectly understood, but which seem to have originated in a dispute between Captains Paul Jones and Landais, respecting the command of the Alliance, Doctor Franklin refused to reimburse, as not previously authorized by him. A quantity of arms and military stores, the property of the United States, and in the custody of the said Schweighauser, was thereupon attached, either by him or Puchelberg, and remained in his hands until the year 1792, notwithstanding several applications of the American ministers and agents to the French Government for their delivery. It does not appear that during that period any legal steps were taken either by Mr. Schweighauser to prosecute the attachment, or by the United States to have it dismissed. But applications were made to Congress for payment, and two resolutions passed by that body in 1781 and 1786, authorizing a settlement of the claim, first by Joshua Johnson, Esq., and afterwards under the direction of the minister plenipotentiary of the United States at the court of France. The last resolution, dated October 16, 1786, is in the following words: "*Resolved*, That the minister plenipotentiary of the United States at the court of France be, and he is hereby, authorized and directed to cause the claim of the representatives of the late Daniel Schweighauser, of Nantes, against the United States of America, to be adjusted in such manner as he shall judge most for the interest and honor of the said States; and that the property of the United States, in the custody of the above-mentioned party, claimant, be applied towards the discharge of the balance, if any, which shall be found due, so far as the same may be necessary on such principles as shall be agreed on between the said minister plenipotentiary and the above claimants." It is stated by the petitioner, that Mr. Jefferson, then minister plenipotentiary as aforesaid, had the arms and also the vouchers of the account examined, and proposed that the decision of the whole should be left to arbitrators; which offer was rejected by the claimants. Nor have those accounts been settled by Mr. Barclay during his mission to Europe for the express purpose of settling all foreign accounts; although he did settle, or at least state all the other accounts of D. Schweighauser, by which a balance of livres 3,471 5 8 appears due to the United States.

In the year 1792 the municipality of Nantes seized, and took, on valuation, four hundred muskets, part of the arms aforesaid; and in the years 1793 and 1794, by virtue of a decree ordering all those who had fire-arms to offer them to Government, and of a subsequent department *arrêt*, the residue of the arms and military stores was taken on valuation by several officers or departments of the French Government. The petitioners state that Mr. Morris, then minister of the United States at Paris, had authorized a public sale of that residue; which sale was first suspended by the municipality, lest the arms should be purchased by agents of the Vendéans, and was afterwards prevented by the above-mentioned decree and *arrêt*. The arms and other military stores appear to have been sold at a very reduced price, eight hundred and eighteen muskets and bayonets in good order, being credited at the rate of only ten livres eleven sols specie (about two dollars) apiece, and the other articles in the same proportion. And the petitioner's claim, with interest to the 3d August, 1806, consists of the following items:

| | | | | | |
|---|---|---|---|-------------------|---------------------|
| Advances for the Alliance in 1780, | - | - | - | - | livres, 31,668 12 3 |
| Storage of arms, and charges from 1782 to 1794, | - | - | - | - | 10,099 9 0 |
| Commission and care of arms for fourteen years, | - | - | - | - | 1,993 11 0 |
| Interest on the foregoing payments to 3d August, 1806, | - | - | - | livres, 59,517 18 | |
| Deduct interest on proceeds of sales of arms, | - | - | - | - | 31,174 14 |
| | | | | | 28,348 4 0 |
| Difference between the value of assignats received in payment of the arms and specie, | | | | | 58,214 1 0 |
| | | | | | 130,318 17 3 |
| Deduct gross proceeds of the sales of arms and stores, | - | - | - | - | 98,085 11 0 |
| Balance claimed on 3d August, 1806, | - | - | - | - | 32,233 6 3 |

As the two items of interest and storage of the arms exceed that balance, it follows that the whole sum now claimed arises from the loss sustained by the detention of the arms. And the only question which, perhaps, deserves the consideration of Congress is, whether the first wrong having been the refusal of the officers of the United States to pay, and, on the other hand, the petitioners having, by an attachment which they did not prosecute, caused the detention, the loss ought to fall on them, or is justly chargeable to Government.

Should it be decided that the United States are bound to pay the claim, nothing more seems necessary than to authorize the accounting officers of the Treasury to settle the account. They will, of course, investigate the several charges for advances and storage, the accounts of sales, the real depreciation of assignats, and decide on the other incidental questions which may arise on the settlement.

All which is respectfully submitted.

ALBERT GALLATIN.

SIR:

GEORGETOWN, *January 23, 1809.*

As attorney for the representatives of John Daniel Schweighauser, deceased, I beg leave to recommend to the Committee of Ways and Means the consideration of their case, and to solicit a decision.

Believing as I do, from an examination of their papers transmitted me, that their claim is really a just one, originating from supplies made to an American frigate in a port of France (L'Orient) during the revolutionary war, and that it has been a great hardship on them to have lain so long out of it, and knowing the present claimants to be extremely respectable people, and that Schweighauser the elder, deceased, was in those days a highly confidential and useful agent to the United States, by himself and by his correspondents in different parts of France, I cannot refrain from asking permission to make a few observations on the papers before the committee, and as to the balance claimed.

The report of the Secretary of the Treasury has, it is admitted, taken a very correct general view of the subject, and has accurately condensed the matter of account; but in order to prevent a possible misapprehension, it seems requisite to explain more fully some of the items noticed by him. It is true that the two items of interest and storage are equal to the balance claimed in August, 1806; it must not, however, be understood that the storage in question is a payment to be made to themselves for their own stores, if this claim is discharged, but that it will be a reimbursement of moneys, to them, long ago paid by them to others, (whose names are given, as will be seen by reference to the account sales,) for the use of stores holding the property of the United States; nor that the interest charged is interest on this storage, but on advances made in 1780 for supplies to the frigate Alliance, and not repaid until from 1792 to 1794.

The Secretary makes reference to these two charges, in order to show that, if the arms had not been detained, but had been sold in the commencement, there would have been enough to have paid all that was due, and correctly remarks, that the question at issue seems to be, is the Government or the petitioners to sustain the consequent loss? He thinks there was mutual wrong, on the part of the Government in not having originally paid for, and on that of the petitioners in having detained the arms; but he admits that the "first wrong" was "the refusal of the officers of the United States to pay;" and, in my humble opinion, this fact decides the question. I beg leave, however, to observe, in extenuation of the act of detention of the property of the United States that the attachment was not laid by the petitioners, the house of Schweighauser, who were merchants at Nantes, but by Puchelberg & Co. of L'Orient, who actually furnished, at this last-mentioned place, the supplies to the frigate.

By reference to the proceedings of the old Congress, it will be seen that, by their resolution of 24th August, 1781, and again of the 16th October, 1786, both of which are recited in the petition of the claimants, it was determined that the principle on which this claim is bottomed was correct, and that they who had recent documents before them saw it right to direct their officers to investigate the detail, and to pay what on settlement should be found due. It is an old and just maxim, that *contemporanea expositio est fortissima in lege*; thence, I can but hope that the officers of the Treasury will be authorized to examine and settle the account, and particularly since, in that case, the course will be as stated by the Secretary; that the accounting officers of the Treasury will investigate the several charges for advances and storage, the accounts of sales, the real depreciation of assignats, and decide on the other incidental questions which may arise on the settlement;" and that thus the United States will have justice done them by their own officers, as contemplated by the former resolutions of Congress.

With very great respect, I have the honor to be, sir, your very obedient servant,

J. MASON.

The Hon. DAVID HOLMES, *Chairman of the Committee of Claims.*

10th CONGRESS.]

No. 183.

[1st SESSION.]

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1807.

DEPARTMENT OF STATE, *December 10, 1807.*

The SECRETARY OF STATE, to whom was referred, by the House of Representatives, on the 26th of February last, the message of the President transmitting a memorial of the French minister, on the subject of the claim of Amelie Eugenie de Beaumarchais, with instructions to report thereon, now reports:

That having, in pursuance of the report of the Committee of Claims, on which the reference was founded, consulted the Attorney General, on the question whether a sum of one million of livres, received June 10, 1776, by Mr. de Beaumarchais from the French Government, ought to be regarded as a legal payment of so much in behalf of the United States, which question formed the principal difficulty in settling the accounts of Mr. Beaumarchais with the United States, he has received, in answer, the examination and opinion hereto annexed, and which contain the view of the subject which he begs leave to lay before the House.

Respectfully submitted.

JAMES MADISON.

SIR:

DECEMBER 7, 1807.

I have examined with great care and attention the papers you submitted to my consideration, concerning the claim of the representative of the late Caron de Beaumarchais. The subject is, in every view, important. Though I commenced the investigation with prepossessions unfavorable to the claim, from the first perusal of the documents, the inclination of my mind was against the respectable opinions which have been given on the principal, if not the sole question material to be decided. This circumstance led me to distrust my first impressions. I suspected they must be erroneous, and that they would yield to a more diligent inquiry and more mature deliberation. With this view, I have re-considered the case, and the result of my reflections confirms me in my original opinion. I shall give it with great deference, because the sentiments I entertain are opposed to those of gentlemen every way well qualified to judge correctly on the subject.

My remarks will be confined to that part of the case which embraces the question relative to the million of livres received on the 10th June, A. D. 1776.

Before we can form a correct judgment of the law applicable to the case, it is necessary first to ascertain the facts. *Ex facto oritur jus*. Very fortunately, in this instance, there is little dispute about the mere facts, though the inferences to be drawn from particular circumstances that exist in the case afford room for great diversity of opinion.

It appears satisfactorily from the documents, and seems, indeed, to be admitted, that the United States did actually receive, to the full value of the million of livres in question, in arms, ammunition, and warlike stores, from the late Mr. Beaumarchais, according to contract. The account between the United States and Beaumarchais, as settled by Mr. Harrison, the Auditor, on the 24th May, 1793, and as revised and corrected by Mr. Duvall, the Comptroller, on the 10th December, 1805, fully confirms this fact. That Beaumarchais originally had a legal claim for the value of these articles must be evident from a perusal of the papers. That this claim must yet exist, unless satisfied or extinguished, is equally clear. On the part of the United States, it is contended that this claim has been paid. When the allegation of payment is opposed to a demand acknowledged to be otherwise just, the plea should be supported by proof equally strong with the evidence that would have been required to verify the claim. The plea of payment is affirmative, and the burden rests with the party who relies on this defence to make out his case by sufficient testimony. Natural justice would seem to require that degree of proof which would be necessary to establish the right in an original suit to recover a sum of equal amount.

The United States, however, do not allege that they paid the money themselves. They do not say that Beaumarchais received this sum from their hands, but that it was paid for them, at a particular period, by the French Government; to speak more correctly, that the Government of France advanced to Beaumarchais, on account of the American Government, a million of livres, as part of a larger sum gratuitously given by the King to the United States. For this sum the United States claim a discount against the representative of Beaumarchais. Whether it be considered in the light of a payment, or of a discount, cannot vary the question or the degree of proof required.

Let us, to make the case more familiar, suppose a suit to be instituted against the United States, to recover the value of the articles furnished, amounting to one million of livres; the defence relied upon would be either the plea of payment or discount. Let us proceed to examine the testimony that would be adduced to make out the defence.

If the United States should fail in maintaining, by legal proof, the grounds of defence assumed, the claim of Beaumarchais must be established against them; for there is no other objection to it. Unless it has been satisfied in the manner contended, it is a legal and existing claim for a debt contracted during the revolution.

The contract entered into by Dr. Franklin with the Count de Vergennes, on the 25th February, 1783, is relied on, to prove that the King of France had, previously to the date of our treaty of the 6th February, 1778, granted to the United States three millions of livres, as aids and subsidies, under the title of gratuitous assistance from the pure generosity of the King. This paper ascertains the fact, and imports the receipt by the United States. The minister of the French Government declares, and that of the American Government admits, the grant of three millions of livres had actually taken place before the 6th February, 1778. So far as the two Governments are concerned, this instrument would seem conclusive upon them. But it is very questionable how far a contract, to which Beaumarchais was neither a party, nor privy, ought to affect his rights or interests. It is, strictly speaking, in relation to him, *res inter alios acta*. The effect of this contract is to show that the French Government declared they had granted to us, previous to the 6th February, 1778, three millions of livres, and that we acquiesced in their statement, without calling on them to explain in what way, either in the shape of aids or subsidies, all the money had been applied. We were then satisfied with their simple assertion, reposing full faith and confidence, I presume, in their declarations, and believing that the whole sum had been regularly disbursed for our benefit and advantage.

It was subsequently ascertained that the banker of the United States at Paris had received but *two* of these *three* millions of livres. In the year 1786 application was made to the Count de Vergennes to ascertain at what date, and to whom, the remaining million was paid. It is a remarkable fact in this case, that the application was not made by the American Government. Dr. Franklin, to prevent his character from being implicated in the transaction, solicited Mr. Le Grand, the banker of the United States, to make the inquiry of the Count de Vergennes. Several letters were accordingly addressed to the proper officer, and laid before the minister, earnestly demanding information on the subject. The answers gave the date on which the money was paid, but in the last the Count de Vergennes persisted in his refusal to give up the name of the individual who received it, declaring it would be useless and inconvenient. These circumstances prove the transaction a secret one, and would seem to impress the belief that the application of the money was to remain a profound secret. Why this should be done, unless it had been expended in secret services, it would be difficult to say. The natural inference is, that it was applied in this manner. Whether the undertaking to pay with one hand in this secret way the money they had given with the other, instead of permitting the United States to lay it out according to their own discretion, can be fairly considered within the terms of their grant, was originally a question of importance between the two Governments. That in this particular instance the French Government assumed the power, I presume, appears from the facts adduced. That we acquiesced in it, is equally plain. By the contract we there had acknowledged the grant, though we knew neither the date, nor the person to whom the money was paid.

When the name of the individual was refused, it could not have been intended that our Government should have from him any account of its application; for without knowing the person who received the money, we could not possibly have an account rendered. It would be difficult at this period (1786) to assign any other motive for concealing the name of the individual who received the money than the one already suggested. It is true that France attempted, in justifying her conduct towards England, to impose the belief that she gave us no assistance prior to her treaty with us. But as far back as 1783, by the contract with Dr. Franklin, she avowed the fact of having voluntarily granted us large sums before the date of the treaty. Nor did she hesitate to declare that arms, ammunition, and warlike stores had been furnished from the King's stores.

The concealment of his name is in absolute hostility with every idea that the individual was accountable to the United States, because it effectually defeated that object. These facts and circumstances speak for themselves, and, in my humble opinion, prove that the original destination of the money was directed to a secret purpose.

As far as we have progressed with the facts and documents, there is, I believe, no evidence from which it could be presumed that this million of livres had been received by Beaumarchais on account of the United States. We might as legally charge it to the account of any other person as Beaumarchais.

It seems, however, on proceeding further, that Dr. Franklin suspected, as this sum had been paid before the arrival of the American commissioners at Paris, that it was probable it had been received by Beaumarchais. In what capacity does not appear.

After the death of M. de Vergennes, and when France had become a republic, in the year 1794, on the application of our minister, G. Morris, a diligent search was made among the public papers, and at length a receipt was found, which I take the trouble to transcribe.

"I have received from Monsieur du Vergier, agreeably to the order transmitted to him of Monsieur the Count of Vergennes, dated the 5th current, the sum of one million, for which I will account to my said sieur Count de Vergennes.

"At Paris, this 10th June, 1776.

"CARON DE BEAUMARCHAIS."

"Good for one million of livres tournois."

This is the important piece of testimony in the case. It is on the foundation of this receipt, connected with the declarations contained in the contract of 1783, that the fabric of defence rests.

Let us proceed to examine this receipt agreeably to the general principles of evidence and law. On the face of the instrument itself, it appears that Beaumarchais was to account to M. de Vergennes, and not to the United States, for the expenditure of the money. This contradicts the idea that he was to be accountable to us for its application. When a written instrument is produced in a court of justice, generally speaking, you cannot travel out of it. It cannot be varied by parole evidence, where there is no doubt as to the import of its terms. In this case there is neither the *ambiguitas patens* nor the *ambiguitas latens*. The engagement of Beaumarchais is positive, express, and unqualified, to account to M. de Vergennes, and to him only, for the money received. The United States are no parties to the instrument; there is no stipulation to render them any account of the expenditure. Taking this insulated paper, could we legally charge, in an account against Beaumarchais, this sum as a debit, in order to compel him to show its application, when the instrument itself shows that for the application of the money he was solely responsible to M. de Vergennes? From M. de Vergennes the money was received, and to him alone had Beaumarchais engaged to account. It is not easy to conceive upon what principle he ought to be obliged to account twice for the same sum. If, in compliance with the language of his receipt, he satisfied M. de Vergennes, is it reasonable that he should be compelled to settle his accounts a second time with us? This would make him doubly responsible: for one million received, he must account for two.

I believe the million specified in the receipt to be the same with that which M. de Vergennes declared was paid on the 10th June, 1776. All the circumstances combined seem fairly to establish their identity.

An idea had been once entertained that the arms and ammunition, or part of them, furnished the United States by Beaumarchais, in consequence of their having been taken from the King's stores, were furnished on account of His Most Christian Majesty. To remove every doubt on this point, our commissioners, in 1779, applied to M. de Vergennes for information on the subject. His reply, and the letters of Mr. Girard to Congress in the same year, are full and explicit on this point. They state that all the articles were furnished by Beaumarchais on his private account who had settled with the artillery department for them, by giving orders or bills for the value; that it was a transaction wholly commercial, with which the minister of France had no concern; and that he could only interfere to prevent the United States being pressed for an immediate reimbursement. This explanation excludes the idea that the million of livres in question were intended to be applied to the payment in advance of the account of Beaumarchais, for arms and supplies furnished by him under an agreement dated 22d July, 1776, with Silas Dean, the agent appointed by a secret committee of Congress, or any subsequent contract. The impropriety also of supposing that the French Government would, on the 10th June, 1776, pay out of the coffers of the treasury a million of livres, that they might, at a subsequent period, be deposited in the military chest, must be obvious. We have already seen that the War Department, however, was not paid in cash, but in bills or draughts, whose days of grace might be extended, and the time of payment thus prolonged, by the French Government. Hence the offer of M. de Vergennes, thus stated, to interfere so far as to prevent the American Government being pressed for payment by Beaumarchais.

When a proposal was made, as appears by Mr. Girard's note of January 4, 1779, in order to relieve the United States, that France should pay, on account of Congress, a certain sum of money to Beaumarchais, to whom Congress were indebted, we do not find any allusion to this receipt for one million of livres received long before. It is reasonable to conclude that some notice would have been taken of it, if it were intended *pro tanto* a payment on discount against the debt of Beaumarchais.

Admitting, then, the million of livres specified in the receipt of Beaumarchais, to be the identical sum which M. de Vergennes asserts in the contract with Doctor Franklin was granted among the "aids and subsidies furnished to the Congress of the United States, under the title of gratuitous assistance," and, combining these facts, let us inquire into their legal operation and effect. We will first consider them separate and apart from the other testimony in the case, and then view them in connexion with the rest of the evidence.

M. de Vergennes was privy to the receipt, and was a party to the contract. Beaumarchais was a party to the first, but was not privy to the last. In a strictly legal sense, an instrument between third persons made without Beaumarchais' knowledge, participation, or consent, and a single line of which he could not alter, ought not to affect his rights. For the language of this instrument he cannot be responsible in any shape. The receipt to M. de Vergennes declares, and it may be considered as his own declaration, that the money was to be accounted for to him, and not to the United States. In the contract, the same minister declares this sum to be among the aids and subsidies granted the United States. Are these different declarations from the same lips reconcilable with each other? They are not, if we compel Beaumarchais to account with the United States; for his stipulation is clear and express to account to M. de Vergennes. On the other hand, if M. de Vergennes considered the application of this million to the secret service of America, as one of the most powerful aids that could be given, he might number it in that class. That this construction was legally or politically correct, I will not undertake to say. Suffice it to observe, that from a view of the various facts, it seems to have been the construction put upon the voluntary grants of the King, by the French Government, at that period; a construction acquiesced in by our own Government, in the contract of 1783, when we knew neither the date nor the person to whom the money had been paid.

It is a general principle, that you should reconcile testimony apparently contradictory. This exposition of the facts, as far as we have progressed with them, is calculated to produce such an effect. It renders the various documents consistent with each other, and relieves us from the embarrassment that would otherwise ensue.

When we advert to the official declarations of General Turreau, we find they verify the position that this million of livres was appropriated solely and exclusively to a secret service. The source from whence this testimony is derived is that alone to which resort could be had for information on the subject. In every court of justice the best evidence, of which the nature of the case admits, is always required. The United States allege that the French Government paid this debt for them. That Government, through their minister, declares officially that they did not. In the case of individuals there could not be room for dispute. The just principles of our laws require not impossibilities—*lex non cogit seu impossibilia seu vana*. The French minister officially declares that for this million of livres Beaumarchais accounted with M. de Vergennes agreeably to the tenor of his receipt, and that it is their uniform rule to destroy all the vouchers and accounts relative to secret transactions as soon as they have been duly sanctioned.

Upon the whole, I cannot think the plea of payment or discount can be supported, unless collusion with Beaumarchais be attributed to the French Government; an idea inadmissible, and which cannot enter into my view of the case.

Such are the remarks I have to submit in obedience to your request. If they are of any service in performing the task assigned to you by the House of Representatives, I shall feel amply compensated for the time and labor employed in examining the documents.

I have the honor to be, &c.

C. A. RODNEY.

Hon. JAMES MADISON, *Secretary of State*.

[NOTE.—See Nos. 168, 174, 179, 181, 249.]

10th CONGRESS.]

No. 184.

[1st SESSION.]

INDEMNITY FOR PRIZES TAKEN, IN 1779, BY THE FRIGATE ALLIANCE, AND SENT TO BERGEN, WHERE THEY WERE RESTORED TO THE ENEMY BY THE KING OF DENMARK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1807.

Mr. HOLMES, from the Committee of Claims, to whom was referred the memorial of Peter Landais, made the following report:

The memorialist commanded, in the revolutionary war, the Alliance, a frigate belonging to the United States. In the year 1779, whilst cruising in the North Seas, he captured three British vessels, and sent them into Bergen, in Norway. On their arrival at that port they were seized by order of the Danish Government, and delivered to the British consul, (at his request,) on the ground that the Government of Denmark had not acknowledged the independence of the United States, and therefore deemed the capture illegal. The memorialist asks to be indemnified by the United States for his share of said prizes. Previous to the sailing of the Alliance on the cruise aforesaid, it appears that the memorialist entered into a joint agreement with J. Paul Jones and other commanders of American and French armed vessels, to cruise in concert against the British, which agreement regulates the distribution of prize money, and declares that the squadron is to obey the orders given by the Minister of the French Marine and the minister plenipotentiary of the United States at the courts of France; (a copy of the same is herewith presented.) Upon a representation of the conduct of the Danish Government in this affair to Dr. Franklin, he applied to that Government for redress. His letter to Count Bomstorf, and the answer thereto, will be found among the annexed documents. At a subsequent period, the claim was renewed on the part of the United States, and the Chevalier J. Paul Jones appointed their agent, in subordination to our minister at Paris, Mr. Jefferson. The agent repaired, conformably to instructions, to Copenhagen. Nothing, however, appears to have been finally done in the business. The memorialist claims his share of the three prizes, in exclusion of the commanders mentioned in the agreement above alluded to. Though your committee differ with him in this construction of the instrument, they do not consider the decision of the point material at present, as it can only relate to the amount of the claim, and not to any principle involved in the consideration of it. From the circumstance of the crew of the Alliance having mutinied on their return to the United States, and thereby forfeited any claim to prize money, it is evident that the Government of the United States are materially interested in obtaining from Denmark an ample indemnity for the restoration of the prizes. The claim, therefore, of the memorialist is identified with that of the Government, and forms a proper subject for negotiation. If, by any arrangement between the two Governments, the United States should receive any compensation for the injury sustained, then the claim of the memorialist to his legal proportion of the prizes must be considered valid. But until then he certainly cannot of right demand that the Government shall remunerate him for a misfortune which it was no way instrumental in bringing about, but, on the other hand, its wish and interest to avert. The Government of the United States never have recognised the principle of insuring the property of their citizens, in any situation, or under any circumstances, against misfortune, accident, or the conduct of foreign nations. In the latter case, it is their duty to use all means in their power, consistent with the general good and sound policy, to procure justice to the injured citizen; but nothing more can be expected. In this particular instance, there is less reason to compensate the individual sufferers than there would be in many others that might present themselves to our consideration; for it will be observed that the prizes could not have been sold in any port of Denmark, and their safe arrival at a port where they could have been disposed of was at that time very problematical, as may be seen from the communication of Dr. Franklin to the President of Congress on the subject. Upon a view of the whole of the circumstances of the case, your committee concur in opinion with the several committees who have reported upon this claim, and whose reports have been heretofore agreed to by the House. They therefore submit the following resolution:

Resolved, That Peter Landais have leave to withdraw his memorial, and the papers accompanying the same.

SIR:

DEPARTMENT OF STATE, December 12, 1807.

In reply to your letter of yesterday, I have the honor to state to you that no remuneration has been made by the Danish Government to the United States "for and on account of the prizes taken by the Alliance frigate in 1779, carried into Bergen, in Norway, and afterwards, by order of the Danish Government, restored to the British."

With great respect, I have the honor to be, sir, your most obedient servant,

JAMES MADISON.

The Hon. DAVID HOLMES, *Chairman of the Committee of Claims.*

10th CONGRESS.]

No. 185.

[1st SESSION.]

CONSULAR AND OTHER CLAIMS OF THOMAS BARCLAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 8, 1808.

Mr. HOLMES, from the Committee of Claims, to whom was referred the memorial of Mary Barclay, widow and relict of Thomas Barclay, deceased, made the following report:

The accounts between the United States and Thomas Barclay, deceased, formerly a public agent in Europe, employed in the discharge of the duties of a variety of offices, are at this day complicated and difficult of adjustment. Correct and certain information of the periods he served in each capacity that he filled, is not now to be obtained. A just compensation, therefore, for his public services, cannot be ascertained with that precision at all times desirable in the settlement of public accounts. The committee submit the following statement of facts and inferences, as the result of the best investigation they were capable of giving the subject from the documents before them. It appears that, on the 21st of June, 1781, Congress resolved that a vice-consul should be appointed to reside in France, with a salary of one thousand dollars per annum. On the 26th of June, in the same year, Mr. Barclay was appointed to that office. On the 5th day of October following, his appointment as vice-consul was superseded by an appointment as consul to reside in France. On the 18th of November, 1782, Mr. Barclay was appointed a commissioner with full powers to settle the accounts of the United States in Europe; and at the same time Congress resolved they would, at a future day, make adequate provision for the said commissioner, according to the nature and extent of the services which he should perform. On the 18th of July, 1786, Mr. Barclay was appointed, by the American ministers in Europe, to negotiate a treaty of amity and commerce with the Emperor of Morocco. This service, for which no compensation was stipulated, he performed. In 1788, Mr. Barclay returned to the United States, having been absent about six years. He claimed a salary for that period, at the rate of one thousand pounds sterling, or twenty-four thousand livres per annum, exclusive of expenses to the amount of livres 97,219 8 8 as consul, commercial agent, and commissioner of public accounts, and the expenses attending his mission to Morocco, including those of his secretary and suite, amounting to livres 32,729 18 1. His accounts were so far stated by Benjamin Walker, Esq., commissioner of accounts, upon the principle of allowing the salary and expenses claimed. By this statement, which is presumed to be correct, a balance is struck in favor of Mr. Barclay to the amount of livres 74,719 2 5. He claimed, in addition to this sum, a salary as consul in France for two years and four months, at the rate of one thousand dollars per annum, equal to livres 11,666 13 4, and some charges for expenses suggested to have been omitted, amounting to livres 1,187 10 6. On a part of the transactions, he received, it appears, a commission as commercial agent, to the amount of livres 18,611 2, exclusive of 14,500 livres, which he paid to other persons as half commission for doing business. Your committee do not deem it material to enter into an investigation of these particular items: they take the balance stated by Mr. Walker, upon the principles he adopted, to be accurate. This, however, could not be considered as a final settlement at the Treasury Department, because there existed no law fixing a compensation for Mr. Barclay's services, rendered in the capacity of consul and commercial agent in France, commissioner for settling the accounts of the United States in Europe, and for negotiating a treaty between the United States and the Emperor of Morocco. No law for that purpose having since passed, his accounts, of course, are still open and unsettled.

In 1790 Mr. Barclay presented a petition to Congress, praying for an adequate compensation for the services rendered. A report was made thereon by a select committee, recommending an allowance of \$3,333 $\frac{1}{3}$ as a salary per annum, for the whole of the time Mr. Barclay was absent from the United States on public business, exclusive of his expenses. This report was recommitted, and another presented* by the committee, recommending a salary for part of the services, and specific sums for particular transactions. The difference contemplated to be given for the whole of the services by each report is inconsiderable. On the 31st of March, 1791, Mr. Barclay was appointed consul at Morocco, which he accepted, and soon after embarked for Lisbon. On his arrival there, he received from Mr. Humphreys, the American minister, (conformable to instructions,) \$12,870, to purchase various articles of merchandise, to be given, on behalf of the Government of the United States, to the Emperor of Morocco, and other Barbary Powers, for the purpose of opening and maintaining friendly relations with them. Mr. Barclay immediately entered upon the duties of his office. He purchased and shipped to Gibraltar the articles of merchandise he supposed most suitable to be taken with him to Morocco. For causes not material to be detailed, and which, in fact, the committee are not particularly acquainted with, the object of the mission was not attained. Mr. Barclay did not reach Morocco, but returned from Gibraltar to Lisbon, where he died suddenly on the 19th of January, 1793. He stands charged on the books of the Treasury with this sum of \$12,870, as appears from the letter of the Auditor to the Secretary of the Treasury; the vouchers (as your committee suppose) found among his papers by Mr. Humphreys and Mr. Simpson being too informal to be admitted by the accounting officers to his credit. Your committee, however, are convinced the whole of that sum was justly expended for the use of the United States, and conformable to instructions, except a balance of 562 Mexican dollars. This opinion is grounded upon the letters of Mr. Humphreys to the Secretary of State, and the accounts and memorandums transmitted by that gentleman to the Government. In the year 1797 a petition was presented to Congress by a certain Robert

* See No. 13.

Ralston, stating that he was an assignee and creditor of Thomas Barclay, deceased, and praying that the balance due from the public to the estate of the said deceased might be paid to him. The Committee of Claims made a report thereon, in which they recommended a resolution to credit the account of Thomas Barclay with a sum that would balance the same. No one of the reports alluded to has ever been finally acted upon. Your committee, upon the best consideration they were capable of giving the subject from the documents before them, are of opinion that Mr. Barclay should be allowed, for the time he acted as vice-consul, at the rate of one thousand dollars per annum; that, while he acted as consul, commercial agent, and commissioner of public accounts in Europe, and whilst negotiating the treaty made with Morocco in 1787, he should be allowed the salary mentioned in the first report, that is, \$3,333 $\frac{1}{3}$ per annum, exclusive of expenses: that in the adjustment of his account, which originated with the United States in consequence of his second mission, he be credited with the amount of all the goods purchased, agreeable to the invoices and memorandums transmitted by Mr. Humphreys; and also a salary at the rate of two thousand dollars per annum, exclusive of expenses, which it appears he was promised by the Government. This mode of adjustment will reduce considerably the balances stated by Mr. Walker in favor of Mr. Barclay.

It is presumed the whole sum coming to him cannot exceed five thousand dollars. Your committee do not consider it within their duty to ascertain with precision the exact balance, as that would be finally settling the account, and taking upon themselves the duty and responsibility which properly belongs to the accounting officers of Government; they have only laid down the principles upon which, in their opinion, the adjustment should be made. It remains for the proper officers to ascertain the period of Mr. Barclay's absence, and to examine the papers transmitted by Mr. Humphreys. Your committee cannot refrain from saying that the services rendered by Mr. Barclay, in his capacity of commissioner of public accounts in Europe, and consul and commercial agent, were laborious to himself and eminently useful to the United States. He was an honest, faithful, and diligent public servant. His attachment to his own interest could never have superseded that which he felt for his country. The appointments he filled afforded ample opportunities of enhancing his private fortune. He died suddenly, in a foreign country, in the employ of the public, leaving a widow and orphans in poverty and distress to deplore his loss. Your committee do not mention these circumstances with a view of inducing the House to depart from those established rules and principles hitherto adhered to in the decision of individual applications; they, however, feel gratified in having it in their power to recommend relief to the family of a meritorious public servant, consistent with those principles of justice by which they have heretofore been governed. The following resolution is therefore respectfully submitted:

Resolved, That the proper accounting officers of the Treasury be, and they are hereby, authorized to audit the account of Thomas Barclay, deceased; and that they allow him, while he acted as vice-consul in France, a salary of one thousand dollars per annum; and that while he acted as consul, commercial agent, commissioner of public accounts in Europe, and was engaged in negotiating the treaty concluded with the Emperor of Morocco, in 1787, he be allowed a salary at the rate of \$3,333 $\frac{1}{3}$ per annum, exclusive of his expenses; and that, in the adjustment of his accounts with the public, which originated in consequence of his second mission, he be credited with the amount of goods purchased to take with him to Morocco, according to the letters of Mr. Humphreys to the Secretary of State, and the invoices and memorandums transmitted by that gentleman to the Government; and that they pay the balance to the legal representatives of the said Thomas Barclay, deceased, out of any moneys in the treasury not otherwise appropriated.

To the Speaker and members of the House of Representatives of the United States: The memorial of Mary Barclay, widow of Thomas Barclay, some time diplomatic agent for the United States at the court of Morocco, respectfully submits:

That her deceased husband performed, from the year 1781 to 1787, a variety of necessary and important services, in different capacities, both in Europe and in Africa, for the United States, under the former confederation.

That his conduct therein was well approved, as was then generally known, and is moreover fully established by the fact that he was afterwards selected by Thomas Jefferson, now President of the United States, then Secretary of State, during the presidency of George Washington, to transact the business of the United States at the court of Morocco, in which he was fortunate enough to merit and receive the approbation of those eminent characters.

That the words used by the Congress to the said Thomas Barclay, upon the 18th day of November, 1782, when he received his commission to settle the accounts of the United States in Europe, seem to have pledged the faith of that illustrious body for a better remuneration than it now appears he ever received. Those words were, "Congress will hereafter make adequate provision for the said commission, according to the nature and extent of the services performed."

That adequate provision was never made, as appears from the accounts of the said Thomas Barclay, settled at the Treasury of the United States, and from a report made in his favor by a select committee of your honorable body in the year 1790, which was not acted upon.

That your memorialist, while her said husband was so employed, was, for the most part, left alone to rear, educate, and maintain a considerable family by her single exertions and resources, unaided by those talents in which she had fully confided for the support of her children, but which the public had called for and wholly engrossed, and almost entirely unassisted by any participation in the reward granted for the benefit derived from them; for that reward, not being adequate to the extraordinary expenses and unavoidable losses incidental to such services, and to the comfortable support of the family of the public servant besides, was consumed by the former.

That she, from motives which no doubt would be approved, refrained from applying to Government as long as possible; but at length, having had the misfortune to lose her dwelling-house by fire, with her effects and those papers by which she might have supported a specific claim upon the justice of her country, is at length compelled to solicit aid from their benevolence.

She therefore humbly prays that some donation may be made her for the support of a destitute family, upon the ground of deficiency in the compensation rendered to their father for his faithful services, by which they were deprived of the portion of that compensation which was their natural right.

APRIL 13, 1796.

I have looked over the accounts of Thomas Barclay, late consul and commissioner of accounts in France, as stated by Benjamin Walker, Esq., and from the care and time which appear to have been bestowed on them, I presume they have been stated with accuracy. The balance which Mr. Walker makes due to Mr. Barclay is livres 74,719 2 5, but the letter of the Auditor of the 12th of March, 1790, (among the papers,) shows in what manner this balance arises

The whole time of Mr. Barclay's absence from America, I believe, was about six years, including his mission to Morocco. What compensation ought to be allowed for his services I cannot undertake to say; but until this is fixed by the Legislature, his accounts cannot be finally settled. The act necessary to be passed may authorize the accounting officers of the Treasury to admit to his credit either a salary of ——— livres per annum, or a sum in gross, in full compensation of his services whilst employed abroad by the United States, exclusive of his expenses.

If the committee should adopt the latter idea, and be of the opinion that a sum sufficient to close his accounts is an adequate compensation, the amount will be livres 69,280 17 7, being the difference between the salary credited by Mr. Walker, and the balance he makes due to him. This will give him a salary of upwards of 2,100 dollars per annum for six years, exclusive of expenses, and of some articles brought back from Morocco not yet at his debit, the value (of no great consequence, indeed,) being unknown.

The grant, whatever it may be, I think should be expressed in livres, his accounts being all kept and stated in that kind of money.

R. H.

AUDITOR'S OFFICE, *October 31, 1806.*

The Auditor respectfully begs leave to refer the Secretary of the Treasury to the foregoing, to show the situation of Thomas Barclay's accounts in April, 1796. They were at that time under consideration of the Committee of Claims, in consequence of a memorial or petition presented by his assignee, Robert Ralston. The committee made a report in February, 1797, but it appears, on inquiry, that said report has never been acted upon by the House, and that the accounts and papers are still on file in the clerk's office.

Exclusive of the sums embraced by these accounts, it appears that Mr. Barclay, in his character of consul general at Morocco, received at Lisbon, on the 10th November, 1791, a draught of D. Humphreys on the bankers at Amsterdam for 32,175 francs, with which he stands charged in the sum of 12,870 dollars, and for which no account has yet been rendered.

R. HARRISON.

Sir:

TREASURY DEPARTMENT, AUDITOR'S OFFICE, *March 12, 1790.*

I have, in pursuance of your directions, examined the accounts of Thomas Barclay, Esq., and the resolution of Congress on which his claims are founded, and find that on the 21st day of June, 1781, Congress resolved that a vice-consul should be appointed to reside in France, to exercise all the powers and perform the services required of William Palfrey, during his absence from that kingdom, or during the pleasure of Congress; and that he should be allowed a salary of one thousand dollars per annum, in lieu of all commissions for business done on account of the United States of America: that on the 26th day of June, 1781, Mr. Barclay was elected to said office, and that on the 5th day of October, 1781, his appointment as vice-consul was superseded by an appointment as consul to reside in France.

On the 18th November, 1782, Mr. Barclay was appointed a commissioner with full power to liquidate and finally settle the accounts of the United States in Europe, at which time Congress resolved that they would thereafter make adequate provision for said commissioner, according to the nature and extent of the services which he should perform.

It appears by the journal of Congress of the 18th July, 1787, Mr. Barclay received from the American ministers in Europe a commission, for the purpose of negotiating a treaty of amity and commerce between the United States and the Emperor of Morocco; which service he performed, and for which no compensation appears to have been stipulated.

The whole of accounts which arose under the several appointments which I have enumerated have been examined and stated by Benjamin Walker, Esq., late commissioner of accounts; and from his remarks, I have reason to believe that the final settlement thereof was delayed merely for the purpose of determining what compensation Mr. Barclay ought to receive for his services.

The compensation claimed by Mr. Barclay is a salary, for six years, at £1,000 sterling, or 24,000

| | | | | | | | |
|--|---|---|---|---|---|---|------------|
| livres per annum, | - | - | - | - | - | - | 144,000 |
| Exclusive of which, the following expenses are charged: | | | | | | | |
| Travelling expenses for himself and clerk, | - | - | - | - | - | - | 3,400 0 0 |
| Stationary, &c., | - | - | - | - | - | - | 1,526 13 8 |
| Portage, messengers, &c., | - | - | - | - | - | - | 1,875 0 0 |
| Rent of house, and hire of furniture, from November, 1781, to October 1, 1787, for himself and family, | - | - | - | - | - | - | 16,552 3 0 |
| Removing his family from L'Orient to Paris and St. Germain's, | - | - | - | - | - | - | 1,216 0 0 |
| Charges for his own and family expenses to September, 1787, | - | - | - | - | - | - | 71,956 0 0 |
| Repairing a carriage, | - | - | - | - | - | - | 292 12 0 |
| Two consular seals and a screw, | - | - | - | - | - | - | 401 0 0 |

Amounting, in the whole, to - - - - - Livres, 97,219 8 8

It also appears that Mr. Barclay has received a commission on the sales of four prizes taken by Captain Barry, and on the sales of a quantity of indigo belonging to the United States, the amount of which I am not able accurately to ascertain.

The expenses before enumerated are stated in Mr. Barclay's account as consul and commercial agent; those which attended the execution of this commission to the Emperor of Morocco, including the expenses of his secretary and suite, amounted, in the whole, to livres 32,729 18 4.

The charges which compose this sum include almost every kind of expense, even those for their amusement and the gratification of their curiosity.

If the whole of these charges are admitted, the balance due to Mr. Barclay, as appears from Mr. Walker's statement, will be livres 74,719 2 5.

As Mr. Barclay's accounts are very extensive, and as I have had but little opportunity to examine them, perhaps some inaccuracies may hereafter be discovered in my remarks. I trust, however, that this sketch will enable you to determine the compensation which ought to be allowed for his services.

OLIVER WOLCOTT.

HON. ALEXANDER HAMILTON, Esq. *Secretary of the Treasury.*

Dissection of Mr. Barclay's expense and salary account, viz:

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---------|---------|-------|
| His own salary, - | - | - | - | - | - | - | - | 144,000 | 0 | 0 |
| Family expenses, including house rent, servants' wages, &c. - | - | - | - | - | - | - | - | 80,425 | 3 | 0 |
| His own travelling and personal expenses, | - | - | - | - | - | - | - | 11,829 | 0 | 0 |
| Clerk hire, - | - | - | - | - | - | - | - | 18,333 | 0 | 0 |
| Their travelling expenses, - | - | - | - | - | - | - | - | 870 | 0 | 0 |
| Stationary and office furniture, - | - | - | - | - | - | - | - | 3,602 | 13 | 8 |
| Expenses to, at, and from Morocco, after deducting sundry improper charges, - | - | - | - | - | - | - | - | 32,446 | 11 | 3 |
| D. S. Franks's salary as secretary, - | - | - | - | - | - | - | - | 4,609 | 5 | 0 |
| | | | | | | | | | | |
| | | | | | | | | Livres, | 296,115 | 12 11 |

NEW YORK, June, 1790.

The committee, to whom was referred the memorial of Thomas Barclay, report:

That it appears to the committee, that the said Thomas Barclay was appointed by Congress their consul in France, commercial agent, and commissioner for settling accounts and expenditures of public money, in Europe, and that he acted as their commissioner to negotiate a treaty with the Emperor of Morocco. It also appears, from authentic information, that the said Thomas Barclay executed these important trusts with diligence and fidelity, to the honor and advantage of the United States, and that he has received no compensation for his said services.

Resolved, therefore, That there shall be paid to the said Thomas Barclay the sum of 3,333½ dollars per annum, for and during the time in which he was employed by the United States as aforesaid, as a compensation for his said services, exclusive of his expenses incurred thereby in the said time.

The letter enclosing this report was dated the 30th June, 1790.

Dr. *The United States of America in account current with Thomas Barclay.* Cr.

| | | | |
|--|-------------------|--|-------------------|
| 1790. | | 1790. | |
| 1. To balance of account furnished to the Board of Treasury, examined and reported on by Benjamin Walker, Esq. | 74,719 2 5 | By an error on the expenses of the presents to Morocco at the custom-house of Paris, of which livres 2 19 were paid on account of the State of Virginia, | 2 19 0 |
| 2. To interest on the above sum from the 6th November, 1787, the day on which I completed six years in the service of the United States, to the 6th March, 1790, is two years and four months, at six per cent. per annum, | 8,717 0 0 | By balance due Thomas Barclay, | 96,287 7 3 |
| 3. To salary as consul in France, from the 6th November, 1787, to the 6th March, 1790, two years and four months, at \$1,000 per annum, | 11,666 13 4 | | |
| 4. Expenses paid at the custom-house in Paris on the presents which I carried to Morocco, and omitted in the account which I furnished, | 77 10 6 | | |
| 5. To amount of bills of exchange lost at sea, \$222, | 1,110 0 0 | | |
| | Livres 96,290 6 3 | | Livres 96,290 6 3 |

(Save errors.)

THOMAS BARCLAY.

NEW YORK, March 1, 1790.

The United States in account current with Thomas Barclay, as agent for concluding a treaty with the Emperor of Morocco.

Dr. Cr.

| | | | |
|--|---------------------|--|---------------------|
| To the cost of sundry articles distributed as presents at the court of Morocco, as per account current in folio 115, | 42,633 18 9 | By amount of sundry bills drawn by him on J. Adams, Esq., as per account, folio 109, | 113,602 18 1 |
| To amount of cash distributed as presents, ditto, | 12,638 16 0 | By thus much paid by John Adams, Esq. to Franks, folio 109, | 1,890 0 0 |
| To amount of expenses of every kind attending on this negotiation, (salaries excepted,) folios 31, 53, 58, 80, 95, 97, | 32,729 18 4 | By amount of your three draughts on Jefferson, folio 111, | 3,495 17 0 |
| To D. S. Franks's salary, from Sept. 7th, 1785, to 30th November, 1786, as secretary, at 150 guilders per annum, folio 34, | 4,609 5 0 | | |
| To James Mitchell's salary, as clerk, from 20th November, 1786, to 1st July, 1787, at £80 sterling per annum, f. 34, | 1,173 0 0 | | |
| To balance due the United States on this account, | 25,203 17 0 | | |
| | Livres 118,988 15 1 | | Livres 118,988 15 1 |

| DR. | <i>General account.</i> | CR. |
|--|-------------------------|---|
| | <i>Livres.</i> | <i>Livres.</i> |
| To balance due T. B. on his account current, as consul and commercial agent, 101,504 18 11 | 101,504 18 11 | By balance due on the above account current, brought down, - - - 25,203 17 0 |
| | 101,504 18 11 | By balance due on account current, errors as per account current of particulars, 633 19 6 |
| To balance due T. B. brought down, 75,667 2 5 | 75,667 2 5 | By balance due T. B. - - - 75,667 2 5 |
| | Livres 75,667 2 5 | |
| | | By a carriage sold by Mr. Bond, - 948 0 0 |
| | | Balance, - - - 74,719 2 5 |
| | | Livres 75,667 2 5 |

BENJ. WALKER.

OFFICE OF ACCOUNTS, *January 12, 1789.*

Compared with the original in the office of the Auditor of the Treasury.

WM. DUER, *Assistant Secretary.*

GENTLEMEN:

OFFICE OF ACCOUNTS, *January 14, 1789.*

Agreeably to the instructions of the Board, contained in your letter to me of the 6th of September last, I have caused an examination to be made of the accounts of Mr. Thomas Barclay; and, to render them as clear and explicit as possible, I have formed a new statement of them, charging each article of expenditure under its proper head, from whence the whole may, with ease, be carried into the books of the United States; in doing this the several charges were critically examined, and found in general regular, and as well vouched, as from the nature of them could be expected.

The book, which accompanies this, marked "*T. Barclay's accounts*," contains the statement I have mentioned; and with this I also transmit two general abstracts of his account current; the first as consul and commercial agent, the second as agent to the court of Morocco. In these, and the remarks annexed to them, the whole of the expenditures are exhibited in so clear a point of view as to render further observation unnecessary.

As the charge made by Mr. Barclay for his services and expenses appears to be the principal point left for consideration, I have thought it proper in my remarks to collect together and exhibit the whole amounts charged for each kind of service or expense. It may be proper in this place to mention that, on some part of the transactions, Mr. Barclay receives a commission. The amount of this he states to be livres 11,211 12 4; but add to this the commission he received on the captor's part of the prizes, and it will be livres 18,611 2 actually received by him, exclusive of 14,800 livres, which he alleges he paid as half commission to the persons who did the business.

Having gone through the expenditures, an attempt was made to trace the stores, and much time and labor were spent in the business without obtaining any satisfaction, other than seeing that Mr. Barclay shipped the several packages he received. From the nature of the documents exhibited, as well as the want of many essential ones, it was found impossible to ascertain if all the goods charged by the court of France were delivered, and to whom, or if all the goods shipped by Mr. Barclay, and which arrived, are accounted for. The accounts herewith marked F, G, H, I, will show how far we proceeded in this attempt.

The accounts furnished by the court of France mention not packages, but the articles and price.

Mr. Barclay receives and ships them by the package; in some instances noting the contents, in others being himself ignorant of it. Mr. Swanwick renders the sales of the goods in Philadelphia, and these sometimes mention the vessel the goods arrived in, and sometimes not; add to this, that many of the goods were opened and repacked, and different names given to the articles from what they are called by in the French account. This will appear to be the case by the account H, where articles appear shipped which never were received by Mr. Barclay. In fact, without more particular accounts, which, I fear, will not be got, little satisfaction will be had from any inquiry on the subject. I now return the accounts and vouchers,

And am, with much respect, gentlemen, your most obedient servant,

BEN. WALKER.

P. S. I should have reported on these accounts two months since, but a variety of explanations were necessary from Mr. Barclay, which I could not obtain till the last week.

B. W.

The Honorable the BOARD OF TREASURY.

Compared with the original in the office of the Auditor of the Treasury.

WM. DUER, *Assistant Secretary.*

GENTLEMEN:

NEW YORK, *March 1, 1790.*

I do myself the honor to enclose you the account current which Colonel Benjamin Walker, by order of the late Board of Treasury, stated between the public and myself, together with his report on the accounts and vouchers which I furnished to the Board.

I send you also some other accounts which I have against the United States, hoping that you will take the whole into your consideration, and decide upon them finally. The different articles are numbered, and are as follows:

1st. The balance due on the account settled by Mr. Walker contains the charge which I made for my services in Europe and Africa, and which cannot be adjusted but by your approbation. I will therefore give you a short detail of the nature of those services, from which you will be able to judge that I have been very moderate in my demand. As consul in France, I discharged the duties of the office without fee or reward of any kind whatever, and I believe perfectly to the satisfaction of every person whose business led them to the office.

As commercial agent, I travelled to various parts of France where the public effects lay; collected the supplies furnished by the court, to the amount of two millions; and, after repairing the damages which they had sustained by lying on board of ships, from whence they were relanded, I forwarded them out to America. I passed into Holland, where I remained nine months in sending the supplies from thence; and, in place of availing myself of a purchase which I made of 5,000 suits of clothing, and shipping them on my own account, at 12 shillings sterling a suit, I shipped them for that of the United States; and, to avoid paying an exorbitant freight at Amsterdam for part of the supplies that were sent out, I interested the public in the purchase of a vessel, which, if I had sent out with the clothing on my own account, would have produced me a sum greater than all the charges I have made for my six years' services. As commissioner of public accounts, I think I examined all the expenditures of the sums procured in France, Spain, and Holland, (except one from France and a part from Spain, neither of which came under my notice,) and I spent a month in England, examining and copying the books and accounts of Mr. Deane, which was not only necessary to illustrate the nature of his accounts, but those of many others. As agent to the Emperor of Morocco, I made a better treaty with him than any European Power ever made, and for one-tenth of the expense at which some of the late ones have been concluded: in short, my whole time and attention were engaged in the duties of my offices; and I have the great satisfaction to know that my conduct has been approved of by those who were very good judges of it.

2d. The next article is for interest on the accounts. I presume the settlement of this will depend on the first: for if that is right, so is this.

3d. Is for my salary as consul in France since my return from thence. I came here by permission of Congress, chiefly for the purpose of settling my accounts with the United States, and should have been very glad to have done it long ago. I have not resigned my commission, nor have I been superseded; and since my arrival from France I have not done the value of one livre of business, but have attended for the sole purpose of settling my accounts.

4th. Is for expenses paid at the custom-house in Paris on account of the presents for Morocco, which was omitted in the account delivered to the Board of Treasury. The voucher for this article accompanies the account.

5th. Amount of bills of exchange lost at sea: my right to recover this sum, which was assigned for a debt due to me, accompanies this; and I am ready to give an indemnification that the United States shall never be again called upon for these bills, which, as appears by the public books, were never paid. All the articles that I have hitherto referred to being in livres, I have held the accounts of them separate from the second account, which is for engagements made in America, and which I now have the honor of laying before you.

6th. In the month of August, 1777, I sold to Colonel Benjamin Flower, commissary of military stores, twenty packages of tin, for the use of the United States, at £39 10s. per package, which I delivered agreeable to the verbal order of Colonel Flower. This tin, I understand, was sent to Carlisle under the direction of Captain Corin, who superintended the working it up for the use of the American army. Colonel Flower often promised to settle the matter with me; but his death, and that of Captain Corin, together with my voyage to Europe, has prevented its being hitherto done. An affidavit from me respecting this article accompanies the accounts.

7th. An account of forage used at and taken from my place upon Delaware. I have nothing to add upon this article to what is contained in the certificate of Colonel Clement Biddle, deputy quartermaster general, and forage-master general, and to the affidavit enclosed.

8th. Is for articles furnished John Mitchell, deputy quartermaster general of the United States, for the use of the public. The reason given at the office of the Auditor for this demand not being adjusted, is, that the books of Mr. Mitchell are not to be found, and that it is not known whether these certificates are regularly entered in those books; objections which cannot be removed by any act of mine, and, therefore, I do not apprehend that my claim can be possibly affected by them.

9th. Is for the amount of a cask of saltpetre delivered by the order of Doctor Cutting for the use of the military hospital at the Yellow Springs. Doctor Cutting often promised to procure me payment from the public for this article. I enclose his letter to me on the subject, and I believe that the money would have been recovered from the United States long ago, had not Doctor Cutting gone to Europe.

Having thus trespassed on your patience so long, I shall only beg leave to bring to your view, that if you are satisfied with the rectitude of my accounts, you will find the following sums due to me from the public, exclusive of interest:

| | | | | | | |
|---|---|---|----------------------------------|--------|----|------------|
| On my European and African accounts, due 6th November, 1787, | - | - | - | 74,719 | 2 | 5 |
| Salary from that time to the 6th March, 1790, | - | - | - | 11,666 | 13 | 4 |
| Expenses paid at the custom-house at Paris on presents going to Morocco, due Jan. 27, 1786, | - | - | - | 74 | 11 | 6 |
| For bills of exchange lost at sea, | - | - | - | 1,110 | 0 | 0 |
| | | | | | | |
| | | | Livres tournois, | - | - | 87,570 7 3 |
| | | | | | | |
| 2dly. For tin delivered 20th August, 1777, | - | - | - | 762 | 0 | 0 |
| Saltpetre, 23d May, 1778, | - | - | - | 162 | 0 | 0 |
| | | | | | | |
| | | | Continental currency, | - | - | £924 0 0 |
| | | | | | | |
| For forage, &c. in 1776 and 1777, | - | - | - | 232 | 11 | 0 |
| Wood, the 1st February, 1780, | - | - | - | 138 | 15 | 10 |
| | | | | | | |
| | | | Specie of Pennsylvania currency, | - | - | £371 6 10 |

As the settlement of these accounts is of the utmost consequence to me, I hope you will excuse the length to which my letter has been drawn out, and give me leave to conclude,

With the greatest respect, gentlemen, your obedient servant,

THOMAS BARCLAY.

To the Hon. the BOARD OF TREASURY.

GIBRALTAR, February 8, 1793.

SIR:

In my letter No. 64 I acquainted you with the sudden death of Mr. Barclay, consul for Morocco, and with the reasons which seemed to make it indispensably necessary for me to set out for Gibraltar immediately, to take care of the public property I concluded he had left there. I also made a duplicate of that letter to be forwarded by a second conveyance. I have now the honor to inform you of my arrival, and of having found the packages

which Mr. Barclay brought from Lisbon, safely deposited in the hands of Mr. James Simpson, consul of Russia at this port.

My arrival was on Sunday last, and a few hours previous to that of the letters which brought an account of Mr. Barclay's death. Mr. Simpson, upon learning from me the event, offered all the information he might be able to give concerning the property left in his charge, without my having mentioned any thing on the subject to him. The next day we examined together such papers, accounts, and memorandums as might serve to bring me in any degree acquainted with the state of the business. It does not appear any receipt was ever given by Mr. Simpson to Mr. Barclay. I have taken a list of the above-mentioned papers, and left them enclosed under my seal in the hands of Mr. Simpson, marked thus: "to be opened by the person who shall be appointed to take charge of the effects left by the late Mr. Thomas Barclay, consul of the United States for Morocco."

I transmit with this letter the papers marked Nos. 1, 2, 3, 4, 5 and 6, in order to give you some idea of the application or expenditure of the 32,175 current guilders of Holland, received by Mr. Barclay in consequence of bills drawn by me on our bankers in Amsterdam.

I thought proper to have the boxes which contained articles of the most perishable nature opened in my presence. The velvets and muslins are in good condition, but the moths have begun to destroy the fine broadcloths, and the mildew to tarnish the silks. Although they had been kept in a very dry store, had I not arrived at this time they must have been lost. By being aired immediately, they will probably still be preserved. Damaged articles can be of no use as presents in Morocco. I mention this circumstance to suggest the expediency of having some person speedily appointed to take charge of the effects in question.

With sentiments of perfect respect and esteem, I have the honor to be, &c.

D. HUMPHREYS.

P. S. I have only taken from among Mr. Barclay's papers two ciphers, which I shall hold subject to your orders.

The SECRETARY OF STATE.

DEAR SIR:

NEW HAVEN, *December 18, 1807.*

I received your letter of the 9th instant last evening; that of the 23d ultimo has not come to hand.

I hasten to inform you that, according to the best of my recollection, your father did apply a considerable part of the \$12,870 for which he received at Lisbon a draught on the bankers of the United States in Amsterdam, in the autumn of 1791, to the purchase of goods of various kinds, to be given (in conformity to his instructions) on the behalf of the United States, to the Emperor of Morocco and the other Barbary Powers, for the purpose of opening or maintaining friendly relations with them; that I fully believe he expended further considerable sums in attempting to go to Africa and carry into effect the said mission, by hiring vessels, &c.; and that, at the time of his death, there were a variety of valuable goods belonging to the said United States deposited by him at Gibraltar. I have it further in remembrance, that a quantity of goods, suitable for presents to the Barbary Powers thus purchased by him were afterwards shipped from Gibraltar for Alicant, with an intention of their being presented to the Dey of Algiers, whose refusal to treat at that time occasioned their being left with and receipted for by Mr. Robert Montgomery, consul at Alicant; while another parcel of said goods remained in the charge of Mr. James Simpson, agent at Gibraltar.

I am sorry, at this distance of time, I am unable to be more particular in my information; but conceive some further light may be afforded respecting these transactions, by your having recourse to my correspondence at that period, which will be found in the office of the Secretary of State. Although that correspondence not having been especially designed to state the pecuniary arrangements and expenditures at large of your father, it cannot be supposed to have had a complete reference to those objects.

I remain, dear sir, with due consideration, your most obedient servant,

D. HUMPHREYS.

Mr. ROBERT BARCLAY, at *Washington.*

Extract of a letter from Colonel Humphreys, minister plenipotentiary of the United States at Lisbon, to the Secretary of State, dated

LISBON, *November 22, 1791.*

Having met with inevitable disappointments and delays until this time, Mr. Barclay has engaged his passage for Morocco. The vessel will sail without loss of time. Mr. Barclay has, some time since, written to the Governor of Tangier and the secretary of the Emperor, (by circuitous conveyances,) to announce his coming, and to apologize for the unavoidable delay. Mr. Barclay has purchased every article he supposes he shall have occasion for. The assortment, I believe, is made with judgment. He received some useful advice on this subject from the secretary of the late Portuguese embassy to Morocco. I have the honor to enclose to you Mr. Barclay's receipt to me for the whole amount of the sum I was authorized to draw for this business, viz. 32,175 current guilders of Holland. Not a farthing of the money has ever been in my hands. Mr. Barclay having received it from the hands of Messrs. John Bulkeley & Son, (my bankers here,) to whom I gave draughts to the amount on Messrs. Wilinks, Van Staphorst, & Hubbard, according to your order, and directed them on the face of the bills to charge it to the fund of March 3d, 1791.

COPY.

LISBON, *November 10, 1791.*

"Received from Colonel Humphreys 7,000 Spanish dollars, and 3,931 mill 610 reas, on account of the United States, being the amount of Colonel Humphreys, his bills on the Commissioners of Loans in Holland, for 32,175 current guilders, and for which I have given Colonel Humphreys three receipts of this tenor and date."

THOMAS BARCLAY.

In a subsequent letter from Colonel Humphreys to the Secretary of State, dated February 8, 1793, there was sent to this Department the "copy of a memorandum found among Mr. Barclay's papers, on expenditure of money he received from Messrs. John Bulkeley & Son," the sum referred to in his receipt to Colonel Humphreys; from which it appears that there remained in his hands, at the time of his death, the sum of five hundred and sixty-two Mexican dollars.

DANIEL BRENT.

There is an account of the expenditure of the sum mentioned in the above letter, in the office of State, leaving the above balance.

Copy of a memorandum found among Mr. Barclay's papers, in his own hand-writing: no date or signature.

| | | | | | | | |
|---|---|---|---|---|---|--------------|-----------------------------|
| No. 1, | Stack & Connor, account sundries, | - | - | - | - | 1,957 347 | |
| | Deduct, paid the distiller, | - | - | - | - | 1 230 | |
| | " porterage of a bed, | - | - | - | - | 120 | |
| | | | | | | <u>1 350</u> | 1,955 997 |
| " 2, | Widow Galver & Co. | - | - | - | - | | 503 590 |
| " 3, | Four boxes of wax lights, | - | - | - | - | | 41 200 |
| " 4, | Chocolate, included in Stack & Connor's accounts. | - | - | - | - | | |
| " 5, | Perfumes, | - | - | - | - | | 44 580 |
| " 6, 7, | Liquors, | - | - | - | - | | 91 345 |
| " 8, | Capillaire and orgeat, | - | - | - | - | | 82 820 |
| " 9 to 12, | China, | - | - | - | - | | 25 160 |
| " 13, 14, | Coffee, | - | - | - | - | | 117 355 |
| " 15, 16, | Sugar, | - | - | - | - | | 318 950 |
| " 17, | Cinnamon water and angelica, | - | - | - | - | | 23 880 |
| " 18, | Three couteaux, | - | - | - | - | | 30 000 |
| " 19, | China, | - | - | - | - | | 17 100 |
| " 20, | Three rings, | - | - | - | - | | 28 600 |
| " 21, | Couteau, knives and forks, | - | - | - | - | | 9 150 |
| " 22, | Watchmaker's account, | - | - | - | - | | 15 560 |
| " 23, | Mr. Harrison's account, | - | - | - | - | | 86 607 |
| | | | | | | | <u>3,391 894</u> |
| | Two silver watches, 9 600 each, | - | - | - | - | | 19 200 |
| | One pinchbeck watch, | - | - | - | - | | 9 600 |
| | Two silver chains, 2 000 each, | - | - | - | - | | 4 000 |
| | One pinchbeck chain, | - | - | - | - | | 1 500 |
| | One chain in imitation of pearl, | - | - | - | - | | 3 400 |
| | One woman's gold cased watch, | - | - | - | - | | 45 800 |
| | One elegant gold watch, | - | - | - | - | 87 782 | |
| | Gold chain, | - | - | - | - | 38 166 | |
| | Gold key, | - | - | - | - | 4 000 | |
| | | | | | | | <u>129 948</u> |
| | An elegant sword, handle inlaid with gold, | - | - | - | - | | 106 864 |
| | Two swords of inferior kind, one of 30, and the other of 10, | - | - | - | - | | 40 000 |
| | One gold box with diamonds in the lid, with a musical instrument in it, | - | - | - | - | | 200 000 |
| | | | | | | | <u>3,952 206</u> |
| Received from Messrs. Bulkeley & Son, | - | - | - | - | - | | 3,931 610 |
| Balance in my favor, | - | - | - | - | - | | 20 596 |
| Paid Peter Miller his account for sundries, | - | - | - | - | - | | 2 650 |
| | | | | | | | <u>Milreas, 23 246</u> |
| | | | | | | | <i>Mexican dollars.</i> |
| Received from John Bulkeley & Son, | - | - | - | - | - | | 7,000 |
| One year's salary, | - | - | - | - | - | | 2,000 |
| On account of expenses, | - | - | - | - | - | | 1,000 |
| Carried to Gibraltar, | - | - | - | - | - | | 4,000 |
| | | | | | | | <u>7,000</u> |
| | | | | | | | <i>Account of expenses.</i> |
| Received the above mentioned, | - | - | - | - | - | | 1,000 |
| Paid sea-stores in America, | - | - | - | - | - | | 10 |
| Passage, | - | - | - | - | - | | 86 |
| To the cook and cabin boy, | - | - | - | - | - | | 5 |
| | | | | | | | <u>101</u> |
| Sea-stores from Oporto. | - | - | - | - | - | | 16 |
| Passage, | - | - | - | - | - | | 1 |
| Cabin boy, | - | - | - | - | - | | 17 |
| | | | | | | | <u>300</u> |
| From Lisbon to Gibraltar, | - | - | - | - | - | | 20 |
| Paid for a passage to Tangier, when I relanded my things and did not proceed, | - | - | - | - | - | | |
| | | | | | | | <u>438</u> |
| Remain in my hands on this account, | - | - | - | - | - | | <u>562</u> |

We have examined the foregoing, with its original, at Gibraltar, this 8th February, 1793.

D. HUMPHREYS,
JAMES SIMPSON.

10th CONGRESS.]

No. 186.

[1st SESSION.

COMPENSATION FOR PURSUING AND TAKING A MAIL ROBBER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 9, 1808.

GENERAL POST OFFICE, *January 8, 1808.*

The POSTMASTER GENERAL, in obedience to the resolution of the House of Representatives, passed on the 2d day of December, 1807, by which he was directed to examine the memorial of Samuel Whiting, of the city of Albany, and report his opinion on the same, begs leave respectfully to represent:

That he has examined the said memorial, and the evidence offered in support of the same, part of which was transmitted with the resolution, and the rest had some time previously been deposited in the General Post Office. That he finds the facts stated in said petition substantially correct and true. In particular, that there has been transmitted to the General Post Office evidence that the bail of the said Deming paid into the circuit court of the United States, at Boston, at that term, in June, 1806, two thousand five hundred dollars, for the benefit of the United States, being the forfeiture incurred by the non-appearance of the said Deming on the prosecution aforesaid; which evidence is herewith transmitted.

He further reports, that, after the robbery, and before the detection of the offender, he had a personal interview with the memorialist, and urged him to pursue his inquiries, and assured him that he should be indemnified his expenses; and, in consequence of such assurance, as well as of the justice of the claim, he has, from the General Post Office, paid to Mr. Whiting, for his time and expenses, \$496 77, which, including \$29 50 received by him from the marshal of Massachusetts, as a witness, has been considered by this office as a remuneration to Mr. Whiting for his actual expenses, and for his time devoted to this business.

Mr. Whiting, in his account, charges five dollars per day for his services. The allowance made by this office was at the rate of three dollars and sixty-six cents per day, which is believed to be a sufficient compensation, and is the highest sum which is allowed to our agents.

The Postmaster General further reports, that he did not consider himself authorized to allow the other claims of Mr. Whiting. As it relates to the three hundred dollars reward for detecting an offender, he did not feel himself authorized to grant it, because it was offered on the express terms of procuring a conviction; and, although, the offender was discovered, held to bail, and fled, and his sureties had paid the amount of their recognizance, yet, in the legal sense of the term, he believed that there had not been a conviction.

As it relates to the other items, they were rejected, because their allowance must have been grounded on the principle that the General Post Office was an office of insurance, and guaranteed the regular and certain transmission of all things confided to its care; a principle, the introduction of which has never been admitted in this (and it is believed not in any other) nation, and which, if admitted under the present Post Office laws, might be highly injurious under the particular circumstances of the case. In point of justice, Mr. Whiting appears to be entitled to \$47 42 for interest, \$41 25 for commission, deducted from his moneys by his attorneys; and \$54 80 for costs and fees paid by him on his private suits to recover the money lost; making, in the whole, \$143 47. And in point of policy, he appears also to be entitled to the reward of \$300, which was offered for the detection and conviction of the offenders, as he certainly deserves high credit for his exertions; has discovered an offender, who might have done vast mischief; and, by his efforts, has actually placed in the treasury, over and above all public expenses, at least the sum of \$1,800.

All which is most respectfully submitted.

GIDEON GRANGER, *Postmaster General.*

10th CONGRESS.]

No. 187.

[1st SESSION.

ADDITIONAL COMPENSATION TO THE COMMISSIONERS ON LAND CLAIMS WEST OF PEARL RIVER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1808.

Mr. BOYLE, from the Committee of Public Lands, to whom was referred a resolution directing them to inquire into the expediency of allowing additional compensation to the board of commissioners appointed for the purpose of ascertaining claims to land west of Pearl river, in the Mississippi Territory, made the following report:

That by a law approved the 3d of March, 1803, Congress established the above-mentioned board of commissioners, to consist of the Register of the Land Office for the district, and two other persons to be appointed by the President of the United States. Their duties were to commence on or before the first day of December in the same year, and they were not to adjourn for a longer time than three days, until the 1st of April, 1804, and until they had completed the business of their appointment. To each of them was allowed a compensation of two thousand dollars, which at that time was supposed to be adequate to the completion of the business. But at the succeeding session, Congress being informed that it was probable the commissioners would be unable to complete the business of their appointment within a period for which the two thousand dollars were thought to be a just remuneration, by a law, approved the 27th of March, 1804, allowed to each of them an additional compensation of six dollars for every day he should attend after the last day of November next thereafter; with a limitation, however, that the additional compensation to each should not exceed two thousand dollars. This limitation was evidently predicated upon a supposition that the business could be completed within a year, or less, from the time when the additional compensation

was to commence, and was probably intended to operate as a stimulus in producing that effect. But either the supposition that the business could be completed within that time was erroneous, or the means taken to effect it insufficient for that purpose; and Congress again, by an act approved the 21st of April, 1806, allowed a further compensation of six dollars to each commissioner for every day he should attend after the 1st day of April in the then current year, but with a limitation predicated upon principles similar to the former, that the additional allowance to each should not exceed five hundred dollars. It is alleged that the commissioners were employed in completing the business a longer time than is covered by the five hundred dollars. This sum, at the rate of six dollars a day, would be exhausted in eighty-four days; and an additional compensation is now claimed at the same rate for every day they were employed beyond that period. The committee are informed that the board did not finally adjourn until the 3d day of July, 1807. But how many days it sat, or how many each member attended, their proceedings not having been returned to the Secretary of the Treasury, it was not in the power of the committee to obtain information. Had this information been obtained, it was apprehended that no precise and accurate expense could thence be deduced as the number of days actually employed in their business as commissioners, because they might have met on some days for the mere purpose of complying with the provision in the law forbidding them to adjourn for more than three days, and then have adjourned, that they might attend to their private concerns, or other public duties, if they had any. Believing that it might tend to throw some light upon this subject and lead to a just decision, to know whether the commissioners were employed in other public functions during the time for which they claim additional compensation as commissioners, and what are the salaries and emoluments affixed by law to such public functions, the committee directed application to be made to the proper Department for this information. They have learned, as the result of this application, that one of the commissioners was the Governor, and another a judge of the Mississippi Territory, and that each of them has received, in addition to his compensation as commissioner, the salary affixed by law to his office. That the third was Register of the Land Office for the district, and ex officio commissioner, and has received, and is entitled to receive, in addition to his compensation as commissioner, the salary annexed to the office of Register, being five hundred dollars, and the commission of one per cent. upon the money received from the sale of the public lands, amounting to about three hundred dollars; and, moreover, that he was, during the period for which additional compensation is claimed, two or three months Secretary of the Territory, and is entitled to receive for that time the salary affixed by law to that office. The committee find it impracticable to determine, from any information attainable by them, what portion of the time of the commissioners was bestowed upon their duties as commissioners and upon their other public functions, respectively; but believing that they have been amply remunerated for their whole time employed in public service, they submit the following resolution to the consideration of the House:

Resolved, That it is inexpedient to allow any additional compensation to the commissioners appointed to ascertain the claims to land west of Pearl river, in the Mississippi Territory.

SIR:

TREASURY DEPARTMENT, *November 17, 1807.*

I have the honor to enclose an extract of a letter from Thomas H. Williams, Register of the Land Office west of Pearl river, in the Mississippi Territory, and late one of the commissioners for settling land claims in that district. The last compensation allowed to the commissioners was at the rate of six dollars a day from the 1st day of April, 1806, but not to exceed five hundred dollars in the whole; which last provision seems to have been predicated on a supposition that the board need not sit more than eighty-four days. The board adjourned only on the 3d July, 1807. How many days they sat, and how many days each of the commissioners attended beyond the eighty-four days, is not known. But the application is for an allowance at the rate of six dollars a day for each day's actual attendance.

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

ALBERT GALLATIN.

Honorable Mr. BOYLE, *Chairman Land Committee in Congress.*

Extract of a letter from Thomas H. Williams, Esq. to the Secretary of the Treasury, dated

WASHINGTON CITY, *November 2, 1807.*

On the 3d of March, 1803, Congress passed a law organizing the board of commissioners, defining its duties, and fixing its compensation. Its sessions were to commence on the 1st day of December, 1803, and it was then supposed that the business would be finished in from eight to twelve months. The compensation allowed was \$2,000 to each commissioner. So far, however, was the business from being completed at the expiration of the year, that very little progress was made in it; and hence it became necessary to pass a second law, which was accordingly done on the 27th March, 1804. By this law the commissioners were allowed six dollars for every day's attendance at the board, with a restriction, however, that the entire compensation to any one commissioner should not exceed \$2,000. This law also enacted that the board should not adjourn for more than three days until the business was accomplished. The impression of Congress at the passage of this law evidently was, that the business would be wound up in the course of the year. Herein they were again mistaken; and, consequently, passed another law on the 21st of April, 1806, which provided that each commissioner, from and after the 1st day of April of the then current year, should receive at the rate of six dollars for every day's attendance at the board, with a limitation that the compensation for each should not exceed 500 dollars; calculating, no doubt, that this sum, at the rate of six dollars per diem, would cover all the time they would be employed in the business. The fact, however, turns out to be otherwise; and compensation is now claimed for the time the board was employed posterior to that period contemplated for the final completion of the objects of its institution.

There can be no doubt, from the complexion of those several acts, that Congress intended to allow the commissioners at the rate of six dollars per diem for the whole time they should attend at the board; and that the reason why adequate provision has not been heretofore made was the impossibility of foreseeing the time which would be requisite for a consummation of the duties assigned them. This difficulty being now removed, (the board having adjourned finally on the 3d of July last,) we confidently hope that we have only to name our case to insure us competent provision; for I really take it for granted our claim is of that strong cast whose justice and equity would be weakened by comments.

SIR:

TREASURY DEPARTMENT, *December 10, 1807.*

Of the three commissioners for the district west of Pearl river, Robert Williams, as Governor, and Thomas Rodney, as one of the judges of the Mississippi Territory, have received the salaries affixed by law to these several offices, in addition to their compensation as commissioners.

Mr. Thomas H. Williams, the Register of the Land Office, and, by virtue of that office, third commissioner, has received the salary and emolument of register, besides the compensation of commissioner. The salary is five hundred dollars a year; the emoluments, or commission of one per cent. on moneys received, has amounted to about \$300, on account of moneys received from persons having right of pre-emption. The services rendered as register, including the keeping the books, issuing certificates, &c. in relation to those lands, and particularly in making numerous returns to this Department, according to forms furnished for that purpose, of all the transactions of the board, in a manner which might connect the business done by the Board with the subsequent sales of lands, and give us a general view of the whole, can hardly be considered as having been compensated by the allowance received by that officer as register.

Mr. T. H. Williams has also, during the period mentioned in your letter, viz: between 1st April, 1806, and 4th of July, 1807, held the office of Secretary of the Territory, or rather received the emoluments of that office, at the rate of \$750 a year, during two months, viz. from 1st April, to 2d June, 1806. He had resigned, some time before, the last mentioned office, alleging that he could not fulfil as he wished to do it its duties, and those of commissioner. At his request a successor was accordingly appointed; but Mr. Williams continued to act and receive pay till the arrival of that gentleman, viz. 2d June, 1806. When Mr. Mead was removed from office, it being believed that, as the board was expected every day to adjourn, Mr. Williams's former objection could no longer exist, he was re-appointed Secretary; his commission bears date 1st June, 1807. I do not know precisely when he began to act; but he could not have received the commission till after the board of commissioners had adjourned; and he has not yet made any claim on that account.

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

ALBERT GALLATIN.

Hon. JOHN BOYLE, *Chairman of the Committee on Public Lands.*

10th CONGRESS.]

No. 188.

[1st Session.]

INDEMNITY FOR LOSS SUSTAINED BY THE INSOLVENCY OF THE MARSHAL OF MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 30, 1808.

Mr. HOLMES, from the Committee of Claims, to whom was referred the memorial of Ferdinand Mullenheim, by Anthony Lamarleré his agent, made the following report:

The memorialist represents that he was the owner of a certain vessel called the *Nymph*; that, in the year 1799, the said vessel, at Port de Paix, in the island of St. Domingo, was laden with a cargo of coffee, sugar, and logwood, bound from thence to the island of St. Thomas, where the memorialist resides, and was commanded by a certain William Smith; that the said commander ran away with the vessel and cargo, and put into the port of Norfolk, in the State of Virginia, where he landed a part of the said cargo, and paid the duties thereon; he took a clearance from thence to St. Thomas's; instead of going there, he put into a creek in St. Mary's county, in the State of Maryland, and there attempted to smuggle the remainder of the cargo. In this he was detected; and the vessel, with part of the cargo, was seized, libelled, and condemned. The proceeds of the sale were committed to the hands of the marshal of Maryland. Upon a representation of the case to the Secretary of the Treasury, the proceeds of the sale, after deducting the amount of duties and costs, were directed to be remitted. Previous to this, however, the informer had received his reward, and the remainder of the proceeds could not be obtained, because the marshal had died insolvent, and no bond for the performance of his duty could be found. The memorialist prays for relief. Your committee are of opinion that, as the remission of the proceeds of the sale, after deducting the amount of duties and costs, was merely an act of favor, the Government are not bound to make good the loss which the memorialist sustained in consequence of the casualties stated by him in his memorial. The following resolution is therefore submitted:

Resolved, That the prayer of the petition of Ferdinand Mullenheim, by Anthony Lamarleré his agent, ought not to be granted.

10th CONGRESS.]

No. 189.

[1st Session.]

CLAIM OF THOMAS PAINE FOR REVOLUTIONARY SERVICES.

COMMUNICATED TO THE SENATE, FEBRUARY 1, 1808.

To the honorable the Senate of the United States:

NEW YORK, *January 21, 1808.*

The purport of this address is to state a claim I feel myself entitled to make on the United States, leaving it to their representatives in Congress to decide on its worth and its merits. The case is as follows:

Towards the latter end of the year 1780, the continental money had become so depreciated, a paper dollar not being more than a cent, that it seemed next to impossible to continue the war.

As the United States were then in alliance with France, it became necessary to make France acquainted with our real situation. I therefore drew up a letter to Count de Vergennes, stating undisguisedly the true case; and con-

cluding with the request, whether France could not, either as a subsidy or a loan, supply the United States with a million sterling, and continue that supply, annually, during the war.

I showed the letter to Mr. Marbois, secretary to the French minister. His remark upon it was, that a million sent out of the nation exhausted it more than ten millions spent in it. I then showed it to Mr. Ralph Isard, member of Congress for South Carolina. He borrowed the letter of me, and said, "We will endeavor to do something about it in Congress."

Accordingly Congress appointed Colonel John Laurens, then aid to General Washington, to go to France and make representation of our situation, for the purpose of obtaining assistance. Colonel Laurens wished to decline the mission, and that Congress would appoint Colonel Hamilton; which Congress did not choose to do.

Colonel Laurens then came to state the case to me. He said he was enough acquainted with the military difficulties of the army, but that he was not enough acquainted with political affairs, nor with the resources of the country, to undertake the mission; "but," said he, "if you will go with me, I will accept it;" which I agreed to do, and did do.

We sailed from Boston in the Alliance frigate, Captain Barry, the beginning of February, 1781, and arrived at L'Orient the beginning of March. The aid obtained from France was six millions of livres as a present, and ten millions as a loan, borrowed in Holland, on the security of France. We sailed from Brest in the French Resolute frigate the 1st of June, and arrived at Boston the 25th of August, bringing with us two millions and a half of livres in silver, and convoying a ship and a brig laden with clothing and military stores. The money was transported in sixteen ox teams to the National Bank at Philadelphia, which enabled the army to move to Yorktown to attack, in conjunction with the French army under Rochambeau, the British army under Cornwallis. As I never had a cent for this service, I feel myself entitled, as the country is now in a state of prosperity, to state the case to Congress.

As to my political works, beginning with the pamphlet *Common Sense*, published the beginning of January, 1776, which awakened America to a declaration of independence, as the President and Vice President both know, as they were works done from principle, I cannot dishonor that principle by asking any reward for them. The country has been benefited by them, and I make myself happy in the knowledge of it. It is, however, proper to me to add, that the mere independence of America, were it to have been followed by a system of Government, modelled after the corrupt system of the English Government, it would not have interested me with the unabated ardor it did. It was to bring forward and establish the representative system of Government, as the work itself will show, that was the leading principle with me in writing that work, and all my other works during the progress of the revolution. And I followed the same principle in writing the *Rights of Man*, in England.

There is a resolve of the old Congress, while they sat at New York, of a grant of three thousand dollars to me. The resolve is put in handsome language, but it has relation to a matter which it does not express. Elbridge Gerry was chairman of the committee who brought in the resolve. If Congress should judge proper to refer this memorial to a committee, I will inform that committee of the particulars of it.

I have also to state to Congress, that the authority of the old Congress was become so reduced towards the latter end of the war, as to be unable to hold the States together. Congress could do no more than recommend, of which the States frequently took no notice; and, when they did, it was never uniformly.

After the failure of the five per cent. duty recommended by Congress, to pay the interest of a loan to be borrowed in Holland, I wrote to Chancellor Livingston, then Minister for Foreign Affairs, and Robert Morris, Minister of Finance, and proposed a method for getting over the whole difficulty at once; which was, by adding a continental Legislature to Congress, who should be empowered to make laws for the Union, instead of recommending them; so the method proposed met with their full approbation. I held myself in reserve, to take the subject up whenever a direct occasion occurred.

In a conversation afterwards with Governor Clinton, of New York, now Vice President, it was judged that, for the purpose of my going fully into the subject, and to prevent any misconception of my motive or object, it would be best that I received nothing from Congress, but leave it to the States individually to make me what acknowledgment they pleased.

The State of New York made me a present of a farm, which, since my return to America, I have found it necessary to sell; and the State of Pennsylvania voted me five hundred pounds, their currency. But none of the States to the east of New York, or the south of Philadelphia, ever made me the least acknowledgment. They had received benefits from me, which they accepted, and there the matter ended. This story will not tell well in history. All the civilized world know I have been of great service to the United States, and have generously given away talent that would have made me a fortune.

I much question if an instance is to be found in ancient or modern times of a man who had no personal interest in the cause he took up, that of independence and the establishment of a representative system of Government, and who sought neither place nor office after it was established, that persevered in the same undeviating principles as I have done, for more than thirty years, and that in spite of difficulties, dangers, and inconveniences, of which I have had my share.

THOMAS PAINE.

[NOTE.—See No. 196.]

10th CONGRESS.]

No. 190.

[1st SESSION.]

INDEMNITY FOR THE ILLEGAL CAPTURE AND SUBSEQUENT LOSS OF A SHIP AND CARGO BY A NAVAL OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1808.

Mr. HOLMES, from the Committee of Claims, to whom was referred the petition of Jared Shattuck, a subject of the King of Denmark, and a report of the Secretary of State thereon, made the following report:

That this petition was presented to the House on the 28th day of March, 1806; that on the same day it was referred to the Secretary of State, "with instruction to examine the same, and report his opinion thereupon to the House." That, on the 12th day of April, 1806, the Secretary of State made a report thereon.*

* See No. 175.

All the material facts in the case appear to be stated in the said report; and the committee, on examination, are unable to distinguish this case from others, in which Congress have granted relief; they, therefore, concur in the opinion expressed by the Secretary of State, and do accordingly recommend to the House the following resolution:

Resolved, That the prayer of the petition of Jared Shattuck is reasonable, and ought to be granted.

Opinion and decree of the Supreme Court.

MALAY vs. SHATTUCK, and SHATTUCK vs. MALAY.

In this case each party has appealed from the sentence of the circuit court. Malay complains of that sentence, because it subjects him to damages and costs, for the value of the *Mercator* and her cargo, first captured by him, and afterwards taken out of his possession, by a British privateer; and because, also, some items are admitted into the account taken for the purpose of ascertaining the sum for which he is liable, which ought to be excluded from it. Shattuck complains of the sentence, because he was not allowed by the circuit court all the items contained in the report, to the whole of which he thinks himself entitled.

In discussing the right of Shattuck to compensation for the *Mercator* and her cargo, the first question which presents itself is, were that vessel and cargo really his property?

Without reciting the various documents filed in the cause, it will be admitted that they demonstrate the affirmative of this question, unless the court be precluded from looking into them by the sentence in *Jamaica*, condemning the ship and cargo as lawful prize.

On the conclusiveness of the sentence of a foreign court of admiralty, it is not intended now to decide. For the present, therefore, such sentence will be considered as conclusive to the same extent which is allowed to it in the courts of Great Britain. But in those courts it has never been supposed to evidence more than its own correctness; it has, consequently, never been supposed to establish any particular fact, without which the sentence may have been rightly pronounced. If, then, in the present case, the *Mercator* with her cargo may have been condemned as prize, although, in fact, they were both known to be the property of a neutral, then the sentence of condemnation does not negative the averment that they both belonged to Jared Shattuck.

It is well known that a vessel libelled as enemy property is condemned as prize if she act in such manner as to forfeit the protection to which she is entitled by her neutral character. If, for example, a search be resisted, or an attempt be made to enter a blockaded port, the laws of war, as exercised by belligerents, authorize a condemnation as enemy property, however clearly it may be proved that the vessel is in truth the vessel of a friend. Of consequence, this sentence being only conclusive as to its own correctness, leaves the fact of real title open to investigation. This positive impediment to inquiry being removed, no doubt upon the subject can be entertained.

It being proved that the *Mercator* and her cargo belonged to Jared Shattuck, who, though born in the United States, had removed to the island of St. Thomas, and had acquired all the commercial rights of his domicile before the occurrence of those circumstances which occasioned the acts of Congress under which this seizure is alleged to have been made, the case of the *Charming Betsey* determines that the vessel and cargo were not liable to forfeiture under those acts.

It remains then to inquire whether the *Mercator* appeared under such circumstances of suspicion as to justify her seizure. On this point, too, the authority of the *Charming Betsey* appears to be decisive. In both cases the vessel was built in America, and had been recently sold to a person born in the United States, who had become a Danish burgher before the rupture between this country and France, and both cases present the same circumstances of suspicion derived from the practice of the island to cover American as Danish property. The points of dissimilitude are, that in the *Charming Betsey* the captain and crew were of a description to give greater suspicion than the captain and crew of the *Mercator*, and in the *Charming Betsey* was found a *procès verbal* which stated facts unfavorable to that vessel; whereas no similar paper was found in the *Mercator*. The only circumstance of suspicion attending the *Mercator* which did not belong to the *Charming Betsey* is, that she was bound to Port au Prince, and was taken entering the port of Jacquemel. This circumstance appears to be sufficiently accounted for; but if it was not, the court can perceive in it no evidence of her being American property, which can weigh against the testimony offered by the papers that she was Danish. The documents on this point, which were thought decisive in the case of the *Charming Betsey*, exist in this case also. The information of the captain, uncontradicted by any of his crew, in this case, as in that, is corroborated and confirmed by the documents on board the vessel.

The only paper, the absence of which could be important, was an authenticated burgher's brief, proving the captain to have been a Danish subject. How far the absence of this paper might have justified a suspicion in a belligerent that she was enemy property, so as to excuse from damages for capture and detention, according to the usages of belligerents, the court will not undertake to determine; but it was a casualty which is not sufficient to justify a suspicion that the vessel was American. The burgher's brief is stated to have been in possession of the captain, but is supposed not to have been produced, and consequently it could have no influence on Lieutenant Malay; however this may be, no inquiry respecting it was made, and he does not appear to have suggested any difficulty on that ground.

Unquestionably Lieutenant Malay had a right to stop and to search the *Mercator*, and to exercise his judgment on the propriety of detaining her; but, in the exercise of that judgment, he appears to have come to a decision not warranted by the testimony presented to him. The circumstances of suspicion arising in the case were not sufficiently strong to justify the seizure which was made.

But it is obvious that Lieutenant Malay suspected the *Mercator* to be a French, not an American vessel. In his answer, he says that he mistook the captain for a Frenchman; in his letter of instructions, he speaks of the vessel as a prize; and in the protest of the American prize-master, she is denominated "a French prize." From these circumstances combined, it is supposed to be sufficiently apparent that the mistake, committed by Lieutenant Malay, was, in supposing the *Mercator* to be a French vessel, liable to capture under the laws of the United States.

The argument of the attorney general that Lieutenant Malay is not liable for this loss, because it was produced by a superior force, which it was not in his power to resist, would have great weight, if the circumstances, under which the *Mercator* appeared, had been such as to justify her seizure. But the court is not of that opinion, and, consequently, that argument loses its application to this case.

Neither is it conceived that the failure of Shattuck to appeal in time destroys his claim on Lieutenant Malay. He had certainly a right to abandon if he chose to do so, and to resort to the captor for damages.

In the opinion given in the circuit court that the libellant was entitled to compensation for the Mercator and her cargo, this court can perceive no error; but in so much of the report of the commissioners appointed to adjust the account, as is affirmed, some unimportant inaccuracies appear. In its circumstances this case so strongly resembles that of the *Charming Betsey*, that the court will be governed by the rule there laid down. In pursuance of that rule, the rejection of the premium for insurance, that premium not having been paid, is approved; but the rejection of the claim for outfits of the vessel, and the necessary advance to the crew, is disapproved. Although the general terms used in the case of the *Charming Betsey* would seem to exclude this item from the account, yet the particular question was not under the consideration of the court, and it is conceived to stand on the same principles with the premium of insurance if actually paid, which was expressly allowed. But this claim is nearly balanced by two items in the account which were admitted, as this court thinks, improperly.

One is the charge of \$540 for the expense of soliciting compensation from the United States; the court can perceive no reason for charging this expense to Lieutenant Malay.

The other is the charge of \$326 12, the account of Ross & Hall, for expenses in England.

Had the appeal been prosecuted in time by Shattuck, it is scarcely possible to doubt but that the sentence of the court in Jamaica would have been reversed, in which case it would have been reasonable that the expense of the prosecution should have been paid by Lieutenant Malay. But as it was not prosecuted in time, in consequence of which the proceeds of the vessel and cargo were lost, it is not conceived that Lieutenant Malay ought to be charged with the costs of a subsequent ineffectual attempt, not made at his instance, to repair the original neglect. What may be the claim of Shattuck on the Government of the United States for this sum is not for this court to inquire, but his claim against Lieutenant Malay is not admitted.

DECREE.

This court affirms so much of the sentence of the circuit court as awards compensation for the Mercator and her cargo to the libellant, and approves of the sentence on the report of the commissioners, except as to that part which rejects the claim for advances for the outfits of the vessel, and the wages of the crew; and which admits the charges of \$540 on account of the expenses attending the application to the Government of the United States, and of \$326 12 on account of expenses attendant on the ineffectual attempt which was made to prosecute an appeal in England. In these respects the account is to be reformed; for which purpose so much of the sentence of the circuit court as respects this part of the subject is reversed, and the case is remanded to the circuit court, to be further proceeded in as to justice shall appertain. Each party to pay his own costs in this court.

Afterwards the following agreement was filed, and, by consent of parties, by their counsel, was made a part of the sentence and decree of this court, viz:

"It is agreed in these cases, that the account stated on the other side is correct according to the decree of this court, in these cases rendered; and that a final decree be made by this court awarding to the libellant, the said Jared Shattuck, the payment of \$33,864 55, by the said William Malay, in full for damages and restitution in these cases decreed."

JOHN BRECKENRIDGE, *of counsel for Malay.*
ROBERT G. HARPER, *of counsel for Shattuck.*

10th CONGRESS.]

No. 191.

[1st Session.]

CLAIMS OF CERTAIN INHABITANTS OF KNOX COUNTY, KENTUCKY, FOR PROPERTY DESTROYED BY MILITARY FORCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1808.

Mr. HOLMES, from the Committee of Claims, to whom was referred the petition of sundry inhabitants of Knox county, in the State of Kentucky, praying compensation for the losses they sustained by the military of the United States, in the year 1801, made the following report:

The treaty between the United States and the Cherokee nation of Indians, called the treaty of Holston, was made in the year 1791, and contains, in the article describing the boundary between the citizens of the United States and the said Indian nation, the following words: "Thence up the river Clinch, to Campbell's line, and along the same to the top of Cumberland mountain; thence a direct line to the ford of Cumberland river, where the Kentucky road crosses it." It appears that the line last called for had not been run by authority previous to the petitioners making their settlements on Yellow creek. They, in order to know how to make them so as to avoid any encroachment upon the Indian lands, employed a surveyor to run the line from where the course of Campbell's line struck the top of Cumberland mountain to the ford of Cumberland river, by which survey it appeared that the lands whereon they afterwards settled were within the United States' boundary line, established, as they supposed, by the treaty aforesaid. They continued to dwell unmolested for several years on these lands; but, when the said line was run by authority of Government, it appeared that Campbell's line ended on the top of the Double Mountain, which is two hundred and ninety poles short of the top of Cumberland Mountain, and that, by closing the line from the top of the Double Mountain to the ford of Cumberland river, the petitioners were included in the Indian boundary line. They were afterwards removed, in pursuance of authority given by a law of Congress, and their settlements entirely destroyed by the troops of the United States. In the year 1803, Return J. Meigs, Esq. was directed by the Secretary of War to examine into the matter, and estimate the loss of the petitioners; he made a favorable report to the Secretary, which is herewith presented. It appears to your committee that, as the petitioners took the best method in their power to ascertain their right to make settlements when they did, it is not material whether it was the intention of the treaty that the closing line should be run from the end of Campbell's line, or the real top of Cumberland Mountain. The words of the article are calculated to convey the idea of the latter being the true point. The following resolution is therefore submitted:

Resolved, That the prayer of the petition of sundry inhabitants of Knox county, in the State of Kentucky, is reasonable, and ought to be granted.

SIR:

SOUTHWEST POINT, *May 5, 1803.*

I have examined the closing of the lines on the Cumberland Mountain, agreeably to your directions. It is my opinion that the *point* of Campbell's line is not on Cumberland Mountain *proper*, but is on a part of the same pile of mountains, but not on the main ridge. By the language of the several treaties and of the law, it appears that it was thought at that time that the point of Campbell's line was on the main ridge of Cumberland Mountain, although it is not clearly expressed in every instance.

I find, by inquiry, that Campbell supposed he had commenced his survey on the top of Cumberland Mountain. The land is nearly as high as the main mountain, and a person coming from the eastward to the place where he began his survey, would at that time, 1778, have taken it to be Cumberland Mountain.

I am informed that commissioners from Virginia and Kentucky, in settling their boundaries some years ago, agreed and reported that the main ridge of Cumberland is the same as I have now reported, and which is designated by the letter O, in the sketch accompanying this letter. The sketch I received with your letter is now returned. It is erroneous in point of distance and representation. Colonel Ballenger, county surveyor for Knox county, Kentucky, was with me, measured the distance carefully, and the chainmen were sworn. The mountain on which the point of Campbell's line was fixed is called the Double Mountain, and very properly, from the shape of its connexion with the main ridge, as may be seen on the sketch. I have endeavored to ascertain what compensation would probably satisfy the settlers on Yellow creek for a relinquishment of their little farms. Colonel Ballenger and Major Moore, disinterested persons, assisted me in estimating the value of the property. The settlers were mostly present. The estimations for which they will give up their claims, respectively, are as follows, viz:

| | | | | | |
|--|---|---|---|---|----------|
| *William White, three cabins and cleared land, | - | - | - | - | \$579 00 |
| John Brown, three cabins and cleared land, | - | - | - | - | 270 00 |
| William Robinson, two cabins and cleared land, | - | - | - | - | 193 00 |
| Moses and John Gordon, one cabin and cleared land, | - | - | - | - | 107 00 |
| Edward Giddings, one cabin and cleared land, | - | - | - | - | 107 00 |
| *Daniel Miller, one cabin and cleared land, | - | - | - | - | 80 00 |
| *Robert Belev, one cabin and cleared land, | - | - | - | - | 65 00 |
| *Joseph Baker, one cabin and cleared land, | - | - | - | - | 60 00 |
| *Samuel Mosely, one cabin and cleared land, | - | - | - | - | 90 00 |
| Thompson Nichols, one cabin and cleared land, | - | - | - | - | 50 00 |
| <u>Total, \$1,601 00</u> | | | | | |

These persons had their property destroyed by the troops in 1799. Those with this mark annexed (*) have not returned to their lands. I think there ought to be a deduction of at least one hundred and fifty dollars from the first three persons mentioned: in the whole, ———. Some of the houses were good houses of the kind, logs hewed and well laid up. They had better go off, and they appear willing; from the small quantity of land, they can never be farmers. The principal object of many of them was to keep poor houses of entertainment, of which there is no need; for if those on the lands all go off, there will be only six miles between two good houses of entertainment.

I am, sir, very respectfully, your obedient servant,

RETURN J. MEIGS.

HENRY DEARBORN, Esq., *Secretary of War.*

SIR:

WAR DEPARTMENT, *February 17, 1808.*

In answer to your letter of the 15th instant, enclosing a petition from sundry inhabitants of Knox county, in the State of Kentucky, and an order of the House of Representatives, referring the same to the Committee of Claims, I can only observe, generally, that, from frequent inquiries I have made of those persons who were present at the running of the line alluded to in the petition, I have been fully satisfied that it was run according to the true intent and meaning of the stipulations in the treaty between the United States and the Cherokees; and that the people who placed themselves on the lands bordering on Yellow creek were intruders on the Indian lands, and, of course, were, with propriety, removed by a military force.

Colonel Meigs was undoubtedly deceived by the information he received, which induced the statement made by him on the subject. The only excuse, in my opinion, that the petitioners could have, was their ignorance of the actual line; but it may be doubted whether they were entitled to that excuse. I had, for a time, been led to believe that those intruders were entitled to some compensation for the damages sustained by being removed; but, on further information, was convinced that I had been, in some measure, misled in forming that opinion. I have never understood that the people who were removed by the military force had any claim to the land in question, even if it had not been within the Indian boundary.

I have the honor of herewith returning the petition and order,

And am, very respectfully, sir, your obedient servant,

H. DEARBORN.

HONORABLE DAVID HOLMES, *Chairman of the Committee of Claims.*

[NOTE.—See Nos. 195, 235.]

10th CONGRESS.]

No. 192.

[1st Session.]

CLAIMS FOR EXPLORING A ROUTE FOR A POST ROAD FROM THE CITY OF WASHINGTON TO NEW ORLEANS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 18, 1808.

To the House of Representatives of the United States in Congress assembled: The petition of Isaac Briggs respectfully sheweth:

That your petitioner, about to go to New Orleans, in the year 1804, in pursuance of his appointment as surveyor of the lands of the United States south of the State of Tennessee, volunteered his services to the President of the United States, to explore the ground with a view of discovering the most direct and convenient route for a post road from the city of Washington to New Orleans. That your petitioner then had no expectation of extraordinary expense or difficulty; but that, in the course of this service, he encountered great expense and extreme hardships, which were immediately followed by a severe and tedious sickness, and a shock to his constitution, from the effects of which it will probably never recover. Your petitioner believes that your House is in possession of his report on the said road.

Your petitioner, therefore, relying on your mercy and liberality, prays that you will allow him such compensation as you may deem just and reasonable.

ISAAC BRIGGS.

WASHINGTON, February 16, 1807.

At the request of Mr. Briggs, I proceed to state what I know of the facts mentioned in this petition, and others connected with them.

In July, 1804, Mr. Briggs being here, and about to set out for Natchez, as surveyor general, I happened to say, in conversation, how anxious I was to get a direct road from Washington to New Orleans, which should not cross the mountains at all, to express a hope that the Legislature would authorize the opening such a road, and consulted with Mr. Briggs as to the best mode of making the preparatory survey for fixing the leading points through which it should pass. We both agreed that the method by celestial observations was preferable, for this purpose, to the chain and compass; and, after some reflection, he observed, that, being about to go to Natchez, he did not foresee that it would cost him much more time or expense to go along the route I had in contemplation than through Tennessee, except as it would lead him by New Orleans; but that he would undertake it for the public good if I could get him a portable sextant. Glad to obtain our guide-line on so easy a condition, I procured the sextant. He set out in August, and what followed, that is known to me only from his report, survey, and other communications to me. By these it appeared that he was four months on the way, not arriving at New Orleans till late in December; that he found the enterprise expensive, laborious, and tedious, infinitely beyond expectation. The way being then quite unknown, he had to pursue his course through the woods, to go through marshes, swim rivers, cut open his path sometimes, and to encounter all obstacles as they presented themselves, sleeping out without cover, and distressed for food. On his arrival at New Orleans he was taken with a fever, which I understood to have been long and dangerous, and little doubt of its having been brought on by the season and circumstances of his journey. He had necessarily through the whole an assistant hired and maintained at his own expense. From New Orleans he sent me the report and map, which I communicated to Congress, and which remain among their papers. This map has been the foundation of all our proceedings in the prosecution of this road, has saved us the expense of making the preparatory general survey with the chain and compass, and has, in fact, been completely profited of as public property. These are the material facts as far as they occur to me, and which I certify as being partly within my own knowledge, and partly within my belief on the evidence before stated.

TH: JEFFERSON.

DEAR SIR:

WASHINGTON, May 25, 1807.

When you spoke to me the other day on the subject of your expenses to New Orleans, my answer was a little indefinite as to time, because I had just received some very heavy bills drawn on me from Europe, and I had not yet examined what would be the state of my funds under those bills. I have now examined them, and find that I can furnish you two hundred dollars on the 6th of June, (Saturday se'nnight,) and \$200 dollars more on that day month, if this will answer your purposes. I am really mortified that you should have been left to suffer in an undertaking wherein I was an agent; but you know with what expectations we concluded on it. My own opinion has always been, that, where a person undertakes to do a thing for the public, unauthorized by law, he does it justly on his own risk, and that the public are perfectly free to approve or reject. In this case Congress have fully approved by building on the foundation you laid. We are now establishing our road on your survey, availing ourselves of it solely, as having saved us the necessity of making any other. Gentlemen who say they will never sanction an expenditure made without a previous law, will leave their country exposed to incalculable injury in those unforeseen occurrences where the voluntary sacrifices of virtuous citizens might save the public interest if the prospect of indemnification were not shut out. I salute you with friendship.

TH: JEFFERSON.

Mr. BRIGGS.

10th CONGRESS.]

No. 193.

[2d SESSION.

CLAIM FOR DEMURRAGE AND EXPENSES OF A VESSEL CHARTERED BY THE UNITED STATES, AND CAPTURED FOR WANT OF NECESSARY DOCUMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 5, 1808.

SIR: NAVY DEPARTMENT, April 2, 1808.
 In obedience to the resolution of the House of Representatives of the 20th February last, referring the petition of Robert Elwell "to the Secretary of the Navy, to examine the same, and report his opinion thereupon to the House," I have the honor herewith to transmit to you paper A, which is a copy of my letter to the Attorney General of the United States, dated 7th March, 1808. Paper B, which is a copy of my letter to the attorney general's answer (this day received) to my letter of 7th March, 1808, dated 29th March, 1808; paper C, copy of the minutes of the judgment of the high court of admiralty of England on the hearing of the cause of the *Huntress*. All which are respectfully submitted.

ROBERT SMITH.

To the Honorable the SPEAKER of the House of Representatives.

A.

SIR: NAVY DEPARTMENT, March 7, 1808.
 On the 18th day of May, 1805, the Department chartered the ship *Huntress* to proceed with a cargo of naval stores from this place to Malta and Syracuse. She soon after proceeded to sea on this voyage; was captured on the 1st of June by a Spanish armed vessel, recaptured on the 9th by a British armed vessel, and sent to Liverpool, where she arrived on the 16th July, 1805. She was there libelled in the high court of admiralty by the recaptors for salvage, and decreed to be restored upon payment of the recaptors' costs, 12th September, 1805. Her cargo was then landed in England, in consequence of the unauthorized interposition of the American consul at London.

By the charter-party you will perceive that twenty-eight lay days, exclusive of Sundays, were allowed the department at Malta and Syracuse.

The freight, in this case, had the cargo been delivered at Malta and Syracuse, agreeably to the charter-party, would have amounted to \$8,472 95.

The owners of the *Huntress* received at this place, on account of the freight, prior to the sailing of the vessel, - - - - - \$6,472 95
 And our consul at London paid, without any authority from this Department, on their account, - - - - - 2,444 44

So that the owners have received - - - - - \$8,917 39

which is \$444 44 more than they would have been entitled to receive, had the cargo been landed, agreeably to the charter-party, at Malta or Syracuse.

The owners, however, allege that the original capture of the *Huntress* proceeded from the neglect of the Government to furnish the vessel with proper documents for the voyage, and that therefore their claim for detention, &c. of the vessel is reasonable, and ought to be allowed. The proper documents referred to in their petition mean, it appears by the petition, "a certificate from the Spanish consul." The *Huntress* was furnished with a certificate from the President of the United States, stating that the cargo was the property of the United States intended for the use of their squadron in the Mediterranean. Similar certificates from the British and French ministers were furnished. There was no certificate from the Spanish minister furnished, and it is not alleged that there was any other paper wanting. At the time the *Huntress* sailed there was no official communication between this Government and the Spanish minister. There was no stipulation in the charter-party to furnish any of these certificates.

The accompanying papers will afford you every other information necessary to enable you to form an opinion upon the case. I ask the favor of your opinion upon this claim as early as you can conveniently transmit it to me.

I have the honor to be, respectfully, sir, your most obedient servant,

ROBERT SMITH.

Hon. CESAR A. RODNEY, Washington.

B.

SIR: WASHINGTON, March 29, 1808.
 I have read and considered your letter of the 7th instant, and the papers which accompanied it, referred to you by a resolution of the House of Representatives.

From the best consideration I have been able to give the subject, I concur with you in the opinion that the owner of the *Huntress* has no legal claim on the Navy Department for the compensation he demands.

William Hodgson, of Alexandria, as the agent of the owner, chartered this vessel to your Department for the purpose of carrying provisions and naval stores to Malta and Syracuse. No stipulations are contained in the charter-party to furnish any particular or special papers. In general, it is the duty of the captain to procure all the usual documents for the protection of his ship and cargo; nor should he set sail without them.

It is stated by Mr. Abbot, in his treatise on shipping, a work of uncommon merit and established reputation, "The master must also take on board no false (or colorable) papers, that may subject the ship to capture or detention; and he must procure and keep on board all the papers and documents required for the manifestation of the ship and cargo, by the law of the country from and to which the ship is bound, and by the law of nations in general." Had the United States shipped, in conjunction with others, goods on board this vessel for the accustomed freight without any charter-party, the rule of law would seem perfectly clear. Whether the charter-party varies the case, and constitutes the person who charters a ship, *pro hac vice*, the owner of the vessel, and makes the captain, of course, his agent, I do not conceive is material to be decided; because it does not appear in this instance that any of the usual papers were omitted. In fact, certificates from the President, as well as from the British and French ministers, were obtained to prove that their cargo belonged to the United States, and that it was des-

ted to supply our squadron in the Mediterranean. The reason why a similar certificate was not obtained from the Spanish minister, as correctly stated in your letter, was, because all official communication between him and our Government had ceased.

However, I do not consider the certificates of foreign ministers as composing a part of the regular papers with which a ship is usually furnished for the protection of herself and cargo. They are a species of *extra* documents, seldom procured, and which, though sometimes of advantage, are at others injurious. The freight was to compensate for the risk of capture or detention, to which all neutral vessels are subject, *flagrante bello*. The freight, however, was not due, or rather one-third of it, according to the express contract, until the delivery of the goods at Malta; unless some person, duly authorized by the Navy Department, had released the captain from the further prosecution of the voyage, or the vessel's discharge in England. The consul, you state expressly, had no such authority; the owner, therefore, without performing his part of the contract, has not only received all the freight due by the charter-party, but has actually been paid \$444 44 more than was due to him.

It is true, from one of the papers, it appears, that the officer of the Spanish privateer made the want of a certificate from the Spanish minister, similar to those from the French and English ministers, a part of the pretext for capture; but, as this is a paper not really required, nor constituting a part of the regular documents to be exhibited by neutrals, it cannot vary the case. The principal and real ground of capture was, that the vessel was carrying naval stores to a port of an enemy of Spain. The voyage in this case was settled, and the cargo fixed by the charter-party. The freight must, therefore, have been in proportion to all risks and hazards on such a voyage with such a cargo. No fault can be attributed to the Navy Department for not procuring a paper, which, if there had been a Spanish minister corresponding with the Government, must have been asked as a matter of favor and not of right—a paper which he could grant or refuse at his pleasure. Hence, such documents as protections from foreign ministers are not required of neutrals by belligerents, according to the law of nations. The regular papers are those alone which the constituted authorities of the country are competent to give.

I think the owner must bear the loss under the existing circumstances.

C. A. RODNEY.

C.

HUNTRESS, *J. Stinson, master.*

Minutes of the judgment of the High Court of Admiralty of England on the hearing of the above cause on the 12th September, 1805.

The Right Honorable Sir William Scott, knight, the judge, observed: This is a question arising on the British recapture from the Spaniards of a vessel laden with naval and military stores, going for Malta and Syracuse. It has been truly stated that, generally, neutral property is not liable to salvage or recapture. It is also true that, in the course of the last war, the law was, in consequence of the frequent rapine of the French, altered by the consent of neutrals themselves. This was founded on the practice of the French, and confirmed in recaptures from them. Naval stores destined to a British port are, by treaty between Spain and America, liable to condemnation. These would, therefore, be subject to salvage; but, in this instance, in fact not going to Malta, consigned to English possessions or for English use, but for the use of an American squadron, then notoriously cruising against the common enemy of Spain and America, and every other civilized State, the property of the Government, not *tuerandi causâ*; what, therefore, would have been its situation in a Spanish tribunal? I think the preceding facts are fully established in evidence before this court, and that they would have so been before the Spanish courts. I cannot but assent to the principle that great deference is to be paid to the declaration of Governments. Here is that of the President himself confirmed. I cannot say confirmed, for it needs no confirmation; but seconded by that of the French and English ministers. It is impossible to suppose that the American Government would wish to deceive, and that these stores were for the use of the British, in violation of the treaty with Spain. Its good faith is too well known. I am therefore of opinion that restitution would have been due from the justice of the Spanish tribunals, and that the British recaptor is not entitled to more than the expenses of submitting this question to the court, which was not improper.

[Restitution of the ship and cargo decreed upon payment of the recaptor's costs.]

10th CONGRESS.]

No. 194.

[2d SESSION.]

FURTHER COMPENSATION TO THE WITNESSES ON THE TRIAL OF AARON BURR, AT RICHMOND, IN 1807.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 27, 1808.

Mr. JOHN G. JACKSON, from the committee to whom was referred the memorial of Return J. Meigs, Jun. and others, witnesses against Aaron Burr, who attended the Circuit Court of the United States for Virginia district, made the following report:

The petitioners state that they attended the court of the United States for the district of Virginia, as witnesses, in behalf of the United States, on the trial of Aaron Burr for treason, in the summer of the year 1807: that they travelled from great and remote distances; and that their attendance had been uncommonly long: that an absence from their homes at that busy season of the year had been severely injurious to them; and that the allowance made by law was insufficient to defray their necessary expenses: and therefore they pray an additional compensation.

In ordinary cases, the committee would be unwilling to sanction any innovation upon the general law relating to the compensations to witnesses attending the courts of the United States; but, in every point of view, whether

as it regards the crimes charged upon the accused, the extensive theatre which they embraced, the number of witnesses drawn from the most remote parts of the United States, or the length of time consumed in the trial, as well as the manner of conducting it, this was a most extraordinary one.

In ordinary cases the witnesses live in the vicinity of the courts, and are not exposed to heavy sacrifices in attending them. In this case they were compelled to travel great distances, varying from 400 to 1,300 miles. The committee conceive that the principle is universally correct, that the personal services of no man shall be compulsorily required without a reasonable compensation given to him; and, therefore, that these witnesses are entitled to it. They have been, however, not only compelled to give their attendance without such compensation, but to expend their own money likewise.

In looking over the laws giving compensation to witnesses, the committee find that those who attended the impeachment of Judge Chase before the Senate were allowed three dollars per diem for their attendance, and 12½ cents a mile for travelling to the place of trial, and the same for returning. If a departure from the rule fixing the allowance to witnesses was proper in that case, it is equally so in this, as the distance which the witnesses on the trial of Burr had to travel was further, their attendance was longer, and the expenses incurred by them necessarily as great. The *venire* summoned from the county of Wood, a distance of 400 miles from Richmond, have also asked a further compensation, and the committee see no just cause of discrimination between them and the witnesses. They therefore recommend that a further compensation be allowed to the witnesses and *venire men* who attended the trial of Aaron Burr for treason before the Circuit Court of the United States for the Virginia district; and, in pursuance of that recommendation, they ask leave to report a bill for that purpose.

10th CONGRESS.]

No. 195.

[2d SESSION.

CLAIMS FOR PROPERTY DESTROYED BY MILITARY FORCE.

COMMUNICATED TO THE SENATE, JANUARY 30, 1809.

Mr. MITCHELL, from the committee to whom was referred the bill from the House of Representatives, "for the relief of William White and others," made the following report:

That, from the papers and documents accompanying said bill, it appears that the said William White, and nine other inhabitants of Knox county, in the State of Kentucky, have petitioned Congress for the amount of damages they have suffered in being unjustly turned off their farms on Yellow creek, between the ford on Cumberland river and Cumberland mountain, as intruders on Indian lands, by the military force under the orders of Government, in the year 1801; and state in their petition that, previous to their settlement, "*they ascertained the Indian boundary line, from the point of Campbell's line, on Cumberland mountain, to the ford of Cumberland river,*" and actually settled on the United States' side of the line: The sufferings of the petitioners on the one side, the justice and character of the Government on the other, have induced the committee to make a thorough examination, whether they were or were not removed agreeably to the justice and laws of their country; that they were removed there is no doubt. As Campbell's line is an important boundary in the present case, and in several treaties made with the Indians, the committee have endeavored to ascertain the particulars in relation thereto.

It appears that a treaty was held with the Cherokee Indians, by commissioners on the part of Virginia and North Carolina, as early as the year 1777, at which treaty were present most of the chiefs and warriors of the Cherokee nation, and the boundary commonly called Campbell's line was then and there agreed upon by all parties; and in the year following, 1778, the line was actually run by one Campbell, agreeably to the treaty; at the running of which, it is presumed, the Indians were present. This line ran west twenty degrees north, and was extended to Cumberland mountain, to the top of that part which is now called Double mountain, at a point, on which it seems to be well established the line terminated; it is also certain that a straight line, drawn from the point where Campbell's line terminated, on the Cumberland mountain, to the ford of Cumberland river, would leave the settlements made by the petitioners something short of a mile on the Indian side of the line; but as the line from Campbell's point to the ford of Cumberland river runs nearly north, by extending the former line on the same course, from the point where Campbell's line terminated, 290 rods, to another point on Cumberland mountain, and running from that point to the ford on Cumberland river, would leave the petitioners' settlements on the United States' side of the line. This led the committee to examine the treaties and laws of the United States to ascertain whether Campbell's line had, by the Government, or the consent of the Indians, been extended beyond the point where Campbell terminated the same, or that part of Cumberland mountain called Double mountain; they are compelled to say they find nothing in either the treaties or laws that could justify extending Campbell's line against the Indians. The treaty of Hopewell, made with the Cherokee nation by Benjamin Hawkins, and others, commissioners of the United States, on the 28th of November, 1785, describes this part of the boundary line, between the United States and the said Indian nation, as follows: "*Thence along the said line to the river, (meaning Cumberland river); thence up the said river, to the ford where the Kentucky road crosses the river; thence to Campbell's line, near Cumberland gap.*" In the treaty of Holston, made by William Blount, on the 2d day of July, 1791, with the same Cherokee nation, the boundary line is thus described: "*Thence up the river Clinch, to Campbell's line, and along the same to the top of Cumberland mountain; thence a direct line to the Cumberland river, where the Kentucky road crosses it.*" The treaty of Holston, in respect to this particular line, appears to be a confirmation of the same line, described by the treaty of Hopewell, only turning the same from an opposite point; nor can it be presumed, from the words in the treaty of Holston, to wit, "*along Campbell's line to the top of Cumberland mountain,*" that it was the understanding of either of the contracting parties that the line should be extended to any other top of Cumberland mountain than the one where Campbell's line terminated.

By the 2d article of the treaty made with the same nation of Indians, at Philadelphia, on the 26th day of June, 1794, it was expressly stipulated "that the boundaries, mentioned in the treaty of Holston, should be actually ascertained and marked, in the manner prescribed by said treaty of Holston, whenever the Cherokee nation should

have ninety days' notice of the time and place at which the commissioners of the United States intended to commence their operation;" which said boundaries, as mentioned and described in the treaty of Holston, were actually ascertained, and marked, the latter part of the year 1797, under the direction of the same Benjamin Hawkins, one of the commissioners at the treaty of *Hopewell*, in which the particular line now in contest was run from the point of Campbell's line, where it terminated on that part of Cumberland mountain, now called Double mountain, in a straight course to the ford of Cumberland river, which left the petitioners something short of one mile on the Indian side of the line.

By the third article of the treaty made by Thomas Butler and George Walton, commissioners of the United States with the same Cherokee nation, near Tellico, October 2d, 1798, the line that had been thus ascertained and marked the preceding year, by the commissioner of the United States and the Indians, was ratified and confirmed. In further confirmation of which line, Congress did, on the 3d day of March, 1799, pass an act in which they establish the Indian boundary, and describe this particular line in the following words: "*Thence northeast to Cumberland river; thence up the said river, to where the Kentucky road crosses the same; thence to the Cumberland mountain, at the point of Campbell's line.*" And in the same act the President of the United States is authorized to employ such military force as he may judge necessary, to remove from lands belonging, or secured by treaty, to any Indian tribe, any such citizen or other person who had then made, or should thereafter make, or attempt to make, a settlement thereon. And by force of the same act the petitioners were removed from their settlements on the Indian lands, in the year 1801. There can be no doubt of their settlements being on the Indian side of the line, established in the act aforesaid; and as little doubt can be entertained that the act established the line agreeably to the true intent and meaning of the then existing treaties between the United States and the Cherokee nation.

On the ground alleged by the petitioners that they took all reasonable precaution to ascertain the true line, before they commenced their settlement, it is to be remarked that they state in their petition that "*they ascertained the tract of the said boundary line, from the point of Campbell's line, on Cumberland mountain, to the ford of Cumberland river;*" had they done this, they could not have been removed; but, instead thereof, at their own risk and hazard, as appeared by the evidence before the committee, they extended the course of Campbell's line, from the point where it terminated on one top of Cumberland mountain, 290 rods, to another top of Cumberland mountain, and from thence to the ford of Cumberland river. The committee can perceive no injustice exercised by Government against these petitioners, nor can their case very materially differ from hundreds, if not thousands, that have been removed from Indian lands under the authority of the United States.

The committee further observe, that, from the report made to the Secretary of War by Return J. Meigs, and referred to in the *bill*, it is doubtful whether the estimation therein made included only their claims for damages in being turned off from their settlements, or the value of their property or *little farms*; the sum is more than \$1,600. It is presumed the interest of the United States would not be advanced in purchasing small tracts of land among the cliffs of those mountains, and where no legal title has been shown in the claimants; most of the petitioners settled there for the purpose of keeping houses of entertainment, and probably selling liquor, so detrimental to the Indians, which might have been a principal ground of complaint, and the cause of their being removed. No reason has been assigned why Thompson Nichols is inserted in the *bill*, when it does not appear that he ever petitioned for any compensation. Upon the whole, the committee report no amendments to the *bill*, but submit the same to the Senate, to be determined on its merits.

[NOTE.—See Nos. 191, 235.]

10th CONGRESS.]

No. 196.

[2d SESSION.]

CLAIM OF THOMAS PAINE FOR REVOLUTIONARY SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1809.

Mr. HOLMES, from the Committee of Claims, to whom was referred the memorial of Thomas Paine, made the following report:

The memorialist states, that, in the beginning of February, 1781, he sailed from Boston in the frigate Alliance, with Colonel Laurens, who was appointed by Congress to negotiate a loan with the French Government, for the benefit of the United States; that he aided in effecting the important object of this mission, and thus voluntarily rendered an essential service to the country, for which he has received no compensation. This memorial was presented to Congress at their last session, unaccompanied with any evidence in support of the statement of facts. The Committee of Claims, to whom it was then referred, endeavored to procure, from proper sources, such information as would guide them in making an equitable decision upon the case. The journals of Congress, under the former confederation, were diligently examined, but nothing was therein found tending to show that Mr. Paine was in any manner connected with the mission of Colonel Laurens. It appears that, on the 18th day of October, 1783, two resolutions were adopted in favor of Major Jackson: one for defraying certain expenses incident to the mission, the other allowing him \$1,450 as a full compensation for his services, while acting as secretary to Colonel Laurens. A letter from the Vice President, in answer to one addressed to him by the chairman of the Committee of Claims, is herewith presented. It will be observed, that the statement of this gentleman is from information, and not from his own knowledge. That Mr. Paine embarked with Colonel Laurens from the United States for France may be admitted; but it does not appear that he was employed by the Government, or even solicited by any officer thereof to aid in the accomplishment of the object of the mission with which Colonel Laurens was intrusted, or that he took any part whatever, after his arrival in France, in forwarding the negotiation; your committee are, therefore, of opinion that the memorialist has not established the fact of his having rendered the service for which he asks to be compensated.

On the 26th of August, 1785, Congress, by a resolution, declared that Thomas Paine was entitled to a liberal gratification from the United States for his unsolicited and continued labors in explaining and enforcing the principles of the late revolution; and on the 3d of October following, the Board of Treasury were directed to take order

for paying Mr. Paine three thousand dollars, for the considerations mentioned in the above resolution. This sum it appears, Mr. Paine received on the 11th October, 1785. That Mr. Paine rendered great and eminent services to the United States, during their struggle for liberty and independence, cannot be doubted by any person acquainted with his labors in the cause, and attached to the principles of the contest. Whether he has been generously required by his country for his meritorious exertions, is a question not submitted to your committee, or within their province to decide.

The following resolution is offered to the House:

Resolved, That Thomas Paine have leave to withdraw his memorial, and the papers accompanying the same.

CITIZEN REPRESENTATIVES:

NEW YORK, *February* 14, 1808.

In my memorial to Congress of the 21st of January, I spoke of a resolve of the old Congress of three thousand dollars to me, and said that the resolve had relation to a matter it did not express; that Elbridge Gerry was chairman of the committee that brought in that resolve; and that if Congress referred the memorial to a committee, I would write to that committee, and inform them of the particulars of it. It has relation to my conduct in the affair of Silas Dean and Beaumarchais. The case is as follows:

When I was appointed secretary to the Committee for Foreign Affairs, all the papers of the secret committee, none of which had been seen by Congress, came into my hands. I saw, by the correspondence of that committee with persons in Europe, particularly with Arthur Lee, that the stores which Silas Dean and Beaumarchais pretended they had purchased were a present from the court of France, and came out of the King's arsenals. But, as this was prior to the alliance, and while the English ambassador (Stormont) was at Paris, the court of France wished it not to be known, and therefore proposed that "a small quantity of tobacco, or some other produce, should be sent to the Cape (Cape François) to give it the air of a mercantile transaction, repeating over and over again that it was for a cover only, and not for payment, as the whole remittance was gratuitous." (See Arthur Lee's letters to the secret committee; see also Benjamin Franklin's.)

Knowing these things, and seeing that the public were deceived and imposed upon by the pretensions of Dean, I took the subject up, and published three pieces in Dunlap's Philadelphia paper, headed with the title of "Common Sense to the Public on Mr. Dean's affairs." John Jay was then President of Congress, Mr. Laurens having resigned in disgust.

After the third piece appeared, I received an order, dated Congress, and signed John Jay, that "Thomas Paine do attend at the bar of this House immediately;" which I did.

Mr. Jay took up a newspaper, and said, "Here is Mr. Dunlap's paper of December 29. In it is a piece entitled 'Common Sense to the Public on Mr. Dean's affairs;' I am directed by Congress to ask you if you are the author." "Yes, sir, I am the author of that piece." Mr. Jay put the same question on the other two pieces, and received the same answer. He then said, you may withdraw.

As soon as I was gone, John Pen, of North Carolina, moved that "Thomas Paine be discharged from the office of secretary to the Committee for Foreign Affairs," and prating Gouverneur Morris seconded the motion; but it was lost when put to the vote, the States being equally divided. I then wrote to Congress, requesting a hearing, and Mr. Laurens made a motion for that purpose, which was negatived. The next day I sent in my resignation, saying, that "as I cannot, consistently with my character as a freeman, submit to be censured unheard, therefore, to preserve that character and maintain that right, I think it my duty to resign the office of secretary to the Committee for Foreign Affairs, and I do hereby resign the same."

After this I lived as well as I could, hiring myself as a clerk to Owen Biddle, of Philadelphia, till the Legislature of Pennsylvania appointed me clerk of the General Assembly. But I still went on with my publications on Dean's affairs, till the fraud became so obvious, that Congress were ashamed of supporting him, and he absconded. He went from Philadelphia to Virginia, and took shipping for France, and got over to England, where he died. Doctor Cutting told me he took poison. Gouverneur Morris, by way of making apology for his conduct in that affair, said to me, after my return from France with Colonel Laurens, "Well! we were all duped, and I among the rest."

As the salary I had as secretary to the Committee of Foreign Affairs was but small, being only \$800 a year, and as that had been fretted down by the depreciation to less than a fifth of its nominal value, I wrote to Congress, then sitting at New York, (it was after the war,) to make up the depreciation of my salary, and also for some incidental expenses I had been at. This letter was referred to a committee, of which Elbridge Gerry was chairman.

Mr. Gerry then came to me, and said that the committee had consulted on the subject, and they intended to bring in a handsome report, but that they thought it best not to take any notice of your letter or make any reference to Dean's affair or your salary. They will indemnify you, said he, without it. The case is, there are some motions on the journals of Congress, for censuring you with respect to Dean's affair, which cannot now be recalled, because they have been printed. Therefore, we will bring in a report that will supersede them, without mentioning the purport of your letter.

This, citizen representatives, is an explanation of the resolve of the old Congress. It was an indemnity to me for some injustice done me, for Congress had acted dishonorably to me. However, I prevented Dean's fraudulent demand being paid, and so far the country is obliged to me; but I became the victim of my integrity.

I preferred stating this explanation to the committee rather than to make it public in my memorial to Congress.

THOMAS PAINE.

SIR:

NEW YORK, PARTITION STREET, No. 63, *February* 28, 1808.

I addressed a memorial to Congress dated January 21, which was presented by George Clinton, Junior, and referred to the Committee of Claims. As soon as I knew to what committee it was referred, I wrote to that committee, and informed them of the particulars respecting a vote of the old Congress of \$3,000 to me, as I mentioned I would do in my memorial; since which I have heard nothing of the memorial or of any proceedings upon it.

It will be convenient to me to know what Congress will decide on, because it will determine me whether, after so many years of generous services, and that in the most perilous times, and after seventy years of age, I shall continue in this country, or offer my services to some other country. It will not be to England, unless there should be a revolution.

My request to you is, that you will call on the Committee of Claims to bring in their report, and that Congress would decide upon it. I shall then know what to do.

Yours, in friendship,

THOMAS PAINE.

The Honorable the SPEAKER of the House of Representatives.

SIR:

NEW YORK, *March 7, 1808.*

I wrote you a week ago, prior to the date of this letter, respecting my memorial to Congress, but I have not yet seen an account of any proceedings upon it.

I know not who the Committee of Claims are, but if they are men of younger standing than "the times that tried men's souls," and, consequently, too young to know what the condition of the country was at the time I published *Common Sense*, (for I do not believe independence would have been declared had it not been for the effect of that work,) they are not capable of judging of the whole of the services of Thomas Paine. The President and Vice President can give you information on those subjects, so also can Mr. Smilie, who was a member of the Pennsylvania Legislature at the times I am speaking of. He knows the inconveniences I was often put to, for the old Congress treated me with ingratitude. They seemed to be disgusted at my popularity, and acted towards me as a rival instead of a friend.

The explanation I sent to the committee respecting a resolve of the old Congress while they sat at New York should be known to Congress, but it seems to me that the committee keep every thing to themselves, and do nothing. If my memorial was referred to the Committee of Claims, for the purpose of losing it, it is unmanly policy. After so many years of service my heart grows cold towards America.

Yours, in friendship,

THOMAS PAINE.

The Honorable the SPEAKER of the *House of Representatives.*

P. S. I repeat my request, that you would call on the Committee of Claims to bring in their report, and that Congress would decide upon it.

SIR:

SENATE CHAMBER, *March 23, 1808.*

From the information I received at the time, I have reason to believe that Mr. Paine accompanied Colonel Laurens on his mission to France, in the course of our revolutionary war, for the purpose of negotiating a loan, and that he acted as his secretary on that occasion; but although I have no doubt of the truth of this fact, I cannot assert it from my own actual knowledge.

I am, with great respect, your most obedient servant,

GEORGE CLINTON.

DAVID HOLMES, Esquire.

[NOTE.—See No. 189.]

11th CONGRESS.]

No. 197.

[1st SESSION.]

ARREARS OF PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 16, 1809.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Hannah Foster, made the following report:

That the petitioner states that her husband, William Crator Foster, in the year 1776, enlisted as a private soldier in the second New Jersey regiment, commanded by Colonel William Maxwell: that he marched with his company to Quebec: that, in his retreat from Quebec, he was taken sick at Crown Point with the smallpox, and died. She, therefore, claims the pay due to her husband, while in the service of the United States. It is proven by an affidavit accompanying the petition, that the said W. C. Foster entered the service of the United States, and that he died at Crown Point, while a common soldier. Your committee must state that, upon a consideration of the merits of this case, they cannot report favorably to the prayer of the petitioner: that the troops who marched into Canada were generally enlisted for one year, and had no promise of land from the Government of the United States, and that the wages for officers and soldiers were deposited in the hands of regimental paymasters, and by them paid into the hands of the captains for their companies at short intervals. It does not appear, by any evidence in this case, that the husband of the petitioner did not receive, as was usual, his wages while in actual service. Your committee, waiving the consideration of the statute of limitation upon the merits of this case, would not only require proof of the services of W. C. Foster, but at least strong presumptive testimony that the wages had never been paid, and the reasons which operated to make this case an exception to the general rule, which has not been done.

Your committee have already reported that this claim, if it still remained unpaid, was barred by the statute of limitation, and in that report the committee would be best supported by a review of the regulations which have heretofore governed the Congress of the former and present Government. As early as February 20, 1782, by a resolve of the old Congress, commissioners were appointed in each State with ample powers to liquidate the claims against the United States arising from the struggle for independence. And as early as February 27, 1782, commissioners were appointed to settle the army accounts in the five great departments, viz: the quartermaster's department, the commissary's department, the clothier's department, the hospital department, and the marine department, with full power and authority to liquidate and finally settle the accounts of these departments, respectively. Having thus made liberal provision to adjust the claims against the United States, by carrying a competent tribunal to each man's door, the Congress under the confederation, from various and good considerations to guard against fraud, imposition, and speculation, resolved, in November 2, 1785, that claims for personal services in the military department should be barred, if not exhibited for liquidation before the commissioners of army accounts, on or before the 1st day of August ensuing the said resolve, viz: August, 1786: that, governed by the same and still stronger considerations as time elapsed, in July 23, 1787, all other claims against the United States were barred in the following words:

Resolved, That all persons having unliquidated claims against the United States, pertaining to the late commissary's, quartermaster's, hospital, clothier's, or marine department, shall deliver particular abstracts of such claims to the proper commissioner appointed to settle the accounts of those departments, within eight months from the date hereof, (July 23, 1787;) and all persons having other unliquidated claims against the United States shall deliver a particular abstract thereof, to the Comptroller of the Treasury of the United States, within one year from the date hereof; and all accounts not exhibited, as aforesaid, shall be precluded from settlement or allowance.

That notwithstanding the many reasons which existed to adhere to the statute of limitation, the Congress of the United States, under the present constitution, on the 27th of March, 1792, suspended the limitation law, as it respected the claims upon the United States for personal services. Your committee might pursue this subject with respect to other descriptions of claims, and the regulations upon them, but will forbear at present. Your committee would not be understood as saying that no particular cases of hardship do not exist which would call for relief, but they would state that if the statute of limitation ought not to exist as to any classes of claims, the law should be suspended for a limited time, and claims admitted upon the same principles, under the same regulations and instructions which governed the different commissioners and the Treasury Department when the statute did not bar these classes of claims. That, in all cases where claims exist of the same kind, auditors should be appointed, or the Treasury, or some other department, under certain regulations, should be authorized to adjust those claims, as any individual claimant would then have the same opportunity of substantiating his claim: and that particular laws ought only to be made for exceptions to the class of claims which could be settled by a general provision.

This remark arises not only from the practice of all Governments founded upon intelligence and freedom, but from the impossibility of extending relief to all cases which require it through this committee, who can examine very few cases, in comparison to the number of the same kind before them, which inability to do equal justice to all makes the regulation more unjust than if those claims were for ever barred, by which all the mischiefs to the Government at least, of which the claimants are members, would be prevented. These reflections have arisen from the decision of the House upon a recommitment of this petition and the former report to this committee. If, therefore, the statute of limitation is improper, as to claims for personal services in the revolution, or for supplies, or any other class of claims, it should be suspended for a limited time, as giving the only proper relief. Therefore,

Resolved, That the prayer of the petitioner ought not to be granted.

11th CONGRESS.]

No. 198.]

[1st SESSION.

LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 17, 1809.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of John Murray, of Dorchester, Maryland, made the following report:

That the petitioner prays the payment of three loan-office certificates of the following description, viz: No. 13,975, for \$200, dated March 29, 1779, payable with interest, March 29, 1782, to Dr. Henry Murray, or bearer, signed Francis Hopkinson, treasurer of loans, and countersigned Thomas Harwood; No. 13,976, for \$200, of the same tenor and character as the above certificate; No. 6,400, for \$600, also of the same tenor as the above certificate.

Your committee having examined the merits of this case, state, that the claim appears to be just, and nothing prevents relief but the acts of limitation. It will appear, from the letter of the Secretary of the Treasury, that these loan-office certificates are genuine, that they did issue, and that they are outstanding and unpaid, as appears by the records of the Treasury Department. And the belief that they are genuine, and the identical certificates issued, as appears upon record, is strengthened by their being now presented in the name of the heirs of the original owner. The petition states, that, in June last, upon the date of the said petition, upon repairing an old desk which belonged to his deceased father, Henry Murray, these loan-office certificates were found in a secret drawer, which fact is proven by an affidavit which accompanies the petition; that Dr. Henry Murray died in 1785, and the existence of these certificates was unknown until the above discovery, which deprived the representatives of the said Henry Murray of the benefit of those laws which provided for the redemption or payment of such certificates. Your committee have no doubt, therefore, upon the merits of this claim, that the certificates are genuine, and that they remain unpaid; and that the circumstances of the temporary loss of said certificates, by which the representatives of said Dr. Murray were deprived of the benefit of the laws which provided for the redemption of these claims, was not in the control of either the representatives, or said claimant, or in the Government of the United States, and neither can be blamed in this transaction. But, notwithstanding this statement and opinion in favor of the merits of this claim, it is expressly barred by the statutes of limitation, and from that circumstance alone the committee feel themselves bound to report against the prayer of said petitioner, in conformity to their reports in other cases, until, by a solemn decision of this House, the statutes of limitations are disregarded in the payment of such claims. Your committee have thought this a fortunate case to discover the will of this House upon the statutes of limitation when just claims are barred. But your committee are unwilling to offer to this House a resolution before they present in a concise view the laws and the conduct of the United States upon the subject of these claims, which will better enable the House to judge upon the course to be pursued with less embarrassment. Leaving out of view the many various and liberal provisions upon the subject of claims, it will be sufficient to state, that, on the 21st of April, 1794, an act passed limiting the time for presenting claims for destroyed certificates, including loan-office certificates, to the 1st of June, 1795. That, on the 3d of March, 1795, an act passed making further provision for the support of public credit, and for the redemption of the public debt, the fourteenth section of which declares that all certificates, commonly called loan-office certificates, final settlements, and indents of interest, which, at the time of passing this act shall be outstanding, shall, on or before the 1st day of January, in the year 1797, be pre-

sented at the office of the Auditor of the Treasury of the United States, for the purpose of being exchanged for other certificates of equivalent value and tenor, or at the option of the holders thereof, respectively, to be registered at the said office and returned; and every of the said certificates which shall not be presented at the said office within the said time shall forever after be barred or precluded from settlement or allowance. From this provision one year and ten months were allowed to present and settle these claims. That, on the 12th day of June, 1798, a bill passed respecting loan-office and final settlement certificates, &c., suspending the provision already recited, which barred this description of claims one year from the passage of the act; from which term the statute has barred these claims, and still remains in force: Therefore,

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

TREASURY DEPARTMENT, June 16, 1809.

In answer to your letter of this day, I have the honor to state, that there is not, to my knowledge, any other objection to the payment of the three loan-office certificates in the name of Dr. Henry Murray but what arises from the acts of limitation. Such certificates were issued, and, as appears by our records, are still outstanding, having never been paid. Those now presented appear to be the identical certificates thus issued; and what removes every doubt is, their being now presented in the name of the heirs of the original owner.

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

Hon. R. M. JOHNSON, *Chairman of Committee of Claims.*

11th CONGRESS.]

No. 199.

[2d SESSION.]

INDEMNITY FOR A HOUSE BURNT WHILE IN PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1809.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Ezra Thurber, made the following report:

That it is stated by the petitioner, that the collector of the district of Champlain applied to him for the use of his house, situate in the village of Champlain, New York, for the purpose of stationing there a guard to put the embargo laws in force; that, on the 7th of April, 1809, the house was consumed by fire by the carelessness of the sailors in the revenue service, who then occupied it, by order of the said collector; and evidence is taken to prove the facts; and he claims the value of the house so consumed.

Without adverting to the testimony in this case, the committee are of opinion that, in principle, the United States cannot be liable for the acts of sailors in this instance; and it is unnecessary to advert to a principle which would exempt the United States from damages occasioned by citizens or sailors, unless such damage originated in the performance of the duty imposed upon such persons by the authority of the United States. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

11th CONGRESS.]

No. 200.

[2d SESSION.]

CLAIM OF THE WIDOW OF COLONEL ALEXANDER HAMILTON FOR COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Elizabeth Hamilton, made the following report:

That it is stated by the petitioner, that her late husband, Colonel Alexander Hamilton, served as lieutenant-colonel in the army of the United States, during the revolutionary war; that, in common with other officers, he was entitled to five years' full pay as commutation for half pay during life; that her husband being in Congress at the time the resolution passed making this provision in favor of the officers of the revolution, in a letter to the Secretary of War he relinquished his claim to commutation; and the petitioner prays for the amount of said commutation. It does not appear from any evidence from the Secretary of War, or of the Treasury, that the late Colonel Hamilton ever did relinquish his right to half-pay or commutation, nor can the committee believe that it would be proper or generous that such relinquishment should be relied on as a bar to a just claim upon the United States for meritorious services against the representatives of such claimant. It appears, from a letter from the Secretary of the Treasury, that the late Colonel Hamilton received pay as an officer up to the end of February, 1782, and no later.

And there is no evidence upon the Treasury books, or books of the War Office, whether at this or what period Colonel Hamilton resigned. The committee, however, have been furnished with a document, which induces a belief that Colonel Hamilton did not resign his commission until after the 28th day of October, 1783, which document is in these words: "In pursuance of an act of Congress of the 30th day of September, 1783, Lieutenant Colonel Hamilton is to take rank as colonel by brevet, in the armies of the United States of America.

"Signed at Princeton, October 28th, 1783, by Elias Boudinot, President," &c.

The committee are of opinion, that the resolution of Congress, upon a liberal construction, did not require actual service, and that the officer should be¹ in the receipt of his pay to entitle him to commutation, but that he should have a commission, and be at all times liable to be called on to perform the duties of his station. The committee are confirmed in this opinion, when they recollect the situation of the United States and the army in the year 1783, and in fact, from the capture of Cornwallis and his army at Little York, in the State of Virginia, in the year 1781. But this claim is like all other claims of this description, barred by the statute of limitation. The following resolution is offered:

Resolved, That the prayer of the petition ought not to be granted.

11th CONGRESS.]

No. 201.

[2d SESSION.]

HORSE KILLED IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 16, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Daniel Bradley, made the following report:

That it is stated by the petitioner, that he, in 1798, was ordered with a detachment out of the 4th United States' regiment under his command to remove intruders from lands claimed by the Cherokee Indians; that, becoming obnoxious to those whom he removed, some of the party privately took from him a valuable horse which the petitioner had with him, and which he considered necessary to perform his duty, carried said horse to a private place on Cumberland mountain, and shot him; and concludes by praying compensation for the value of said horse. The committee have no evidence independent of the petition as to the facts in this case; and assuming the ground that the facts are true, no compensation ought to be granted, for it does not appear that it was made the duty of the petitioner to have a horse in the discharge of his duty as an officer; nor does it appear, if that were the case, that the Government was to find him a horse. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

11th CONGRESS.]

No. 202.

[2d SESSION.]

MILITARY SERVICES AND EXPENDITURES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 23D JANUARY, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of John Thompson, made the following report:

That, from documents accompanying the said petition, and seeming upon the face of them to be correct and authentic, it appears that the petitioner was a captain in the revolutionary war, and belonged to a regiment commanded by Colonel Hazen, called "the Congress's own regiment;" that after he had served as captain in the said regiment "with honor and reputation" for about one year, he entered as a colonel into the service of Pennsylvania, to defend that State against the Indian incursions, having previously solicited and obtained from Major General Sullivan leave to retire from the American army, on account partly of his ill state of health, but principally because his proper rank had been withheld from him: that in recruiting and for the pay and subsistence of his company in the said Congressional regiment, the petitioner expended considerable sums of money, which your committee are convinced have never been fully reimbursed to him: and that from two accounts made out by Edward Chinn, paymaster to the regiment, one during the war, and the other in the year 1788, and from a letter written in 1809, by Mr. Nourse, the register, it is manifest that the petitioner's account has never been finally adjusted.

The petitioner has exhibited an account showing a balance of two thousand six hundred and twenty-nine dollars and five cents in his favor against the United States; which account, together with the vouchers supporting it, the committee have attentively investigated. Every item in the account is established to the entire satisfaction of the committee, except the charge of three hundred and forty-three dollars and thirteen cents, for the pay of the company in the month of August, 1777. The embarrassing and difficult situation of the regiment in relation to the enemy in that month, is offered by Captain Thompson as the cause of his not being able to produce a regular payroll in support of the charge or particular item alluded to. Let this item be stricken from the account, and then

it appears that the United States are indebted to the indigent petitioner in the sum of two thousand two hundred and eighty-five dollars and ninety-two cents; but by the several resolves and statutes of limitation passed by Congress, *his claim, in the eye of the law, is satisfied.* The petitioner, however, alleges that, in his case, the principles of equity ought to control the rigor of the law, because he endeavors to prove, and has indeed satisfied the committee, that the settlement of his account within the time limited by law, was prevented by circumstances not within his power.

The letter of the register already referred to, and his certificate thereto subjoined, show that the petitioner attended in person, and also by Mr. Nourse, his agent, at the office of the commissioner of army accounts, in New York, for the purpose of getting his account settled, but that an adjustment of it did not take place in consequence of "some difficulty" arising out of the unsettled situation of the accounts of Lieutenant Colonel Antil, of the aforesaid regiment. To obviate this difficulty, the petitioner states that he made unremitting efforts for the liquidation of his account with Edward Chinn, the paymaster of the regiment; presuming that if he could succeed in this, his account would then be admitted by the agent of the United States. It appears, as well from the said letter of Mr. Nourse, as from the petitioner's representations, that his efforts were fruitless, and that Chinn not only refused or neglected to make a complete statement or settlement of the petitioner's account, but the petitioner moreover alleges that he was unable in due time to obtain from him such papers as were deemed indispensable for its adjustment. Chinn died; the statute of limitations began to operate, and here the subject rests.

In reporting in this, as in all other cases, the committee consider themselves bound by the law of the land. Could they indulge their feelings on the present occasion, they would not say to an old soldier, who has bravely fought the battles of his country, that his just claim is extinguished by the mere lapse of a given number of years, during which he had not the means of enforcing it. Not compassion alone for a poor soldier, but the mandates of justice, would impel them to speak a very different language. Conforming, however, to the positive limitations of Congress, they submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[NOTE.—The papers referred to are not now to be found.]

11th CONGRESS.]

No. 203.

[2d SESSION.]

HALF-PAY FOR LIFE IN LIEU OF FIVE YEARS' FULL PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 31, 1810.

Mr. NELSON, from the committee to whom were referred the petitions of sundry surviving officers of the late revolutionary army, in behalf of themselves and others, made the following report:

That, by a resolution of Congress of the 15th of May, 1778, all military officers who then were, or should thereafter be, in the service of the United States, and who should continue in service during the war, and not hold any office of profit under the United States or any of them, should, after the conclusion of the war, be entitled to receive, annually, for the term of seven years, if they should live so long, one-half of the then pay of such officers: provided that no general officer of the cavalry, artillery, or infantry, should be entitled to receive more than the one-half part of the pay of a colonel of such corps, respectively; and, provided that the said resolution should not extend to any officer in the service of the United States, unless he should have taken an oath of allegiance, and should actually reside within some one of the United States.

That, by a resolution of Congress of the 11th of August, 1779, it was resolved that the half-pay provided by the aforesaid resolution of the 15th of May, 1778, should be extended to continue for life.

That, by a resolution of Congress of the 21st of October, 1780, it was provided that the officers who should continue in the service to the end of the war should be entitled to half-pay during life, to commence from the time of their reduction.

That, by a resolution of Congress of the 17th day of January, 1781, all officers in the hospital department, and medical staff thereafter mentioned, who should continue in service until the end of the war, or be reduced before that time as supernumeraries, should be entitled to receive during life, in lieu of half-pay, the following allowances, viz: The director of the hospital, equal to the half-pay of a lieutenant colonel; chief physician and surgeons of the army and hospital, and hospital physicians and surgeons, purveyor, apothecary, and regimental surgeons, each equal to the half-pay of a captain.

That, by a resolution of Congress of the 22d day of March, 1783, it was provided that such officers as were then in service, and should continue therein until the end of the war, should be entitled to receive the amount of five years' full pay in money, or securities on interest at six per centum per annum, as Congress should find most convenient, instead of the half-pay promised for life by the resolution of the 21st day of October, 1780; the said securities being such as should be given to the other creditors of the United States: provided it should be at the option of the lines of the respective States, and not of officers individually in those lines, to accept or refuse the same; and, provided, also, that their election should be signified to Congress, through the commander-in-chief, from the lines under his immediate command, within two months, and through the commanding officer of the southern army, from those under his command, within six months from the date of the resolution.

That the same commutation should extend to the corps not belonging to the lines of any particular State, and who were entitled to half-pay as aforesaid; the acceptance or refusal to be determined by the corps, and to be signified in the same manner, and within the same time as above mentioned; that all officers belonging to the hospital department, who were entitled to half-pay by the resolution of the 17th of January, 1781, might collectively agree to accept or refuse the aforesaid commutation, signifying the same through the commander-in-chief, within six months; that such officers as had retired at different periods entitled to half-pay for life, might collectively, in each State of which they are inhabitants, accept or refuse the same; their acceptance or refusal to be signified by

agents authorized for that purpose, within six months; that, with respect to such retiring officers, the commutation, if accepted by them, should be in lieu of whatever might be then due to them since the time of their retiring from service, as well as what might thereafter become due; and that so soon as their acceptance should be signified, the Superintendent of Finance should be, and he was thereby, authorized to take measures for the settlement of their accounts accordingly, and to issue to them certificates bearing interest at six per cent.; that all officers entitled to half-pay for life, not included in the preceding resolution, might also, collectively, agree to accept or refuse the aforesaid commutation, signifying the same within six months from the passage of said resolution.

The petitioners state, and the fact is of too general a notoriety to be disputed, that although they confidently expected, at the time they were compelled from imperious necessity to accept the sum in gross in lieu of half-pay for life, that it would be paid to them in reality, and not by a fresh promise without any sufficient guarantee for its due performance, yet they were compelled to receive certificates, which, for want of any specific provision for the payment of them, or the interest accruing on them, were immediately depreciated to five for one, and, by degrees, to ten for one, in exchange for money. They therefore pray that half-pay for life, to commence from the time of the reduction of the army, may be granted to them, according to the solemn stipulations entered into with them by Congress, by the resolutions before referred to; deducting therefrom the five years' full pay received by them in depreciated paper by way of commutation.

It is well known to your committee, and to the whole nation, that the far greater part of the officers were compelled by hard necessity to dispose of their commutation certificates at prices infinitely below their nominal amount; that this did not proceed from want of patriotism, of which they had beforehand given proofs most unequivocal, or of want of confidence in their Government; but that after having spent the vigor of their manhood in the service of their country, they returned to the walks of civil life, (many of them maimed, and scarcely able to halt along,) ignorant of what was passing or likely to pass in the councils of their country; the gripping hand of poverty bore hard upon them; and, unacquainted as they necessarily were with civil affairs, they fell an easy prey to the wiles of the artful and insidious speculator, who was lying in wait to fatten upon their hard earnings. Under circumstances like these, it would have been strange, indeed, if they had kept their certificates in their pockets. No, the thing was impracticable; go they must, for whatever they would bring, and be the consequences whatever they might.

Upon the whole, the committee are of opinion that the contract entered into by Congress with the officers of the late revolutionary army, for giving them half-pay for life, has not been substantially complied with by the Government. They, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioners is reasonable, and ought to be granted.

11th Congress.]

No. 204.

[2d Session.]

INDEMNITY FOR PRIZES TAKEN IN 1779 BY THE FRIGATE ALLIANCE, AND SENT TO BERGEN, WHERE THEY WERE RESTORED TO THE ENEMY BY THE KING OF DENMARK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 5, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Peter Landais, made the following report:

That it appears from the memorial and documents that the Alliance, a frigate of the United States, was commanded by the memorialist in the late revolutionary war, and, in concert with other armed vessels of the United States, on a cruise in the north of Europe in the year 1779, captured three British vessels, and sent them, as prizes, into Bergen, in Norway: that, on the arrival of these prizes at Bergen, where they were consigned to the French consul, they were seized by order of the King of Denmark, and restored to the original British proprietors, on the ground that as Denmark did not acknowledge the independence of the United States, the captures were arbitrarily deemed illegal. The petitioner claims of the United States his proportion of the prize money.

This conduct on the part of Denmark was most certainly in violation of her neutral character, and an unwarrantable interposition in the war between the United States and Great Britain. The justice or injustice of the war was not a subject of decision which belonged to a neutral Power. No preference should have been given to either party in the war. There should have been an equality of friendship, or a conduct equally abstaining from injury. So far from observing this conduct in the transaction, Denmark departed from this line of impartiality, by a positive act and exercise of power, in divesting those who were in the service of the United States of an inchoate right to property by giving it back to British subjects who had, at least, lost the possession of it. At the period of restoring these prizes the United States had declared their independence, and that independence had been acknowledged by some other nations. But, in another point of view, if Denmark considered the struggle with Great Britain as nothing more nor less than a civil war, still the restoration of the prizes to the other party in the war would still be unauthorized by those rules which are binding in reason and by the laws of nations upon neutral Powers. This last position is corroborated by the opinion of the Secretary of State, now the President of the United States, in his report on this subject; and, consequently, in every rational view of the subject, the claim of damages upon Denmark, for the restoration of said prizes, remains obligatory. The committee, upon the most deliberate examination of this case, are without doubts that the United States are not bound, in equity or justice, or by the laws of nations, to pay to the petitioner any portion of the said prizes, which might have been the share of the petitioner if his inchoate right had not been defeated by the restitution of the prizes. But the practice of the United States, during the revolution and since, has been in opposition to such claims. The citizens of the United States have a right to expect protection from their Government; but in no situation have the United States ever considered themselves bound to make pecuniary compensation to those of her citizens who have suffered loss by the encroachments of foreign nations. But the United States have sacred and important duties to perform to herself and her citizens in

this respect: not in making pecuniary compensation herself, but in maintaining the honor of the nation, enforcing obedience to her neutral rights, and in procuring indemnity from such aggressing Power, so far as may be practicable and consistent with the means and independence of the United States. But this conduct of the United States must be voluntary on the part of the Government. The Government alone is the judge what should be done in any individual or in a general complaint; and your committee have confidence that the Government will pursue that course which is most honorable, equitable, and useful, having a just regard to individuals as persons, and the whole community as a body politic; and, upon this occasion, the United States have not been negligent in making use of reasonable exertions, and furnishing rational means of procuring from Denmark damages for the restitution of the prizes aforesaid to the original British owners. A concise view of the proceedings on this subject will best prove this position. As soon as the Danish Government, by the solicitation of the British minister, gave orders to restore the three prizes captured by the Alliance, information of it was given to Dr. Benjamin Franklin, then in France, who immediately communicated this intelligence to the Congress of the United States, and also sent a memorial to the King of Denmark, protesting against the restitution, and demanding the order to be rescinded, and the vessels to be delivered to the French consul, from whose care they had been taken, and demanding compensation to the amount of fifty thousand pounds sterling, at which these prizes were then estimated, provided they were not in a situation to be restored to the captors: that, in consequence of the letter of Dr. Franklin to Congress, a resolution was adopted the 25th of October, 1787, instructing our minister at Versailles to renew the claim upon Denmark for the prizes given up to Great Britain during the war, and demanding a pecuniary compensation equivalent to the value of them; investing the said minister with power finally to settle said claim, and, if necessary, to appoint Chevalier John Paul Jones, or any other agent, to the court of Denmark, with such powers and instructions as he might deem most conducive to a successful issue. In consequence of which power Paul Jones was appointed their agent by Mr. Jefferson, late President of the United States, and then minister at Paris; that this agent went to Copenhagen, and in March, 1788, repeated the claim of compensation. The Danish Government answered this agent, that the affair would be referred to the Baron de Blome, the Danish minister at Paris, to be negotiated between him and Mr. Jefferson. The petitioner's, and the other vessels cruising in concert, were under the command of Chevalier Paul Jones in the first voyage, if not during the whole cruise, and Chevalier Jones and the commanders of the squadron entered into a written agreement for the distribution of the prize-money which might accrue upon the success of the cruise; which agreement the petitioner has attempted to invalidate, and upon which the committee do not feel themselves called upon to decide: that after the last application was made by Paul Jones to the Danish court he entered the Russian service, and no measures have ever been taken since: so that reasonable exertions were made at those times to obtain compensation for those prizes; but all was fruitless.

The Danish court has never denied the right of the captors to indemnity. When Dr. Franklin wrote to Count Bernstorff, he referred him to Baron de Blome, the Danish minister in France; and upon the application of Commodore Paul Jones, promise of negotiation was made, and referred to the same minister. It is the opinion of your committee that the Government never should relinquish said claim, in any transactions or negotiations between the two Governments; and they hope, upon a convenient opportunity, to renew this claim of damages, when the court of Denmark would be disposed to settle agreeably to justice, from a love of that neutral character by which Denmark has acquired so much glory, and in order, likewise, to emulate the conduct of the United States towards the subjects of that kingdom. But your committee cannot think that the petitioner has any legal claim upon this Government; but the Government alone is the judge, and the rightful judge, what measures should be pursued in relation to the subject, and all others of the same tenor. The committee feel no inclination to deny that the memorialist fulfilled the orders of his superiors; nor do they feel it their duty to examine that point, nor whether the agreement entered into by the petitioner and the commanders of the squadron sailing in concert would be binding or nugatory, as these two positions can have no bearing upon the present inquiry, which is, whether the United States are liable to the captors for the three prizes restored by Denmark as stated.

The right of making war belongs to the sovereign power of a nation, which rests with the people of the United States, by their representatives; and individuals cannot take any steps themselves without authority. Persons, therefore, fitting out privateers to cruise against the enemies of that country of which they are members, acquire the property of whatever captures they make as a compensation for their services, disbursements, and the risks they run. They acquire the right from the commission which issues to them from the power controlling the operations of the war; and these captures are made under certain regulations or laws adopted by the power granting the commissions. Sometimes a part, sometimes the whole capture, belongs to the captor; this depends upon rules, or the contract by which the distribution is regulated. And though the love of justice and hatred of oppression may enter into the motives or inducement for this service of making captures, the prospect of riches constitutes part of the inducement: so that the nature of the service proves satisfactorily that the United States never intended to be responsible for the captures lost in such a way, or in any other way where the United States could not control, by reasonable precaution, the event which produced the loss; and, in fact, where the United States are not culpable, they are not liable.

The nature of this service in the American revolution was known to all engaged in it, and more especially the perils of cruising in the very neighborhood of England, with her formidable navy, the place where these prizes were taken. In this situation, to give the squadron as mentioned all the benefit arising from the importance of the United States, and to prevent those engaged in her service from being considered as pirates, they not only acted under commissions, but orders from Dr. Franklin, who designated the neutral ports where it was most probable the captures would be safe until they could be sent with more safety to the United States, or some ally: and for the benefit of this squadron and the American cause, he gave written orders, by which the squadron was to be governed; and in one of his letters of instruction to Chevalier John Paul Jones, he says: "The prizes you make send to Dunkirk, Ostend, or Bergen, in Norway, according to your proximity to either of these ports." Thus giving his own weight of character, and the influence of the United States, for the benefit of those employed in the public service of this country, and from his information directing the captors to places of the most security.

The observations made above will apply with equal if not greater force to the case of the memorialist, who was in the service of the United States, commanding a frigate, with the advantages of capture allowed to others commanding privateers.

It is also well established by the law of nations, previous to the revolution, and which law was, during the revolution, acknowledged and acted under by the United States, that the property in goods captured cannot be transferred, so as to divest the right of the original owner, unless by a sentence of condemnation by a court of competent jurisdiction; and the courts of the United States, or the courts of an ally, alone would have been competent; so that the captors never had a vested right. The capture gave an inchoate right, which would have been perfected by condemnation of a competent tribunal; and the letters of Dr. Franklin show that the prizes were intended for the United States, and much danger was apprehended. In Johnson's New York Reports, vol. ii. p. 471; Brown's Civil and Admiralty Law, p. 251 to 260; Azuni, vol. ii. p. 242; this doctrine above is established: all

which prove the hazards of the captors, and by one of those unforeseen events did defeat their right before its completion.

Upon inquiry from the Department of State, it appears that the United States have no funds of any kind in possession belonging to Denmark, and no part of this claim can be discharged in that way. The committee hope that the claim will not be disregarded in any adjustment of the claims or other complaints which may be the subject of negotiation between the two countries of Denmark and the United States.

This view taken of the subject has been predicated upon the ground that the commanders of the squadron, of which the memorialist was one, had been set on foot by the United States alone. But there is a different view of the subject, from which it would result that, if there was any liability in this case, France would be the responsible nation, or at least equally bound with the United States.

It appears to your committee that, previous to the cruise of the squadron with which the Alliance was associated, the court of France had some naval expedition in view against England; and as Paul Jones, Esq. had signaled himself in a sea engagement in taking the Drake, application was made to Dr. Franklin for his services to command in the enterprise, which was granted. The project was formed by the court of France. Paul Jones was furnished with some of the King's ships, the officers of which were to have temporary American commissions, and for some reasons of the ministry of France it was wished that the expedition might be considered as American, and that Dr. Franklin should give the instructions in his name; but he never paid or received, in behalf of the United States, any money, directly or indirectly, on account of this enterprise, and the whole outfit for the squadron was committed to Monsieur de Charmont, an agent of the French Government; and, after several changes as to the destination of the enterprise, the final intention, under which the cruise set sail, was to intercept and attack the Baltic fleet. At the time of this enterprise, France being engaged in war with England, and the ally of the United States, the Alliance frigate was under orders to carry Mr. John Adams back to America from Europe; and the minister of the French marine, by a written letter, requested of Dr. Franklin that he would lend the Alliance to strengthen the little squadron aforesaid, offering a passage to Mr. Adams in one of the King's ships. Dr. Franklin consented to the request, with the double view to oblige the Minister of the Marine, and to obtain some English prisoners to exchange for the Americans in captivity in England. That the ships with which the Alliance was concerted were, 1st, the Bonhomme Richard, bought and fitted by the King of France for Captain Jones; 2d, the Pallas frigate; 3d, the Vengeance, a corvette; 4th, the Cerf, a cutter, all belonging to the King; and two privateers sailed with the squadron, but were not considered as part of the armament: that Dr. Franklin made no agreement, nor any other person for him, with the commanders of said expedition, respecting the shares they were to draw severally of the prizes which might be taken during the said cruise: that he lent the vessel (Alliance) at the minister's request; and that the captain, before they sailed, entered into an agreement to divide the prizes according to the rules of the United States, as they acted under American commissions and colors. It appears that, although Dr. Franklin expected the prisoners taken, by lending the Alliance, to exchange with Great Britain, he was disappointed on account of difficulties which occurred in Holland, and they were exchanged for French prisoners: that the disbursements for the frigate Alliance were paid by the King of France, while under the command of Captain Jones, including the period in which the prizes were taken, viz: 1st, on her refit in Holland, and, 2d, on her refit after her return to L'Orient; and though the petitioner considered himself not under the command of Commodore Jones after his return to France, (the first time after he had made the captures which were sent to Bergen,) still Dr. Franklin considered him in that service. For it is certain that the memorialist acted under the orders originally given to Paul Jones, which copy was given him because it was uncertain whether the Bonhomme Richard, commanded by Paul Jones, could cruise as soon as the Alliance, and whether the agreement entered into by the commanders was binding, respecting the prizes taken while Jones was absent, which is not the province or duty of the committee to determine. It was after these prizes had been taken and carried into Bergen, that the Alliance again joined the squadron of Captain Jones, a few days after, off Flamborough Head, about the 22d of September, 1779, when they engaged together and took the two English men of war, the Serapis and Countess of Scarborough. Your committee are of opinion that the Alliance joined in the enterprise set on foot, projected, and patronized by the court of France against the common enemy of the United States and France, and that the commanders undertook the enterprise, knowing all the circumstances enumerated, and entered into an agreement with each other as to the share of the profit; and although the committee cannot see that France or the United States should be liable to make good the damages to the memorialist, still, if any be liable, it would certainly be the French Government, if not in whole, at least in equal parts. Vide Franklin's Works, vol. 5. p. 80.

Upon this view of the subject, the committee submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

11th CONGRESS.]

No. 205.

[2d SESSION.

GENERAL ARTHUR ST. CLAIR FOR ADVANCES MADE DURING THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 23, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Arthur St. Clair, made the following report:

That the petitioner claims the reimbursement of the sum of eighteen hundred dollars, advanced by him in the year 1776, to Major W. Butler, of 2d P. B., to begin in the northern department the re-enlistment of the troops then in service, in order to form a part of the permanent army of the United States, conformably to the resolutions of Congress; which claim is founded upon a receipt in the following words and figures, viz:

“ TICONDEROGA, October 26, 1776.

“ Received of General St. Clair eighteen hundred dollars, for the recruiting service.

“ WM. BUTLER, Major 2d P. B.”

Which paper is hereunto annexed; under which receipt, and on the same paper, the following memoranda are made: “ Gave Captain Wilson one hundred and fifty-four dollars for the same purpose; October 30, Captain Moore three hundred and sixty-two dollars; November 3, Mr. Armstrong seven dollars and ten cents.” The committee

are satisfied that the petitioner advanced the sum mentioned, for the object and in the manner set forth by the memorialist; that it was applied to the re-enlistment of the permanent army by Major Butler; that the United States have received the benefit of the sum advanced; that neither the United States nor Major Butler have ever paid any part of the said sum to General St. Clair. Of the authenticity of Butler's receipt there can be little doubt. Besides the internal evidence of the original paper, and being on a piece of paper containing private memoranda, written with the same pen and ink apparently, the certificate of Joseph Howel, Jun., assistant commissioner of army accounts, that the claim had been laid before him 6th November, 1787; and also, that before the death of Major Butler, or as early as 1793, the receipt was put in possession of Mr. Ross, an attorney, to bring suit against said Butler. Howel's certificate, No. 1. Ross's certificate, No. 2. In a transaction of this kind, the committee would not be satisfied of the justice of this claim, upon a proof that the money had been advanced for the United States; but would require presumptive satisfactory evidence that the reimbursement never had been made of this particular sum.

This evidence is furnished by the circumstances of this case, and the documents of the memorial. Although the memorialist has had various settlements with the Government of the United States, except the final settlement of his accounts for revolutionary services with Pearce in 1787, he never could, with propriety, have made the claim, as they were accounts arising from disbursement of moneys for specified purposes, and for services and claims arising from considerations long since the American revolution, and with which other claims could not have been blended. In the settlement of his army accounts with Pearce, he might have laid in his claim for the \$1,800. No positive proof, independent of the positive declarations of the memorialist, exist of the exhibition of the claim for settlement at that time. But the certificate of Joseph Howel, the successor of Pearce, establishes two facts, which remove all doubts on this part of the subject: that William Butler, to whom the \$1,800 had been advanced, had not settled his public accounts, which was the reason why Pearce could not admit this claim as alleged by St. Clair; and secondly, that the \$1,800 did not appear upon the books of the office of army accounts in favor of the memorialist; and the want of a settlement of accounts with Butler seemed a reason why Howel did not take upon himself to settle said claim the 6th of November, 1787; from these two facts, it seems certain that the petitioner, in 1787, made claim to this \$1,800, which had not been allowed, and that all subsequent settlements and transactions between him and the United States were of a totally distinct nature, and could not include such a claim as this. Considering the circumstances of this case, the committee do not think the lapse of time a presumptive evidence that the claim has been paid, having a particular regard to the conduct of General St. Clair; he has not been negligent in making claim either against the United States or William Butler. The presumption is strong that this claim was presented to Pearce for settlement in 1787. It is certain it was presented to Howel the 6th November, 1787; that before the death of Major Butler, he gave the receipt to Mr. Ross, upon which to bring a suit, about the year 1793, and, after Butler's death, applied to his executors; that he presented his petition to reimburse him this money in the year 1803; that previous to this time, Ross had returned the receipt of Butler, upon a belief that an action would not lie against his executors for money advanced for public purposes; and that in 1809, the executrix of William Butler refused to give the petitioner his books, containing his account with the petitioner; that the memorialist never could have presented his claim to any of the officers of the Government for liquidation after the 23d of July, 1788; (see vol. 12, journals of old Congress, page 77;) and the statute never was suspended as to this class of claims; the suspension only applied to a prior resolution, respecting claims for military services, which were barred after August, 1786; (see vol. 10, journals, page 255;) and the act suspending the statute of limitations, passed the 27th March, 1793, only as to claims for personal services; (see Laws, vol. 2, pages 31, 32.) A paper purporting to be a statement of accounts between General St. Clair and Major Butler in the hand-writing of the petitioner, the petitioner has satisfactorily explained how that paper came to be in his own hand-writing; but that paper, if evidence in the case, would establish important facts in favor of General St. Clair. It appears, by this document, that the money was advanced by General St. Clair, and that money applied to the benefit of the United States and balanced by money expended by Major Butler in the recruiting service. So far from these facts absolving the Government from the payment of this claim, they make the claim more obligatory upon the United States, as the money was advanced at a most perilous and interesting moment, and gives the claim the most meritorious marks; nor can there be any presumption that this money had been previously paid to General St. Clair by the paymaster general or any of the officers or agents of the Government, but the presumption is very strong the other way, that it was not advanced to him by the agents of the United States: first, because he had then received the commission of general, and did not stand in such a relation to Major Butler, as to suppose with him the deposit of money was made for the use of Major Butler: second, the time and place of making the advance in the north, proves, with other facts, that Major Butler had finished the recruiting service in the formation of his company while captain and in Pennsylvania, and that the recruiting the men to enlist as a permanent part of the army was the recruiting alluded to. (See General Washington's letter on this subject, referred to by the memorialist.) It is believed by the committee, that the money advanced to Major Butler to recruit his company in Pennsylvania was furnished by the United States, and given to the petitioner while colonel in the United States' army, and in the State of Pennsylvania; and the account between Colonel St. Clair and Captain Butler, as to money for recruiting men, in the first instance, ceased with a completion of that employment, which ended after the army left Philadelphia for the north; and on August 12th, 1776, Colonel St. Clair was commissioned brigadier general, and the money advanced to Major Butler was on October 26th; and it is presumed, unless the contrary appears, that General St. Clair's elevation in rank changed his relations as it respected the men commanded by Major Butler, and that he had nothing to do with the regiment of which Butler was a part, only as it composed a part of his brigade. Independent of these considerations, the existence of the receipt of Major Butler, in the possession of the petitioner, furnishes strong and violent presumption that the money mentioned in it has never been paid, either by the Government or Butler; if by the Government, the foundation of the claim would have been required, and as the receipt was the basis of that claim, it must have been repaid; if Butler had ever satisfied this claim, he certainly would have taken in his receipt. It would be a presumption, not warranted by law or reason, to suppose that the petitioner has ever been divested of this paper, and that he has, in any way whatever, come to the improper possession of the receipt again. The fact must be taken as found, that he holds the receipt *bona fide*, without its having ever been discharged. The committee need not say more, to show the impropriety of blending this account of \$1,800, with other accounts, between the petitioner and William Butler, or with the United States; the item of \$1,800, advanced at Ticonderoga, has alone occupied the attention of the committee, and they think it would be improper to blend it with other distinct inquiries, not embraced by the claim. They are satisfied that the petitioner advanced the money; that it was applied to the benefit of the United States; that he has used reasonable diligence to have said claim settled; and that the said sum has never been paid by the United States or Major Butler to the petitioner; and if it appears upon the Treasury books, or books of the War Office, that General St. Clair is indebted to the United States, it cannot invalidate his claim; in this case it could only go as an offset for so much. But this inquiry is not before the committee; there is a remedy for the case of public debtors. This claim being barred by the statute, the committee, as in other cases, feel bound to recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

NOTE.—The papers referred to in this report are not now to be found.]

11th CONGRESS.]

No. 206.

[2d SESSION.

HORSE IMPRESSED IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1810.

Mr. GHOLSON, from the committee to whom was referred the petition of Amey Dardin, widow, relict and administratrix of David Dardin, deceased, made the following report:

That the petitioner claims compensation for a stud-horse, known by the name of Romulus, taken from her husband, David Dardin, in the year 1781, for the use of the army of the United States. It appears that the said horse was impressed from David Dardin for the public service by Lieutenant Rudder, a continental officer, on the 26th of February, in the year aforesaid, and was then valued at the sum of £750 specie. The horse was taken to the army in North Carolina, then commanded by General Greene, who, upon hearing of the valuation, ordered the said horse to be valued again, which valuation was still higher than the first; whereupon General Greene ordered the horse to be returned to his former owner, who called upon three persons to ascertain the damages sustained by the use of his horse; and they estimated the damages at £100. The said Dardin then received the horse as his property, and continued to use him as such until the 17th July, 1781, when another continental officer again took the horse and gave a receipt for him, wherein the sum of £750 is mentioned as having been before stated as the appraised value. This procedure attracted the attention of the Executive of Virginia, and in December, 1782, Benjamin Harrison, then Governor, made a representation to General Greene respecting this subject; but the horse being by this time in the State of Georgia, and applied to the public service, was continued therein, finally disposed of, and never thereafter returned to the said owner. It also appears that this claim of Dardin was referred to the Virginia Assembly in 1782 by the court of Mecklinburg county; and, in a former report it is stated, and believed to be true, that Dardin accordingly petitioned the Legislature of that State; but his claim being considered as coming more properly against the Union than against any particular State, he did not succeed. He, or the present petitioner, was then advised that redress might be obtained against the officers who took the horse, and a suit was instituted in the High Court of Chancery of Virginia for that purpose, which suit was depending therein until the month of June, 1793, when it appears to have been abandoned and was dismissed. With the exception of the fact which the committee have extracted from a former report in this case, *that this claim was once presented to and rejected by the Virginia Legislature*, (which is deemed a circumstance of no particular importance,) all the foregoing statement is supported by written documents which appear to be genuine and authentic.

On the merits of this claim, your committee consider it almost superfluous to comment. The facts are conclusive in its favor, and no obstacle to its discharge can be conceived, except the lapse of time on this subject. The committee beg leave to state, that on the 23d July, 1787, Congress passed a resolution providing that all persons having unliquidated claims against the United States shall exhibit a particular abstract thereof to the Comptroller of the Treasury of the United States within one year. This was the first limitation that was adopted in respect to any class of claims, except those for *personal services*, which had been barred by the resolution of 2d November, 1785. The committee are of opinion that this claim was not included in the resolution of 23d July, 1787, because that resolution mentions only *unliquidated claims*; and the present claim was always *liquidated* and certain. The certificate granted by the continental officer states the appraisement of the horse, made pursuant to the usage of the army, at the *specific sum of £750 specie*.

The next limitation to claims against the United States, and which it is believed by the committee embraces the claim of the petitioner, is contained in the act of the 12th February, 1793, which took effect on the 1st of May, 1794. On the 28th of February, 1794, the petitioner, instead of presenting her claim to the Treasury, according to the requisition of the statute of the 12th of February, 1793, presented it to Congress, who took cognizance of it, and ordered it to lie on their table. Her petition, and the only documents on which she could have succeeded at the Treasury, were retained in the possession of the House of Representatives *until*, and for some time *after*, the statute of limitations began to operate. Your committee have no hesitation in hazarding the opinion that in a case like this, between A and B, before an intelligent, upright, and equitable judge, the claim would be most undoubtedly sanctioned as not coming within the *spirit*, although it may fall within the *strict letter* of the act of limitation.

Placing, however, this question out of view, the committee are still of opinion that the claim of the petitioner ought to be allowed. They believe that when a claim, founded in a *fair consideration*, and supported by *indisputable evidence*, is presented for payment, a proper self-respect on the part of the Government, as well as justice to the claimant, requires its discharge. They therefore submit the following resolution:

Resolved, That the prayer of the petitioner ought to be granted.

11th CONGRESS.]

No. 207.

[2d SESSION.

MASTS, SPARS, AND OTHER MATERIALS FURNISHED THE NAVY YARD AT WASHINGTON.

COMMUNICATED TO THE SENATE, MARCH 1, 1810.

Mr. BRADLEY, from the committee of the Senate to whom was referred the memorial of Charles Minifie, made the following report:

That the claim of the petitioner is founded on a sale made by him, in April, 1803, to the persons then in authority at the navy yard in Washington, of a valuable cargo, comprising large masts, yards, and bowsprits, ready formed, together with spars, and other ship-building materials of various descriptions, for the use of the navy of the United States.

That the articles constituting the said cargo were priced between the petitioner and one John Steel, then the master carpenter and surveyor, with the approbation and consent of Captain Cassin, then acting as the agent and commandant of the said navy yard. The cargo was, accordingly, on the 19th and 23d April, 1803, delivered at the yard, and there regularly surveyed and measured, and bills of the measurement and survey duly made out and certified by the proper officer of the yard. An account of the same was drawn out, according to the stipulated prices and to the certificates of measurement and survey, amounting to \$10,660 65, which, after going through the customary examination and correction by the clerk of the yard, was finally approved and signed by Captain Cassin, who directed the petitioner to present it at the Navy Department for payment; and the petitioner did accordingly present it; whereupon, some time was required by the proper officers of that Department to examine into the account, and go over the calculations.

That, in a few days after the account was presented, and while the same was pending before the Navy Department, Captain Thomas Tingey resumed his station as agent and commandant at the said navy yard, having for some time before resigned; and it was during the recess of his agency and command, and while the same was devolved upon his second in command and successor, Captain Cassin, that the transaction concerning the said cargo took place.

That, upon Captain Tingey's resuming his command, he started objections to the purchase of the said cargo, and to the account founded on that purchase, and made offers to the petitioner of reduced prices; whereupon, considerable discussion took place on the subject; the petitioner constantly and uniformly insisting upon the sale at the navy yard as a bargain binding upon all the parties, and as no further subject to revision or modification than barely to correct any errors of measurement or calculation that might be made to appear.

That, on the 16th May, 1803, after near a month had been consumed in discussions of the petitioner's claim, he sent in a formal demand to the Navy Department, requiring either that his account should be immediately liquidated, or that his cargo should be returned to him in the same condition as when delivered. Neither of the proposed alternatives was acceded to; no reason is distinctly given for declining the last. From the objections urged against the petitioner's claim to the amount agreed on at the navy yard, it may be collected that the authority to purchase spars, &c. for the ships in ordinary was considered as a special authority confided to Captain Tingey while he was in command, and that it was not supposed to have devolved upon his successor, Captain Cassin, as incidental to the office.

That it sufficiently appears, from the most unquestionable evidence, that the purchase and reception of the said cargo by the public agents, and for the public service, upon the specific terms insisted on by the petitioner in his memorial, was complete and definitive in every requisite of form and substance, provided those agents were vested with competent authority, and that the petitioner acted, *bona fide*, upon a reasonable presumption of a competent authority in the persons with whom he contracted. Wherefore, the committee, without passing any opinion upon the extent of the powers really or ostensibly vested in those persons, are clearly of opinion, that until the point was settled, the cargo ought to have been preserved untouched, ready to be restored to the petitioner in case the authority of the agents concerned in the purchase was finally disclaimed, and no terms in lieu of those agreed on by them could be substituted by consent of parties.

That the public agents went on using the petitioner's timber, and did actually appropriate the whole of it to the public service, notwithstanding his account was in dispute, and his avowed and known determination to abate nothing of his claim, and notwithstanding his demand of a specific restoration of his property unless that claim should be fully satisfied.

That, in the month of April, 1805, after a long series of altercation and correspondence on the subject, in the whole course of which the petitioner appears to have uniformly persisted in his original demand, a sort of arbitration was agreed on between the petitioner and the Navy Department, whereby it was referred to two ship carpenters in Alexandria, to re-value the cargo, and correct all errors made to appear in the admeasurement.

The re-valuation of the referees amounted to about \$1,897 over and above what had been all along insisted on at the Navy Department, upon the authority of Captain Tingey, as the true value of the cargo; but still leaving a balance of about \$3,193, claimed by the petitioner according to his original bargain.

That the petitioner urged sundry objections against the proceedings of the referees, and protested against their decision; and it appears to the committee that such decision ought not to be deemed conclusive upon the petitioner, under the circumstances of his case, for the following reasons:

1st. Because the referees appear to have proceeded to make up their award upon a letter of instructions stating the ground of controversy, accompanied by a list of the cargo, written and furnished *ex parte* by Captain Tingey, without giving any notice whatever to the petitioner, and without allowing him an opportunity to lay his case before them, and produce such proofs as he might have of the extraordinary quality and value of his cargo.

Independently of the manifest irregularity of this proceeding, the committee are satisfied that complete justice could not be done by referees acting under such circumstances, and proceeding at Alexandria to value a cargo which they had never seen, and concerning the peculiar quality and value of which they examined no evidence, nor had any other means of judging than simply a list, consisting of an enumeration of the measurement of the articles; whereas the petitioner had all along alleged that his cargo was of very superior quality and value to any materials of that description commonly merchantable in ship-yards, and that it ought to have been valued upon different principles, and according to its own peculiar merits. Whether this allegation be in fact well grounded or not, he ought, in all events, to have had an opportunity of substantiating it in the best manner he could; and it appears that he was ready, and went to Alexandria for the purpose of making arrangements for producing his proofs, when the referees informed him that the award had already been made up, and transmitted to Captain Tingey.

2d. Because it does appear, from the correspondence between the petitioner and the Navy Department, adjusting the terms of the reference, to have been stipulated, as an essential condition, that as the contract was to be opened in regard to the pricing of the articles, the referees should also have submitted to them the correction of errors in the admeasurement which the petitioner insisted had been committed by the surveyor of the navy yard; whereas it appears that they proceeded to make up their award, without acting at all upon that branch of the submission, or making any inquiry on the subject, and without allowing the petitioner any opportunity to adduce evidence to that point.

That, upon those grounds, the committee are of opinion that the award, as a matter litigated between individuals, would be set aside in a court of law or equity, and the parties be left to assert their rights upon the original grounds of controversy; and that it would be highly unjust for the United States to insist upon giving it greater force in their favor than would be consistent with sound principles of jurisprudence in an ordinary case.

That the petitioner has received two payments from the Navy Department: 1st, the sum insisted on by Captain Tingey as the value of the cargo; and, 2d, the further sum awarded by the referees; but that he has received those sums under such circumstances as in no degree to prejudice the assertion of his claim to the balance

of his original demand, amounting to \$3,193 41, with interest from the 23d of April, 1803, or such part of the same as he may be able to substantiate by proof.

That the period limited by act of Congress for an appeal to the Comptroller had elapsed, without imputation of negligence to the petitioner, and that his account has been passed from the Department of the Navy to that of the Treasury; so that his claim is not considered as cognizable before either Department.

That the committee do not deem it necessary or expedient to decide definitively upon the merits of the petitioner's claim, in regard either to the conclusiveness of the bargain and sale of the cargo at the navy yard, or in regard to the degree of excellence or value of the cargo, or to any alleged errors of admeasurement, in case the said bargain and sale shall be found to have been made under such circumstances as not to make the transaction in terms binding upon the public; but the committee are clearly of opinion that the prayer of the petitioner is so far reasonable, that he ought to be allowed to have his claim audited and settled by the proper accounting officers of the Treasury, upon its original merits, unfettered by the said award of the referees.

11th CONGRESS.]

No. 208.

[2d SESSION.]

INDEMNITY FOR THE CAPTURE OF A BRITISH VESSEL WITHIN THE LIMITS OF THE UNITED STATES, BY A FRENCH CRUISER, IN 1793.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of John Mulloony, made the following report:

That this claim is for damages arising from the capture of the British brig Catharine, in the year 1793, by the French national ship L'Embuscade, Captain Baufraid, within the territory of the United States, and awarded in 1794, by the district court of New York, to the amount of two thousand nine hundred and thirty-four dollars and seventy cents. The committee refers to, and makes a part of this report, the letter from Mr. Jefferson to Mr. Madison.* The committee will further add that the United States are not liable to make pecuniary compensation for any injury inflicted by a belligerent within the jurisdiction of our neutral waters; we are bound only to use all the means in our power to prevent such wrong, and to restore the property when taken; so that the claim in this case is not entitled to the legal or equitable consideration of the United States, either upon the general principles of the laws of nations, or upon the peculiar circumstances of the case. The vessel and cargo in this case were restored by the interposition of the United States, and the claim is the damages recovered in our courts; and it would be improper that the United States should assume a responsibility for such damages; all that can be asked in such a case would be the legal process of the courts to reach the person and the property of the individual against whom judgment was pronounced, which was not withheld in this case. The committee recommend the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

11th CONGRESS.]

No. 209.

[2d SESSION.]

INDEMNITY FOR INDIAN DEPREDATIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 14TH OF MARCH, 1810.

Mr. WITHERSPOON, from the committee to whom was referred the petition of Alexander Scott, of South Carolina, for himself, and as agent for sundry other persons, made the following report:

That in the month of February, 1794, William Scott, James Pettigrew, and John Pettigrew, of South Carolina, left that State, with a view of establishing themselves in the (present) Mississippi Territory, and took with them twenty-one negro slaves, with goods and chattels to the value of more than one thousand dollars; that they proceeded in safety on their journey as far as the Muscle Shoals, on the river Tennessee, where they were attacked, about the 9th of June, 1794, by a party of Cherokee Indians, who put to death all the white people of the family, and took possession and carried away the negroes and other property. It appears also to your committee that repeated endeavors have been made, at very great expense, to recover the aforesaid property without any other success than the recovery of a negro child; and that the persons legally entitled to the said property are forever foreclosed from any remedy by which to recover the same, in consequence of the stipulations of the ninth article of a treaty made with the said Cherokee Indians on the 2d day of October, 1798, which article is in the following words: "It is mutually agreed between the parties that the horses stolen, and not returned within ninety days, shall be paid for at the rate of sixty dollars each: if stolen by a white man, citizen of the United States, the Indian proprietor shall be paid in cash; and if stolen by an Indian from a citizen, to be deducted as expressed in

* This letter is not now to be found.

the fourth article of the treaty of Philadelphia. This article shall have retrospect to the commencement of the first conferences at this place in the present year, and no further. And all animosities, aggressions, thefts, and *plunderings*, prior to that day shall cease, and be no longer remembered or demanded on either side." By the above recited article the petitioners are wholly deprived of redress in the premises. If there existed any tribunal of justice before whom the case could be brought, the right of the petitioners to the said negro slaves and their increase would doubtless be established. But there is no court within the United States having cognizance of an action for the recovery of property held within the Indian boundary. Neither is it in the power of the petitioners to avail themselves of force or stratagem, whereby to regain the possession of the aforesaid slaves and their increase, because they would be liable to punishment for a violation of the statute of the United States regulating intercourse with the Indian tribes. From these premises it appears to your committee that the petitioners have an undoubted right to the above-mentioned slaves and their increase and that they have been deprived of all remedy for their recovery by the acts of the Government of the United States; that the voluntary renunciation of their rights by the Government gives to the petitioners a fair claim on the Government for indemnification. Your committee, therefore, under an impression that the aforesaid slaves would be delivered to the agent of the United States for Indian affairs among the Cherokee Indians upon conditions more favorable to the United States than a full remuneration of their value to the petitioners, respectfully submit the following resolution:

Resolved, That the prayer of the petitioner is reasonable, and that the President of the United States be authorized and requested to treat, by such commissioner as he shall appoint, for the delivery to the rightful owners of the slaves and their increase taken from William Scott, James Pettigrew, and John Pettigrew, on or about the 9th of June, 1794, by a party of the Cherokee nation of Indians, at or near the Muscle Shoals, on the river Tennessee, upon such equitable conditions as to him shall appear just and reasonable.

11th CONGRESS.]

No. 210.

[2d Session.]

DIPLOMATIC SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 14, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Moses Young, made the following report:

That the petitioner was engaged by Henry Laurens, Esq. as secretary of his embassy to Holland, at a salary of £500 sterling, as authorized by a resolution of Congress; that he embarked with Mr. Laurens on the said mission, was captured by the British, carried to England, and imprisoned; effected his escape to France, where he aided in the execution of the public business in Dr. Franklin's office; and, upon the enlargement of Mr. Laurens, in April, 1782, joined him in London, and served as his secretary, and with Dr. Franklin, until the 9th of July, 1782, at which period the objects of the mission of Mr. Laurens having, in consequence of his capture and detention in England, been intrusted to Mr. Adams, the petitioner, with a view to save expense to the United States, with the approbation of Mr. Laurens, discontinued his services as secretary. In consequence of the failure in the mission of Mr. Laurens, in the object to which it was directed, that gentleman expressed a determination not to receive from Congress his salary as minister, and advised the petitioner to accept the one-half the salary to which he was entitled as secretary; to which recommendation the petitioner acceded; transmitted his account for services from the 18th of October, 1779, up to the 5th of February, 1782, (when his services were first accepted by Dr. Franklin,) at £250 sterling per annum, which account was so liquidated and settled at the Treasury of the United States on the 21st August, 1783, a reservation being made by Mr. Young and by his agent, of his right to salary from the said 5th of February, to the customary allowance for time and expenses of returning to the United States, and for interest. Mr. Laurens, however, having sustained losses by depreciation of continental money, afterwards felt himself justified in receiving from the Government the full amount of his salary; upon information of which fact, the petitioner, having been subjected to an adverse fortune, conceived himself entitled, without question of his patriotism, to ask of the United States, in their state of prosperity, the satisfaction of a debt, which, at the period of their difficulties, he had declined exacting; and did accordingly, on the 3d of May, 1787, present to the Accountant of the Treasury a claim for the payment of the balance of his salary and the allowance of three months' wages for time and expense of returning to the United States; which claim was by the Accountant referred to the Board of Treasury on the 11th of August, 1788, and does not appear to have been by them acted upon. In December, 1792, Mr. Young presented a petition to Congress for the satisfaction of his claim; which was by the House of Representatives referred to the Secretary of the Treasury, who does not appear to have made a report. The petitioner having resided abroad nearly eleven years, as secretary to one of the ministers of the United States at the court of Spain, and as an American consul at Madrid, the care of soliciting his claim has been intrusted to his agents in the United States, by whom it has several times since December, 1792, been brought before Congress, submitted to the investigation of the Secretary of State, and of committees of both Houses, and has obtained on each reference the confirmation of the Secretary and committees of the justice and merits of the claim.

Your committee, taking into view the sacrifices, sufferings, and meritorious services of the petitioner, established by the certificate of the late Henry Laurens, Esq., and other respectable evidence; the patriotic consideration which prevented his claiming the whole salary due him; his subsequent disappointments and long-continued claim for settlement since May, 1787, are of opinion that his claim is just. It is a fact not disputed, that the petitioner presented an abstract of his claim to the proper officers of the Treasury on the 3d of May, 1787, which is established by the documents of the public officers and the account itself taken from the Treasury on the 12th of February, 1805 by the petitioner, and now before the House with his petition. The presentation of the claim at that time prevented the resolve of Congress from barring the claim. The resolve was adopted on the 23d of July, 1787, in the following words, viz: "*Resolved*, That all persons having unliquidated claims against the United States, pertaining to the late commissary's, quartermaster's, hospital, clothier's, or marine department, shall exhibit

particular abstracts of such claims to the proper commissioner appointed to settle the accounts of those departments within eight months from the date hereof; and all persons having other unliquidated claims against the United States shall exhibit a particular abstract thereof to the Comptroller of the Treasury of the United States within one year from the date hereof; and all accounts, not exhibited as aforesaid, shall be precluded from settlement or allowance. From the foregoing circumstances, your committee are of opinion that the said Moses Young has a just claim on the United States for the full amount of his salary, at the rate of £500 sterling per annum, from the 18th of October, 1779, to the 9th of October, 1782, including the usual allowance of three months for returning to the United States; and that, after deducting the sum received from Dr. Franklin, and by his attorney, Joseph Nourse, the balance, with interest thereon, ought to be paid by the United States.

The committee ask leave to report by bill.

11th CONGRESS.]

No. 211.

[2d SESSION.]

CLAIM FOR EXPENSES AND PENSION ON ACCOUNT OF A WOUND RECEIVED IN THE NAVAL SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 20, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Zebulon Wade, made the following report:

That it appears that the petitioner was a seaman under the command of William Patterson, on board the sloop Despatch, and the said officer and all the seamen were in the service of the United States; and that on the 4th day of March, 1809, acting under the command and direction of the said William Patterson, on board said sloop, the petitioner was severely wounded by the discharge of said sloop's cannon, lost one of his thumbs and two of his fingers, and almost the use of his right arm; he states that he is wholly disabled and incapable of supporting his family or himself; he prays to be paid the expenses incurred in curing said wound, and a pension. Upon the subject of pensions, the laws and regulations of the Government have made provisions. This case is not embraced by the laws regulating applications from the army, nor by the rules and regulations of the navy. The committee had only to inquire whether this particular was such a one as should be specially provided for. It appears to your committee, that the petitioner was in the service of the United States, and under the command of his proper officer when he received his wound; but it was in celebrating the 4th of March, as a day of rejoicing. However the committee may lament the misfortune of the petitioner, they do not believe that the wound was received at such time and in such service as should form an exception, and require special provision for the petitioner. They recommend the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

11th CONGRESS.]

No. 212.

[2d SESSION.]

CLAIM OF COMMODORE WHIPPLE FOR REVOLUTIONARY SERVICES AND SACRIFICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 27, 1810.

Mr. TALLMADGE, from the committee to whom was referred the petition of Abraham Whipple, made the following report:

That, from the statement of the petitioner, it appears that he engaged in the service of his country at the commencement of the revolutionary war with Great Britain; that, in the year 1775, he was employed by the Government of his native State, Rhode Island, to clear the harbors and bay of Rhode Island of the enemy's tenders and armed vessels which infested those waters, which service he accomplished by capturing some and driving off the residue. In the same year he was honored with the command of the ship Columbus, by the Congress of the United States, in which he continued to cruise against the enemy with great success, capturing many of their vessels, and assisting in the two expeditions against the islands of Bermuda and Providence, bringing from the last place a great supply of ordnance and military stores, which were very useful to the country at that time.

The petitioner states many pecuniary hardships and sufferings which he underwent during the contest, both in Europe and America, especially at the siege and capture of Charleston, South Carolina, where he became a prisoner of war. Having now reached the seventy-seventh year of his age, and being decrepit from the common infirmities of life, and especially from wounds which he received in attempting to save the guns from a British frigate which was stranded on our coast, he prays that the evening of his life may be made comfortable, by having some pecuniary aid afforded him by the Government of his country.

The committee are fully impressed with a sense of the services of Commodore Whipple, during the late revolutionary war; and although it does not appear that he was wounded by the enemy while engaged in capturing the

many prizes which he brought safely into port, yet it is in proof before your committee, that, while he was attempting to save the guns and stores of the Syren, British frigate, then ashore on Point Judith, the petitioner fell from the side of the frigate, more than fifteen feet, down among the guns, &c., by which means he was severely wounded in several places, especially in his ankle and knee, of which wounds he was confined for a long time; and that he is a cripple to this day, in consequence of said wounds.

The committee, therefore, recommend the following resolution:

Resolved, That the prayer of Abraham Whipple is reasonable and ought to be granted.

Extract from a communication made by Benjamin J. Gilman, Esquire, dated

MARIETTA, January 25, 1810.

Commodore Whipple informs me that he was never wounded by the enemy, while in the service of the United States; and that the only bodily hurt he received was on board a British frigate that was cast away near Newport, Rhode Island. He was ordered to dismantle the frigate, and, in taking out the guns, he had his knee-pan split, his leg much injured, and his ankle very badly dislocated. The effects of this hurt have occasioned his being several times confined since he resided in this country, and, at one time, he was unable to walk for two months. He is now absolutely dependent on the labor of his own hands in the cornfield for subsistence; and if his lameness should occur in the planting season, he and his very worthy wife would suffer.

Being very far advanced in life, he probably will not live many years to receive the bounty of his country, if he should be placed on the pension list. I most sincerely hope the law of the United States will permit this brave veteran to have the evening of his life made comfortable by a small reward for past labors.

NEW YORK DISTRICT, ss.

Haystead Hacker, of the city of New York, and branch pilot for Hurlgate and the Sound, being duly sworn, saith: That he was, during the American revolution, well acquainted with Captain Abraham Whipple, then in the American service, now of Marietta; that in or about the year seventeen hundred and seventy-seven, the said Abraham, as well as the deponent, who was also in the American service, was ordered by Governor Cook to take and save the guns and stores out of the Syren, British frigate, then aground on Point Judith, bilged; that this deponent then commanded the Columbus; that the said Abraham and deponent caused proper arrangements to be made in order to carry the said orders into effect; that, while they were so engaged, the said Abraham fell from the side of the ship down among the guns; that the distance which he fell was, to the best of deponent's recollection, upwards of fifteen feet; that the said Abraham was very severely wounded in several places, insomuch that he was confined to his bed and under the care of a surgeon, such as could be procured; that the service of the deponent's country called him from that place; and when the deponent left the said Abraham he was a cripple, and that by means of the service; that the said Abraham Whipple was a very active man in the American cause; that the deponent cannot now particularly relate the different wounds the said Abraham received in the said service, not having been called to state the same till a few days since, but the deponent well remembers that he was severely wounded in the ankle, and otherwise much injured.

HAYSTEAD HACKER.

Sworn before me, at the city of New York, this 10th day of February, 1810.

MATTHIAS TALLMADGE, *District Judge*.

11th CONGRESS.]

No. 213.

[2d SESSION.]

CLAIMS FOR SERVICES AND EXPENSES IN ASSISTING TO ENFORCE THE EMBAR-
GO LAWS IN MASSACHUSETTS, IN 1809.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 9, 1810.

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Charles Bean, made the following report:

That the petitioner, captain of a company in the first regiment, first brigade, and sixth division of the militia of the Commonwealth of Massachusetts, was appointed by Levi Lincoln, Esq. Lieutenant Governor and commander-in-chief of the militia of the Commonwealth of Massachusetts, the militia officer, near the port of entry for the district of York, to whom the collector was to apply, if necessary, for assistance in carrying into effect the several embargo laws, agreeable to an act of Congress passed the 9th day of January, 1809, entitled "An act to enforce and make more effectual an act entitled 'An act laying an embargo on all ships and vessels in the ports and harbors of the United States,' and the several acts supplementary thereto;" the written designation and appointment of the petitioner bearing date February 1, 1809. That on the 26th of February, 1809, the petitioner received a letter from Alexander McIntire, Esquire, collector of the port of York, requesting him to go on board the brig Betsey, then lying in the port of York, (suspicions being entertained of an intention of getting her to sea in violation of the embargo laws,) and detain her until he should see what further might be done with the vessel; that the petitioner, in obedience to the commands of his superior officer, did promptly, and without delay, call upon the following persons belonging to his company, viz: John Farnham, Henry Holmars, Ebenezer Grant, William Roberts, John Moulton, and Josiah Moulton, private soldiers, and did go on board said vessel with David Baker, deputy inspector of the port of York, without committing any violence whatever; that, after having been on board of said

vessel half an hour, William Boyd, the reputed owner of the vessel, came on board, and ordered the said David Baker, your petitioner, and those under him, to quit his vessel, using very harsh language, and threatening to raise a mob to take the vessel from him; that the petitioner with his soldiers guarded the vessel till the tide had ebbed so much that it was impossible she could get out that tide, and then left the wharf; that on the 28th February, the petitioner, his soldiers, and the deputy inspector above-mentioned, were arrested by a warrant issued by Daniel Sewall, Esq. for a riot, in entering said vessel, and the next day were carried before Jacob Fisher, Esq. of Kennebunk, twenty miles distant from York, although no less than eight magistrates of competent jurisdiction lived in York; that upon the trial of said prosecutions, Justice Fisher declared the embargo laws unconstitutional, and the order of Levi Lincoln, Esq. illegal; and the petitioner, together with the persons acting under him, were recognised in the sum of \$50 each, for their appearance at the superior court held at York; that the petitioner, and those recognised, attended at said supreme court thirteen days, when they were discharged by the court, no bill being found against them by the grand jury; the petitioner then prays compensation for their time, trouble, and expenses incurred. The committee think it reasonable and right that the petitioner should be paid the expenses necessarily incurred in the improper interference of the magistrate, and those prosecuted with the petitioner; and the account rendered, amounting to \$219 44, is not considered by the committee as exorbitant. To prove the material facts as stated in this report, the committee refer to the order from Levi Lincoln, Esq., the letter of the revenue officer, the proceedings of the court, and other documents filed with the petition. The committee, therefore, beg leave to report a bill.

11th Congress.]

No. 214.

[2d Session.]

CLAIM OF A COLLECTOR FOR MONEY LOST BY MAIL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 16, 1810.

Mr. FISK, from the committee to whom was referred the petition of Henry Malcolm, collector of the customs for the district of Hudson, in the State of New York, made the following report:

That the petitioner states that he, as collector for the district of Hudson, from the establishment of the district, had been in the habit of transmitting large sums of money, by mail, on account of the Treasury of the United States, from Hudson to the office of discount and deposit of the Bank of the United States at New York, as he conceived himself authorized to do by instructions received from the Secretary of the Treasury in his circular letter to the collectors of the customs, dated 14th October, 1789; and that on the 28th day of June, 1808, he put into the post office, at Hudson, enclosed in a cover, addressed to Jonathan Burrell, Esq., cashier of the office of deposit and discount of the Bank of the United States at New York, \$1,000 in bank bills, on account of the Treasurer of the United States, which was purloined from the mail or post office; and the petitioner further states, that the accounting officers of the Treasury refuse to credit him for this sum, and he prays that a law may be passed directing the accounting officers of the Treasury to give him credit upon the books of the Treasury for the said sum of \$1,000, together with his commissions on collecting the same.

From an examination of the documents accompanying the petition, it appears that the petitioner did, at the time he states, enclose \$1,000, on account of the Treasury, addressed to Jonathan Burrell, Esq., cashier of the office of discount and deposit of the Bank of the United States at New York, and that the same were purloined from the mail or post office; but your committee, on recurring to the instructions of the collectors of the customs, to which the petitioner refers, find that the collectors, in transmitting bank notes by mail, on account of the Treasury, are required to take a list of the notes, and also a receipt from the postmaster, on the copy of the list, which the collector is directed to retain, as his voucher, in case of accident; and if the postmaster should refuse a receipt, then the notes sent by mail from the collectors are required to be delivered to the postmaster in presence of some indifferent person, of fair reputation, who is to be made acquainted with the contents and particulars, so as to be able afterwards to verify on oath that such specific notes were sent; and instead of the receipt from the postmaster, to give a certificate on the copy of the list of the notes retained by the collector.

It does not appear to your committee that the petitioner has complied with this material part of his instructions in transmitting the thousand dollars, for which he asks a credit. It does not appear that he either retained a list of the notes, or took the receipt of the postmaster, or the certificate of any other person, in conformity with his instructions from the Treasury Department.

Believing it essential to the safe collection of the revenue that bank notes transmitted from collectors, by mail, on account of the Treasury, should be in strict conformity with the instructions for that purpose directed to the collectors, inasmuch as the great object of retaining a list of the notes is to facilitate detection and prevent payment by the Bank in case of robbery, your committee cannot feel themselves warranted to recommend the relief prayed for, and therefore beg leave to submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

11th Congress.]

No. 215.

[2d Session.]

CLAIMS BARRED BY THE STATUTES OF LIMITATION.

COMMUNICATED TO THE SENATE, APRIL 28, 1810.

TREASURY DEPARTMENT, April 28, 1810.

The SECRETARY OF THE TREASURY, in obedience to the resolution of the Senate of the 26th instant, respectfully reports:

That it appears, by the letter from the Register of the Treasury herewith transmitted, that the statement of all the claims adjusted and allowed by virtue of the act entitled "An act providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established," cannot be completed before the day contemplated for the adjournment of Congress, but will be prepared so as to be laid before the Senate at the commencement of their next session.

That the statement A, herewith transmitted, exhibits the amount of the balances standing on the books of the Treasury against the United States which are barred by the statutes of limitation, and arranged under the following heads, viz:

| | | | | | | |
|---|---|---|---|---|---|---------------------|
| Loan office certificates, | - | - | - | - | - | \$90,811 36 |
| Indents for interest on the public debt, | - | - | - | - | - | 64,590 98 |
| Final settlement certificates, | - | - | - | - | - | 23,873 24 |
| Commissioners' certificates, | - | - | - | - | - | 4,304 83 |
| Army commissioners' certificates, | - | - | - | - | - | 46,468 97 |
| Credits given in lieu of army commissioners' certificates cancelled, | - | - | - | - | - | 28,674 30 |
| Credits for pay of the army for which no certificates were ever issued, | - | - | - | - | - | 17,132 11 |
| Invalid pensions, | - | - | - | - | - | 16,635 46 |
| Amounting, together, to | - | - | - | - | - | <u>\$292,491 25</u> |

That, so far as relates to the said balances, which result altogether from accounts actually settled at the Treasury, the statute of limitation can be repealed, without subjecting the Government to imposition; but that, considering the length of time which has elapsed since the claims have been barred, and the little value on that account affixed to them, the repeal of the statute, unless properly guarded in that respect, may not generally benefit the rightful claimants.

And that, with the exception of those balances, it is not believed that it would be safe to repeal the statute of limitation in relation to any other general description of claims, although there may be special cases in which, notwithstanding the lapse of time, the proper proofs and checks may still exist, so as to prevent any imposition on the public.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, REGISTER'S OFFICE, April 27, 1810.

SIR:

I had the honor to receive your communication transmitting a resolution of the Senate of the United States, of the 26th of April, 1810, directing a statement to be formed of the several accounts settled at the Treasury under the act of the 27th March, 1792, "providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established."

Upon an examination of the records of the Treasury, it appears that the settlements with the army and navy, officers, soldiers, marines, and artificers, were so numerous, that it will require more time to form the statement, in compliance with the resolution above referred to, than the present session of Congress will admit.

The examination has been commenced, and, so soon as it can be prepared, I shall have the honor of transmitting the same.

I have the honor to be, sir, your most obedient servant,

JOSEPH NOURSE, Register.

The Hon. ALBERT GALLATIN, Secretary of the Treasury.

A.

Classes of Claims against the United States barred by Acts of Limitation.

| | | | | | | |
|---------------|---|-----|---------------------|---|-------------|-----------|
| First class. | Loan office certificates, outstanding: | | | | | |
| | Issued by the loan officer for New Hampshire, | | | | \$ 2,864 23 | |
| | Do. | do. | for Massachusetts, | - | 11,167 07 | |
| | Do. | do. | for Rhode Island, | - | 948 00 | |
| | Do. | do. | for Connecticut, | - | 4,689 90 | |
| | Do. | do. | for New York, | - | 5,781 29 | |
| | Do. | do. | for New Jersey, | - | 1,668 12 | |
| | Do. | do. | for Pennsylvania, | - | 21,778 71 | |
| | Do. | do. | for Delaware, | - | 103 43 | |
| | Do. | do. | for Maryland, | - | 6,911 66 | |
| | Do. | do. | for Virginia, | - | 9,010 21 | |
| | Do. | do. | for North Carolina, | - | 4,663 85 | |
| | Do. | do. | for South Carolina, | - | 9,985 40 | |
| | Do. | do. | for Georgia, | - | 11,239 49 | |
| | | | | | \$90,811 36 | |
| Second class. | Indents issued for the payment of interest on the public debt, outstanding, | | | | - | 64,590 98 |

CLASSES OF CLAIMS—Continued.

| | | | | |
|--|---|--|--------------|-----------|
| Third class. | Final settlement certificates, issued by commissioners appointed in the several States for adjusting claims against the United States, viz: | | | |
| | Issued by the comm'r for New Hampshire, outstanding, | - | \$39 89 | |
| | Do. do. for Massachusetts, outstanding, | \$2,077 67 | | |
| | Do. do. do. cancelled at the Treasury, and for which credits were given individuals on Treasury books, | - | 206 58 | |
| | Do. do. for Rhode Island, outstanding, | - | 2,284 25 | |
| | Do. do. for Connecticut, outstanding, | - | 3,158 24 | |
| | Do. do. for New York, outstanding, | - | 482 68 | |
| | Do. do. for New Jersey, outstanding, | - | 1,935 19 | |
| | Do. do. for Pennsylvania, outstanding, | 7,831 53 | 2,636 05 | |
| | Do. do. do. cancelled at the Treasury, and for which credits were given individuals on Treasury books, | - | 2,919 41 | |
| | Do. do. for Delaware, outstanding, | - | 10,750 94 | |
| | Do. do. for Maryland, outstanding, | 616 02 | 667 82 | |
| | Do. do. do. cancelled at the Treasury, and for which credits were given individuals on Treas'y books, | 491 42 | 1,107 44 | |
| | Do. do. for Virginia, outstanding, | - | 802 00 | |
| Do. do. for South Carolina, outstanding, | - | 8 74 | \$23,873 24 | |
| Fourth class. | Certificates issued by commissioners in the commissary, quartermaster, marine, and clothing departments: | | | |
| | Issued in the commissary's department, outstanding, | - | 1,226 69 | |
| | Issued in the quartermaster's department, outstanding, | - | 743 35 | |
| | Issued in the marine department, outstanding, | - | 677 32 | |
| | Issued in the clothing department, outstanding, | - | 1,657 47 | 4,304 83 |
| Fifth class. | Settlements by army commissioner: | | | |
| | Certificates issued by John Pierce, outstanding, | - | 46,468 97 | |
| | Do. do. cancelled at the Treasury, and for which credits were given to individuals of the following corps, viz: | | | |
| | To sundry regiments of the Massachusetts line, | 21,857 04 | | |
| | To Colonel M. Willet's regiment, New York line, | 1,363 93 | | |
| | To Colonel M. Hazen's regiment, | 1,968 07 | | |
| | To Colonel Lamb's regiment of artillery, New York line, | 959 99 | | |
| | To Colonel Nichola's regiment of invalids, | 1,402 54 | | |
| | To Colonel Baldwin's regiment of artificers, | 162 16 | | |
| | To corps of sappers and miners, | 109 90 | | |
| | To Armand's legion, | 566 68 | | |
| | To Lee's legion, | 283 99 | | |
| | | | 28,674 30 | 75,143 27 |
| | Sixth class. | Credits on the Treasury books in favor of individuals of the following corps, on accounts for balance of pay settled at the Treasury, viz: | | |
| The 9th Massachusetts regiment, commanded by Colonel Wesson, | | | 2,451 46 | |
| Invalid regiment, commanded by Colonel Nichola, | | | 4 44 | |
| Captain Caleb North's company, (4th Pennsylvania regiment,) | | | 292 50 | |
| Captain John Lacy's company, (4th Pennsylvania regiment,) | | | 973 00 | |
| Captain James Taylor's company, (4th Pennsylvania regiment,) | | | 355 89 | |
| Captain Thomas Robinson's company, (4th Pennsylvania regiment,) | | | 574 61 | |
| Fourth Pennsylvania regiment of artillery, | | | 267 63 | |
| Captain John Franklin's company of militia, | | | 59 56 | |
| Captain Van Heer's company of dragoons, | | | 79 32 | |
| Balances, in specie, due to the following lines for services in 1783, viz: | | | | |
| Maryland line, | | | 5,394 57 | |
| Virginia line, | | | 4,873 05 | |
| North Carolina line, | | | 1,685 43 | |
| Balance to the credit of Hugh Smith, late postmaster at headquarters of the American army, | | 120 65 | 17,132 11 | |
| Seventh class. | Pensions.—Settlements at the Treasury in favor of invalid pensioners of the following States, viz: | | | |
| | New Hampshire, | | 541 52 | |
| | Massachusetts, | | 3,651 73 | |
| | Rhode Island, | | 560 52 | |
| | Connecticut, | | 1,064 89 | |
| | Vermont, | | 705 00 | |
| | New York, | | 1,327 01 | |
| | New Jersey, | | 1,110 30 | |
| | Pennsylvania, | | 811 99 | |
| | Delaware, | | 442 27 | |
| | Maryland, | | 92 93 | |
| | Virginia, | | 1,667 91 | |
| | North Carolina, | | 4,650 00 | |
| | Georgia, | | 9 39 | 16,635 46 |
| | | | \$292,491 25 | |

[11th CONGRESS.]

No. 216.

[3d SESSION.]

CLAIMS BARRED BY THE STATUTES OF LIMITATION.

COMMUNICATED TO THE SENATE, DECEMBER 13, 1810.

SIR:

TREASURY DEPARTMENT, *December 12, 1810.*

I have the honor to transmit a statement of certain claims allowed at the Treasury Department, prepared in obedience to the resolution of the Senate of 25th April, 1810; and also a report, prepared in obedience to the resolution of the Senate of 1st May, 1810, together with an explanatory letter from the Register of the Treasury on the same subject.

I have the honor to be, with great respect, sir, your obedient servant,

ALBERT GALLATIN.

The Honorable the PRESIDENT of the Senate.

TREASURY DEPARTMENT, *December 12, 1810.*

The SECRETARY OF THE TREASURY, in obedience to the resolution of the Senate of May 1, 1810, respectfully reports:

That no provision appears necessary to guard the Treasury itself against fraud or imposition in the case of a removal of the statute of limitation in relation to the five following classes of claims mentioned in the report of 28th of April, 1810, viz: Loan office certificates, final settlement certificates, commissioner's certificates, army certificates, and indents for interest on the public debt; all these evidences of public debt having uniformly circulated without endorsement, and been funded in the name of the holder, and the registers and documents in the Treasury affording sufficient checks against any attempt to demand payment for a certificate either forged or already paid or funded.

That the three other species of claims mentioned in the said report, viz: credits given on the Treasury books, in lieu of army certificates cancelled; credits given for the pay of the army, for which no certificates had been issued; and arrears of invalid pensions, prior to the 4th of March, 1789; rest on accounts actually settled; and, being payable, in case of a removal of the acts of limitation, to the parties, or to their order, no other provision, so far as relates to the Treasury, seems necessary than to require proof of the identity of the claimant.

That, if the statute of limitations should be suspended in relation to those eight classes of claims, it seems necessary, in order to guard the rightful claimants against impositions, to provide that payment shall be made only to the original claimant or his heirs; or, at least, to such persons only as will give proof that they were proprietors of a transferable claim on the day when such claim became barred by the act of limitation.

And that it appears, from the annexed letter of the Register of the Treasury, that the original muster-rolls and pay-rolls of the revolutionary army, together with the personal settlements of pay-masters and pay-agents, were, with a few exceptions, destroyed by fire: for which reason, it is not perceived how it would be practicable, as it relates both to the sum which might have been originally due, and to the partial payments which may have been made, to devise efficient guards and checks, in the case of a removal of the statute of limitations, as to unsettled claims for personal services rendered in the army of the United States during the revolutionary war.

All which is respectfully submitted.

ALBERT GALLATIN.

SIR:

TREASURY DEPARTMENT, REGISTER'S OFFICE, *October 2, 1810.*

I have had the honor of your letter in relation to the practicability of repealing the statute of limitation in certain cases, with copies of the resolutions of the Senate of the United States on that subject.

From the earliest operations at the Treasury, and throughout the revolutionary war, the settlements of the army accounts were made by persons authorized for that purpose, who, having access to the muster-rolls, had a check on the regimental pay-rolls. The payments on the pay-rolls were made by the paymaster general, or his deputies, on the warrants drawn by the commander-in-chief, or of generals commanding separate departments.

Under this arrangement, the personal services of the officers and soldiers of the army were monthly paid from the commencement of the war, until the medium of continental money was, in the first instance, succeeded by State emissions, and afterwards by specie.

The several States assumed and paid the depreciation of the paper money of their respective lines, but there were certain corps not attached to any particular State, and such were exclusively settled at the Treasury, and discharged by registered debt certificates on interest; the amount due each officer and soldier having, in the first instance, (from an examination of the muster-rolls and pay-rolls,) been certified from the paymaster general's, or army commissioner's office.

A revision of the accounts of the officers and soldiers of the army was exclusively allotted to an army commissioner, under an act of Congress, of 4th July, 1783, who, having all the muster-rolls and pay-rolls under his control, with the books which appertained to the office of the paymaster general and his deputies, proceeded to determine the balances due to each officer and soldier, and issued specie certificates therefor, as also certificates for five years' whole pay, (as the commutation for half-pay,) on interest. A complete register of the certificates issued, forms an important document now existing in the War Office, together with the principal and subordinate books of the general pay office and deputies; but the original muster-rolls and pay-rolls of the revolutionary army, together with the personal settlements of paymasters and pay agents, with a few exceptions, were destroyed by fire.

The army documents in the office of the Register of the Treasury are the vouchers for every certificate of registered debt for army services, (on accounts reported on from the War Office;) and of this description is the statement I have the honor herewith to present in conformity with the resolution of the Senate of the United States of the 26th April, 1810, being "A statement of all claims which have been adjusted and allowed at the Treasury Department, in virtue of the law entitled 'An act providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established.'"

Subjoined are the references to the several acts of limitation, marked A.

On the subject of the eight classes of claims, stated in the resolution of the Senate of the United States, dated 1st May, 1810, that is to say—

- 1st. Loan office certificates.
- 2d. Indents for interest on the public debt.
- 3d. Final settlement certificates.
- 4th. Commissioners' certificates.
- 5th. Army certificates.
- 6th. Credits given in lieu of army certificates cancelled.
- 7th. Credits for the pay of the army, for which no certificates were issued.
- 8th. Invalid pensions.

I do not know in what manner any fraud can be practised, as the Treasury Department possesses all the checks and evidences of each item coming within the above-mentioned classes respectively. Should the bar to their payments be removed by law, it will be "important that the benefit of such provision should be secured to the rightful owners, and that they should be protected against the speculators, who, under the expectation of such suspension, or before the owners are apprized of it, may not fail to attempt to purchase the claims for a trifle."

Having this in view, it might be expedient, in the first instance, to limit the benefit to be derived from removing the bar to the payment of these claims to those persons only to whom they *bona fide* did belong on 12th June, 1799, the day on which the act of 12th June, 1798, extending the term for one year, did expire, for receiving loan office and final settlement certificates, and indents of interest; and the 1st March, 1799, in relation to credits on the books of the Treasury, per act of July 9, 1798.

Respectfully submitted.

I have the honor to be, sir, with great respect, your most obedient and most humble servant,
 JOSEPH NOURSE, *Register*.
 Honorable ALBERT GALLATIN, *Secretary of the Treasury*.

A statement of all the claims which have been adjusted and allowed at the Treasury Department, and for which certificates of registered debt issued, in virtue of a law entitled "An act providing for the settlement of claims of persons under particular circumstances barred by limitations heretofore established," passed on the 27th of March, 1792.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|---------------------------|--|---------------------|-------------------------------|
| 1792. | | | | | |
| April 3 | 2182 | a Thomas McIntire, - | Captain, for commutation, - | March 22, 1793, | \$2,346 32 |
| 5 | 2193 | a John Hopes, - | Captain's clerk, in brig Lexington, | Jan. 1, 1778, | 58 15 |
| 6 | 2192 | a Joseph Pannil, - | Lieut. col. Georgia line, commutation, | March 22, 1783, | 3,600 00 |
| 9 | 2222 | a Archibald Beth, - | Seaman, brig Andra Doria, - | Dec. 15, 1777, | 8 02 |
| 9 | 2194 | a James Gunn, - | Captain, first regiment light dragoons, | Jan. 1, 1783, | 433 34 |
| 10 | 2223 | a John Fifield, - | Sergeant, marines, ship Ranger, - | July 11, 1780, | 57 87 |
| 11 | 2215 | b Samuel Bull, - | Sergeant, naval supplies, - | Aug. 1, 1779, | 338 25 |
| 12 | 2228 | a Abraham Springer, - | Private, first regiment light dragoons, | Nov. 4, 1782, | 197 00 |
| 12 | 2239 | a Wm. McGennegal, - | Gunner, ship Reprisal, - | Oct. 1, 1777, | 198 00 |
| 12 | 2232 | a Wm. McGennegal, - | Gunner, ship Reprisal, - | Jan. 1, 1778, | 199 00 |
| 12 | 2216 | a James Cook, - | Surgeon, navy, - | April 12, 1781, | 713 86 |
| 12 | 2231 | a Samuel Wall, - | Purser, ship Queen of France, - | March 1, 1783, | 1,956 63 |
| 12 | 2230 | a Fortune Wall, - | Marine, ship Queen of France, - | July 15, 1780, | 109 19 |
| 12 | 2233 | a William White, - | Captain, half-pay, - | Oct. 13, 1788, | 1,679 99 |
| 13 | 2207 | a William Jackson, - | Aid-de-camp, to Maj. Gen. Lincoln, | Dec. 6, 1781, | 207 20 |
| 13 | 2237 | a Thomas Hungerford, - | Lieutenant, 3d Virginia regiment, - | Dec. 1, 1778, | 64 00 |
| 13 | 2236 | a Reuben Briscoe, - | Captain, 3d Virginia regiment, - | Oct. 1, 1778, | 96 00 |
| 14 | 2258 | a George Guthrie, - | Lieutenant, 4th reg't light dragoons, | Nov. 4, 1783, | 233 33 |
| 16 | 2248 | a Owen Roberts, - | Colonel, S. Carolina reg't, half-pay, | June 20, 1786, | 4,200 00 |
| 16 | 2262 | a Henry Ringlespaucer, - | Private, Virginia line, - | Aug. 10, 1781, | 407 92 |
| 17 | 2279 | a Francis S. D. Bevier, - | Surgeon's mate, 7th reg't Mass. line, | Dec. 4, 1782, | 1,476 10 |
| 17 | 2269 | a John Cox, - | A matross, - | Aug. 1, 1783, | 140 94 |
| 18 | 2275 | a Bonsel James, - | Landsman, Repulse and Virginia, - | July 7, 1778, | 40 52 |
| 18 | 2259 | b Phillip Hill, - | Deputy commissary of forage, - | July 20, 1783, | 482 72 |
| 18 | 2249 | b William Learned, - | Purchasing of forage, - | Nov. 16, 1780, | 218 00 |
| 19 | 2267 | a John Hopes, estate, - | Clerk, on board brig Lexington, - | March 5, 1780, | 428 44 |
| 19 | 2276 | a Robert McGee, - | Seaman, ship Ranger, - | July 11, 1780, | 68 95 |
| 19 | 2292 | a Jonathan White, - | Trumpeter, 3d regiment dragoons, | Nov. 16, 1783, | 30 25 |
| 19 | 2268 | a William Brownlee, - | Captain lieutenant, commutation, - | March 23, 1783, | 1,600 00 |
| 19 | 2273 | a Wm. Barnett, estate, - | Captain, light dragoons, - | June 1, 1777, | 184 27 |
| 19 | 2289 | a Thomas Norwood, - | Midshipman, ship Reprisal, - | Oct. 1, 1777, | 160 40 |
| 19 | 2290 | a James Taylor, - | Seaman, ship Reprisal, - | Oct. 1, 1777, | 82 92 |
| 19 | 2283 | a Henry Benson, - | Pilot, to French fleet at R. Island, - | Sept. 3, 1781, | 170 00 |
| 19 | 2280 | a Nathaniel Perkins, - | Seaman, ship Ranger, - | July 11, 1780, | 23 66 |
| 20 | 2296 | a John Chadwick, - | Captain, 12th Massachusetts' reg't, | Sept. 1, 1779, | 9 80 |
| 20 | 2295 | a Anthony Fricker, - | Landsman, ship Saratoga, - | Nov. 5, 1780, | 39 49 |
| 20 | 2281 | a Wardwell Joseph, - | Marine, ship Ranger, - | July 11, 1780, | 34 56 |
| 24 | 2307 | a Henry Lawrence, - | Master's mate, ship Lexington, - | March 5, 1780, | 420 97 |
| 24 | 2885 | a James Coon, - | Lieutenant and quartermaster, seven years' half-pay, - | Sept. 6, 1787, | 1,119 96 |
| 25 | 2283 | a Charles Edwards, - | Boatswain, frigate Confederacy, - | Oct. 14, 1779, | 26 17 |
| 25 | 2298 | a Joseph Bailey, - | Master's mate, ship Saratoga, - | March 18, 1781, | 36 50 |
| 25 | 2297 | a Daniel Barnes, - | Captain, Col. Riglow's regiment, - | June 1, 1779, | 12 00 |
| 25 | 2313 | a Timothy O'Hara, - | Corporal, marines, Andra Doria, - | Sept. 24, 1776, | 9 62 |
| 25 | 2310 | a George Morrison, - | Boy, ship Lexington, - | March 5, 1780, | 108 73 |
| 25 | 2303 | a Elijah Middleton, - | Boy, ship Ariel, - | May 16, 1781, | 37 19 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued |
|----------------------|------------------|---------------------------------|---|---------------------|------------------------------|
| 1792. | | | | | |
| April 25 | 2301 | <i>a</i> Robert Mercer, - | Midshipman, frigate Delaware, - | Dec. 5, 1778, | \$ 49 83 |
| 25 | 2308 | <i>a</i> Nathaniel Porter, - | Seaman, the Alliance, - | Sept. 6, 1780, | 81 26 |
| 25 | 2312 | <i>a</i> John Harvey, - | Boy, Lexington, - | March 5, 1780, | 73 78 |
| 25 | 2309 | <i>a</i> Benjamin Balch, - | Chaplain, Alliance, - | June 15, 1781, | 135 09 |
| 26 | 2286 | <i>a</i> Richard Dale, - | Lieutenant, navy, - | Nov. 6, 1781, | 506 40 |
| 27 | 2316 | <i>a</i> Broadway Mattison, - | Landsman, Lexington, - | Feb. 10, 1777, | 6 71 |
| 27 | 2315 | <i>a</i> Edward Couper, - | Pilot, - | Jan. 21, 1776, | 172 95 |
| 27 | 2314 | <i>a</i> William Ballard, - | Pilot, - | Jan. 21, 1776, | 172 95 |
| 30 | 2338 | <i>a</i> John Smith, - | Sergeant, marines, - | July 16, 1780, | 66 73 |
| 30 | 2323 | <i>a</i> Lemuel Sherman, - | Sailing-master, galley Washington, - | May 29, 1779, | 502 14 |
| May 1 | 2321 | <i>b</i> William Campbell, - | Clerk and storekeeper to the hospital, - | Jan. 1, 1783, | 337 62 |
| 1 | 2329 | <i>a</i> John Satterwhite, - | Sergeant, Virginia line, - | June 29, 1783, | 275 00 |
| 1 | 2325 | <i>a</i> Richard Pearse, - | Marine, frigate Confederacy, - | May 18, 1780, | 50 03 |
| 1 | 2337 | <i>b</i> Samuel Britton, - | Wagoner, Southern army, - | June 30, 1783, | 12 40 |
| 1 | 2330 | <i>a</i> Richard Guy, - | Landsman, Andra Doria, - | Dec. 15, 1777, | 23 18 |
| 1 | 2324 | <i>a</i> Alexander Young, - | Mate, Reprisal, - | Oct. 1, 1777, | 200 07 |
| 1 | 2348 | <i>a</i> John Carlisle, - | Capt., Col. Hazen's reg., commuta'n, - | Nov. 7, 1783, | 2,539 82 |
| 2 | 2353 | <i>a</i> Timothy Pierce, - | Lieutenant, seven years' half-pay, - | July 4, 1785, | 1,120 00 |
| 3 | 2352 | <i>a</i> Robert Provost, - | Ensign and paymaster, commutation, - | March 23, 1783, | 950 00 |
| 5 | 2365 | <i>a</i> William Rodford, - | Lieutenant marines, sloop Hornet, - | Dec. 17, 1778, | 355 66 |
| 5 | 2359 | <i>a</i> John McCutcheon, - | Sergeant marines, Reprisal, - | Oct. 1, 1777, | 106 67 |
| 5 | 2371 | <i>a</i> William Beekwith, - | Midshipman, Confederacy, - | May 23, 1780, | 100 59 |
| 8 | 2377 | <i>a</i> David Holmes, - | Surgeon, half-pay, - | March 20, 1786, | 1,680 00 |
| 8 | 2364 | <i>a</i> Lewis Mory, - | Midshipman, Confederacy, - | July 23, 1780, | 23 19 |
| 8 | 2363 | <i>a</i> Nathan Hale, - | Colonel, half-pay, - | Sept. 23, 1787, | 3,150 00 |
| 8 | 2374 | <i>a</i> Barnard Elliot, - | Lieutenant colonel, half-pay, - | Oct. 24, 1785, | 3,150 00 |
| 8 | 2370 | <i>a</i> Thomas Hems, - | Private, Maryland line, - | March 1, 1783, | 310 00 |
| 8 | 2369 | <i>a</i> Samuel Harvey, - | Quartermaster, Lexington, - | Sept. 10, 1776, | 6 30 |
| 8 | 2381 | <i>a</i> William Household, - | Seaman, - | April 20, 1777, | 2 92 |
| 9 | 2386 | <i>a</i> Joseph Green, - | Sergeant, Col. Armond's regiment, - | Feb. 1, 1781, | 198 83 |
| 9 | 2383 | <i>a</i> Seth Canady, - | Master-at-arms, Confederacy, - | May 19, 1780, | 69 28 |
| 9 | 2388 | <i>a</i> Joseph Edmonson, - | Private, Col. Spencer's regiment, - | Aug. 1, 1780, | 171 01 |
| 9 | 2385 | <i>a</i> Joseph Fack, - | Trumpeter, Armond's legion, - | May 1, 1781, | 345 95 |
| 10 | 2389 | <i>a</i> William Langley, - | Private, 3d regiment dragoons, - | Jan. 1, 1781, | 250 62 |
| 10 | 2402 | <i>a</i> Drewry Merritt, - | Private, 1st North Carolina regiment, - | Aug. 7, 1783, | 103 33 |
| 11 | 2390 | <i>a</i> Boardin Wiercks, - | Seaman, frigate Trumbull, - | Nov. 15, 1780, | 37 64 |
| 15 | 2413 | <i>a</i> Cadwalader Jones, - | Captain and D. Q. M., commutation, - | March 20, 1783, | 3,128 77 |
| 16 | 2415 | <i>a</i> John Mullins, - | Private, 10th Virginia regiment, - | Aug. 1, 1780, | 109 83 |
| 16 | 2412 | <i>a</i> William Hilton, - | Lieutenant, N. Carolina line, half-pay, - | July 15, 1786, | 668 07 |
| 16 | 2411 | <i>a</i> Joseph Scott, - | Captain, Virginia line, - | Jan. 1, 1783, | 625 75 |
| 18 | 2425 | <i>b</i> Charles K. Chitty, - | Foragemaster, Southern army, - | May 8, 1783, | 282 00 |
| 18 | 2423 | <i>a</i> John Quain, - | Seaman, sloop Sachem, - | June 3, 1777, | 11 33 |
| 21 | 2443 | <i>b</i> Edward Wright, - | Continental storekeeper, - | March 6, 1782, | 57 11 |
| 22 | 2438 | <i>a</i> Jonathan Emerson, - | Lieutenant in Col. Cilley's regiment, - | Nov. 11, 1785, | 116 00 |
| 24 | 2452 | <i>a</i> Thomas Wooton, - | Private, 3d regiment light dragoons, - | July 3, 1783, | 234 17 |
| 28 | 2468 | <i>a</i> John Carnachan, - | Gunner, frigate Delaware, - | Aug. 28, 1778, | 43 91 |
| 30 | 2476 | <i>a</i> Thomas Edgar, - | Volunteer, Confederacy, - | April 14, 1781, | 17 33 |
| 30 | 2483 | <i>a</i> David Bill, - | Acting lieutenant, Trumbull, - | June 2, 1780, | 112 00 |
| 31 | 2500 | <i>a</i> John Younglove, - | Maj. in Col. Van Wort's reg. militia, - | March 4, 1789, | 546 80 |
| 31 | 2490 | <i>a</i> Johnson Fleetwood, - | Private, Delaware regiment, - | Sept. 1, 1780, | 203 52 |
| June 1 | 2499 | <i>a</i> John Kert, - | Private, 5th Pennsylvania regiment, - | Feb. 1, 1777, | 30 00 |
| 1 | 2485 | <i>a</i> Barney Duffey, - | Armorer, Reprisal, - | Sept. 1, 1777, | 120 80 |
| 1 | 2492 | <i>a</i> William Loring, - | Acting midshipman, Queen of France, - | July 15, 1780, | 75 37 |
| 1 | 2486 | <i>a</i> James Swain, - | Acting midshipman, sloop Surprise, - | Sept. 8, 1778, | 25 20 |
| 1 | 2506 | <i>a</i> Daniel Davis, - | Private, 1st New York regiment, - | June 28, 1783, | 192 44 |
| 5 | 2529 | <i>a</i> James Adams, - | Sergeant, Brown's com'y Md. art'y, - | Aug. 1, 1780, | 312 53 |
| 5 | 2512 | <i>a</i> Archibald Stewart, - | Private, 3d Pennsylvania regiment, - | Jan. 1, 1777, | 15 00 |
| 5 | 2516 | <i>a</i> John Carroll, - | Private, Harrison's Maryland art'y, - | Aug. 1, 1780, | 237 65 |
| 7 | 2539 | <i>a</i> Abraham Levi, - | Private, 14th Virginia regiment, - | Nov. 1, 1780, | 158 63 |
| 9 | 2535 | <i>a</i> Joseph Murphy, - | Boatswain, Queen of France, - | July 16, 1780, | 154 28 |
| 9 | 2531 | <i>a</i> John McMickle, - | Seaman, Queen of France, - | July 16, 1780, | 98 34 |
| 9 | 2526 | <i>a</i> Edward E. Cades, - | Midshipman, frigate Boston, - | July 16, 1780, | 203 77 |
| 9 | 2545 | <i>a</i> Marquis De Britigny, - | Lieutenant, half-pay, - | Aug. 26, 1782, | 2,740 12 |
| 9 | 2550 | <i>a</i> Samuel York, - | Lieutenant, navy, - | July 8, 1779, | 150 94 |
| 11 | 2547 | <i>a</i> Henry Tillen, - | Private, 9th Virginia regiment, - | Oct. 1, 1780, | 106 00 |
| 11 | 2536 | <i>a</i> Benjamin Burroughs, - | Midshipman, Queen of France, - | July 16, 1780, | 196 38 |
| 11 | 2527 | <i>a</i> Abel Wetherall, - | Gunner, Boston, - | July 16, 1780, | 371 16 |
| 11 | 2528 | <i>a</i> Wm. Greenough, - | Seaman, Boston, - | July 16, 1780, | 65 21 |
| 11 | 2532 | <i>a</i> Samuel Thayer, - | Boy, Queen of France, - | July 16, 1780, | 49 17 |
| 13 | 2548 | <i>a</i> Benjamin Hutchins, - | Marine, Queen of France, - | July 15, 1780, | 94 18 |
| 13 | 2546 | <i>a</i> John Ridgeway, - | Seaman, Queen of France and Boston, - | July 11, 1780, | 80 49 |
| 13 | 2554 | <i>a</i> James Sisk, - | Marine, Queen of France and Boston, - | July 15, 1780, | 51 04 |
| 13 | 2549 | <i>a</i> Timothy Cartwright, - | Mate, Q. of France and Providence, - | July 11, 1780, | 299 74 |
| 13 | 2553 | <i>a</i> Thomas Orrell, - | Boy, Queen of France and Providence, - | July 11, 1780, | 50 21 |
| 13 | 2543 | <i>a</i> Matthew Butman, - | Corporal marines, Brig. Gen. Gates, - | April 20, 1779, | 2 78 |
| 13 | 2544 | <i>a</i> David Williams, - | Marine, Brigadier General Gates, - | Sept. 4, 1778, | 29 19 |
| 14 | 2562 | <i>a</i> James Campbell, - | Sailmaker, - | Oct. 1, 1781, | 264 19 |
| 14 | 2563 | <i>a</i> Samuel Gragg, - | Pilot, Boston, - | July 16, 1780, | 547 88 |
| 14 | 2557 | <i>a</i> Thomas Dolbear, - | Boy, Q. of France and Providence, - | July 11, 1780, | 58 43 |
| 14 | 2559 | <i>a</i> Isaac Collins, - | Mate, - | July 16, 1780, | 275 46 |
| 14 | 2556 | <i>a</i> John Dow, - | Sergeant marines, Warren and Queen of France, - | July 15, 1780, | 82 34 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|----------------------------------|--|---------------------|-------------------------------|
| 1792. | | | | | |
| June | 14 | <i>a</i> Andrew Gardiner, - | Midshipman, - | July 15, 1780, | \$140 68 |
| | 14 | <i>a</i> John McCrackin, - | Landsman, Providence, - | July 11, 1780, | 66 36 |
| July | 2 | <i>b</i> Benjamin Wells, - | Forage-master, Fort Pitt, - | June 19, 1780, | 26 25 |
| | 2 | <i>a</i> David Fellows, - | Ensign, half-pay, - | Dec. 10, 1786, | 840 00 |
| | 2 | <i>a</i> Patrick Collins, - | Private, 11th Pennsylvania regiment, - | Aug. 1, 1780, | 212 85 |
| | 2 | <i>a</i> William Miller, - | Seaman, frigate Confederacy, - | April 14, 1781, | 1855 |
| | 2 | <i>a</i> Barney Cox, - | Private, 5th Pennsylvania regiment, - | Feb. 1, 1777, | 8 66 |
| | 2 | <i>a</i> Henry Malcolm, - | Surgeon, navy, - | June 24, 1776, | 72 02 |
| | 3 | <i>a</i> Joseph Cox, - | Sergeant, 5th Pennsylvania regiment, - | Feb. 1, 1777, | 17 87 |
| | 3 | <i>a</i> Joseph Clatterbook, - | Private, 5th Pennsylvania regiment, - | Feb. 1, 1777, | 10 00 |
| | 3 | <i>a</i> Alex. M. Williams, - | Private, 5th Pennsylvania regiment, - | Jan. 1, 1782, | 72 22 |
| | 3 | <i>a</i> James Isaacs, - | Private, Maryland line, - | May 6, 1782, | 155 77 |
| | 3 | <i>a</i> David Cahill, - | Private, Maryland line, - | Aug. 1, 1780, | 199 81 |
| | 3 | <i>a</i> Geo. Glentworth, Sen. - | Physician and surgeon, commutation, - | March 22, 1783, | 2,400 00 |
| | 3 | <i>a</i> William Grant, - | Private, Maryland line, - | Jan. 4, 1783, | 59 00 |
| | 3 | <i>a</i> David Frederick, - | Private, 3d Pennsylvania regiment, - | Jan. 1, 1781, | 33 33 |
| | 3 | <i>a</i> Samuel Cooper, - | Private, 3d Virginia regiment, - | Nov. 13, 1781, | 298 38 |
| | 3 | <i>a</i> Edw. Strengthfield, - | Mate, frigate Providence, - | Aug. 26, 1779, | 56 84 |
| | 3 | <i>a</i> John Barr, - | Ensign, 4th New York regiment, - | Jan. 1, 1781, | 75 54 |
| | 3 | <i>a</i> John Carrico, - | Seaman, ship Bon Homme Richard, - | Nov. 21, 1779, | 20 67 |
| | 5 | <i>a</i> Benjamin Huger, - | Major, half-pay, - | May 11, 1786, | 2,100 00 |
| | 7 | <i>a</i> Samuel Clarkson, - | Midshipman, - | June 14, 1781, | 125 60 |
| | 9 | <i>a</i> Daniel Eakins, - | Landsman, ship Reprisal, prize money - | Jan. 1, 1778, | 71 00 |
| | 9 | <i>a</i> John Markland, - | Lieutenant, 3d Pennsylvania reg't, - | Nov. 4, 1783, | 199 07 |
| | 9 | <i>a</i> Nathan Parker, - | Marine, frigate Hancock, - | June 20, 1777, | 27 89 |
| | 9 | <i>a</i> John Grant, - | Volunteer, frig. Providence & Boston, - | July 16, 1780, | 93 79 |
| | 13 | <i>a</i> David Rice, - | Ordinary seaman, frigate Alliance, - | Nov. 1, 1781, | 35 79 |
| | 13 | <i>a</i> George Price, - | Acting mate, Boston, - | Sept. 10, 1779, | 20 50 |
| | 13 | <i>a</i> Fran. Schreinemacker, - | Sergeant major, Gen. Pulasky's legion, - | Sept. 1, 1779, | 8 22 |
| | 16 | <i>a</i> Joseph Hubbard, - | Fifer, frigate Deane, - | April 22, 1781, | 45 05 |
| | 16 | <i>b</i> Richard Miles, - | Assistant deputy quartermaster, - | June 1, 1782, | 302 81 |
| | 16 | <i>a</i> Samuel Wise, - | Major, half-pay, - | Oct. 9, 1786, | 2,100 00 |
| | 17 | <i>a</i> George P. Ransom, - | Private, Connecticut line, - | Jan. 1, 1782, | 80 00 |
| | 18 | <i>a</i> William Bailey, - | Major in Colonel Swoop's regiment, - | June 1, 1778, | 564 88 |
| | 21 | <i>b</i> Andrew Oliphant, - | Assistant commissary of hides, - | May 1, 1799, | 146 16 |
| | 23 | <i>a</i> Graves Hosmen, - | Midshipman, Trumbull, - | July 1, 1780, | 10 60 |
| | 23 | <i>a</i> Gideon Chapman, - | Midshipman, Trumbull, - | June 2, 1780, | 31 84 |
| | 23 | <i>a</i> Caleb Dyer, - | Midshipman, Trumbull, - | Nov. 15, 1780, | 62 56 |
| | 24 | <i>a</i> William Lewis, - | Private, 1st Virginia regiment, - | July 14, 1783, | 203 34 |
| | 25 | <i>a</i> John A. White, - | Boatswain, frigate Hancock, - | Sept. 16, 1777, | 59 50 |
| | 25 | <i>a</i> John Griffin, - | Seaman, Confederacy, - | March 9, 1780, | 24 70 |
| | 25 | <i>a</i> Stephen Drayton, - | Aid-de-camp to Major Gen. Howe, - | Dec. 1, 1778, | 22 98 |
| | 25 | <i>a</i> David Wood, - | Virginia line, - | March 1, 1779, | 14 36 |
| | 25 | <i>a</i> David Owen, - | Virginia line, - | March 1, 1779, | 14 36 |
| | 26 | <i>a</i> Daniel Corry, - | Master's mate, Trumbull, - | Nov. 15, 1780, | 47 23 |
| | 26 | <i>a</i> Peter Darrow, - | Coxswain, Trumbull, - | Nov. 15, 1780, | 36 31 |
| | 26 | <i>a</i> Charles Brooks, - | Seaman, Confederacy, - | April 14, 1781, | 59 46 |
| | 26 | <i>a</i> Jesse Daniels, - | Seaman, Confederacy, - | May 19, 1780, | 49 98 |
| | 26 | <i>a</i> John Steel, - | Seaman, Confederacy, - | April 14, 1781, | 18 32 |
| | 26 | <i>a</i> John Courtney, - | Boatswain's mate, Confederacy, - | May 19, 1780, | 48 78 |
| | 28 | <i>a</i> Elisha Cæsar, - | Boy, Alliance, - | July 21, 1780, | 19 92 |
| | 28 | <i>a</i> John Hastings, - | Marine, Warren, - | Sept. 1, 1779, | 26 66 |
| | 30 | <i>a</i> John Peck, - | Boy, Queen of France, - | Sept. 1, 1779, | 13 76 |
| | 30 | <i>a</i> Robert M. Peck, - | Midshipman, Queen of France, - | July 15, 1780, | 137 63 |
| | 30 | <i>b</i> Robert Fenner, - | Agent to North Carolina line, - | July 27, 1792, | 2,815 84 |
| | 31 | <i>a</i> Phineas Bond, - | Marine, Warren, - | Sept. 1, 1779, | 18 89 |
| August | 1 | <i>a</i> Charles King, - | Sergeant of marines, Saratoga, - | Mar. 18, 1781, | 70 77 |
| | 1 | <i>a</i> Philip Triglohan, - | Pilot, - | Jan. 23, 1780, | 27 62 |
| | 1 | <i>a</i> William Sims, - | Matross, 4th regiment artillery, - | Feb. 1, 1781, | 50 00 |
| | 1 | <i>a</i> Joseph Sturges, - | Private, 7th Pennsylvania regiment, - | Jan. 1, 1781, | 43 33 |
| | 3 | <i>a</i> James Frasier, - | Cooper and steward, ship Morris, - | Aug. 18, 1779, | 55 26 |
| | 6 | <i>b</i> John Bradley, - | Assistant commissary of purchases, - | June 3, 1780, | 94 |
| | 9 | <i>a</i> Aaron Francis, - | Quartermaster, 3d Mass. brigade, - | Sept. 18, 1780, | 6 76 |
| | 9 | <i>a</i> Solomon Jones, - | Trumpet major in Col. Washington's regiment, - | Nov. 16, 1783, | 171 92 |
| | 9 | <i>a</i> Luke Barnwell, - | Sergeant, Maryland line, - | Oct. 7, 1782, | 316 68 |
| | 14 | <i>b</i> James Cummings, - | For wagon hire, - | April 29, 1782, | 18 00 |
| | 14 | <i>a</i> Derick Hanson, - | Captain, Col. Jas. Levingston's reg. - | Jan. 1, 1781, | 158 44 |
| | 16 | <i>a</i> James Simons, - | Lieutenant, Col. Washington's reg. - | May 1, 1782, | 517 52 |
| | 22 | <i>a</i> William McDonald, - | Corporal of marines, frigate Deane, - | April 13, 1780, | 21 57 |
| | 22 | <i>a</i> John Dawson, - | Boy, Queen of France, - | July 16, 1780, | 51 54 |
| | 22 | <i>a</i> Joseph Goff, - | Private, Col. Seth Warner's reg. - | Nov. 1, 1782, | 245 11 |
| | 22 | <i>a</i> John Cockshott, - | Landsman, Saratoga, - | Mar. 18, 1781, | 43 74 |
| | 22 | <i>a</i> William Hill, - | Boy, Providence, - | July 11, 1780, | 55 12 |
| | 22 | <i>a</i> Jacob Wamsley, - | Boy, Providence, - | July 11, 1780, | 154 37 |
| | 23 | <i>a</i> A. Wollace Thaxter, - | Lieutenant, Queen of France, - | July 15, 1780, | 310 87 |
| | 29 | <i>a</i> John Hodge, - | Lieut., old 6, afterwards 7 Penn. reg. - | June 1, 1779, | 320 00 |
| Sept. | 6 | <i>a</i> Henry Reddick, - | Private, 3d Pennsylvania regiment, - | Feb. 1, 1777, | 1 09 |
| | 7 | <i>a</i> Henry Hart, - | Private, 5th Pennsylvania regiment, - | Feb. 1, 1777, | 10 00 |
| | 14 | <i>a</i> Abraham Northgate, - | Boy, frigate Deane, - | April 30, 1780, | 95 58 |
| | 14 | <i>a</i> John Lee, - | Seaman, Providence, - | July 11, 1780, | 57 09 |
| | 15 | <i>b</i> John McKennon, - | Wagoner, - | April 1, 1780, | 7 60 |
| | 15 | <i>a</i> Thomas Davis, - | Seaman, Ranger, - | July 11, 1780, | 33 76 |

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| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|---------------------------------|--|---------------------|-------------------------------|
| 1792. | | | | | |
| Oct. 1 | 2997 | <i>a</i> John Kaine, - | Seaman, Virginia, and Deane, - | Sept. 15, 1779, | \$ 30 35 |
| 4 | 3001 | <i>a</i> Jonathan Force, - | Private, 1st Jersey regiment, - | Sept. 15, 1780, | 167 16 |
| 4 | 3037 | <i>a</i> Andrew Moore, - | Seamen, Andra Doria and Virginia, - | Mar. 31, 1778, | 36 79 |
| 5 | 2954 | <i>a</i> James Hogan, - | General, half-pay, - | Jan. 4, 1778, | 5,250 00 |
| 5 | 2921 | <i>a</i> George Gordon, - | Sergeant, 1st Maryland regiment, - | Sept. 1, 1780, | 61 22 |
| 5 | 2959 | <i>a</i> Christopher Smith, - | Marine, Providence, - | July 11, 1780, | 51 47 |
| 5 | 2986 | <i>b</i> James Terril, - | Teamster, southern army, - | June 11, 1782, | 39 00 |
| 5 | 2969 | <i>a</i> Richard Knox, - | Landsman, sloop Surprise, - | Dec. 8, 1777, | 5 29 |
| 5 | 2960 | <i>a</i> Comfort Carpenter, - | Marine, Queen of France, - | July 15, 1780, | 43 60 |
| 5 | 2970 | <i>a</i> James Storer, - | Carpenter, Confederacy, - | Aug. 19, 1779, | 94 78 |
| 5 | 2908 | <i>a</i> Henry Funk, - | Corporal, Pulasky's legion, - | Sept. 1, 1779, | 5 44 |
| 5 | 2971 | <i>a</i> John Long, - | Marine, Alfred, - | Aug. 20, 1777, | 111 04 |
| 5 | 2972 | <i>a</i> John Manwaring, - | Marine, Raleigh, - | Dec. 14, 1778, | 12 13 |
| 5 | 2967 | <i>a</i> John Wright, - | Landsman, Providence, - | July 11, 1780, | 50 49 |
| 5 | 2955 | <i>a</i> Daniel Smith, - | Marine, Providence, - | July 11, 1780, | 57 03 |
| 5 | 2968 | <i>b</i> Richard Ellis, - | Cont. agent, North Carolina, - | Nov. 12, 1780, | 89 23 |
| 13 | 3065 | <i>a</i> David Malcolm, - | Seaman, Boston, - | July 16, 1780, | 63 47 |
| 13 | 3063 | <i>a</i> Eden Wadsworth, - | Landsman, Providence, - | July 11, 1780, | 49 92 |
| 15 | 3082 | <i>a</i> John Grimes, - | Landsman, Andra Doria & Virginia, - | Mar. 31, 1778, | 30 11 |
| 15 | 3084 | <i>a</i> John Nick, - | Marine, Alfred and Columbus, - | Nov. 14, 1776, | 40 29 |
| 17 | 3088 | <i>a</i> Eliphalet Jones, - | Marine, Hancock, - | Jan. 23, 1778, | 20 45 |
| 18 | 3101 | <i>a</i> William Copelind, - | Private, 1st New York regiment, - | Feb. 17, 1782, | 582 65 |
| 19 | 3098 | <i>a</i> James N. Bogart, - | Private, 3d New Jersey regiment, - | Aug. 1, 1780, | 217 74 |
| 19 | 3110 | <i>a</i> John P. De Haas, - | Colonel, 1st Penn. reg. disbursements, - | Jan. 27, 1785, | 1,178 36 |
| 19 | 3105 | <i>a</i> William Blunt, - | Boy, Ranger, - | July 11, 1780, | 19 83 |
| 24 | 3115 | <i>a</i> Thomas Ley, - | Captain, 5th New York regiment, - | July 1, 1778, | 96 00 |
| 25 | 3125 | <i>a</i> Jacob Vinal, - | Private, Pulasky's legion, - | Sept. 1, 1779, | 2 88 |
| 27 | 3129 | <i>a</i> Peter Dunster, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 238 19 |
| 27 | 3131 | <i>a</i> John Holiday, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 170 24 |
| 27 | 3130 | <i>a</i> Robert Woodham, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 234 75 |
| 29 | 3149 | <i>a</i> William Brower, - | Acting midshipman, Alliance, - | Sept. 22, 1781, | 49 09 |
| 29 | 3145 | <i>a</i> James Johnson, - | Quartermaster, Queen of France, - | July 15, 1780, | 123 48 |
| 30 | 3146 | <i>a</i> Alexander Jenkins, - | Boy, Queen of France, - | July 15, 1780, | 45 70 |
| 30 | 3147 | <i>a</i> Addington Davenport, - | Barber, on board Providence, - | July 11, 1780, | 53 23 |
| 31 | 3148 | <i>a</i> Eseack Walker, - | Marine, Queen of France, - | July 15, 1780, | 67 57 |
| 31 | 3152 | <i>a</i> John Linton, - | Seaman, Confederacy, - | April 14, 1781, | 27 14 |
| Nov. 3 | 3161 | <i>a</i> Henry Kess, - | Marine, Columbus, - | Jan. 6, 1777, | 20 70 |
| 3 | 3167 | <i>a</i> John Brown, - | Marine, Queen of France, - | July 15, 1780, | 41 79 |
| 3 | 3162 | <i>a</i> Rial Moarhouse, - | Midshipman, Confederacy, - | April 14, 1781, | 105 21 |
| 8 | 3181 | <i>a</i> David Tuthill, - | Marine, Confederacy, - | May 18, 1780, | 46 11 |
| 9 | 3191 | <i>a</i> Francis Freeman, - | Private, 2d Maryland regiment, - | Aug. 1, 1780, | 149 27 |
| 9 | 3166 | <i>a</i> Edward Rice, - | Steward, frigate Boston, - | July 16, 1780, | 165 99 |
| 10 | 3198 | <i>a</i> Thomas Jones, - | Private, Lee's legion, - | Jan. 1, 1783, | 100 00 |
| 10 | 3185 | <i>a</i> Richard Bennet, - | Private, Col. Lamb's regiment, - | Dec. 1, 1783, | 66 67 |
| 10 | 3185 | <i>a</i> Richard Bennet, - | Private, Col. Lamb's regiment, - | Jan. 1, 1784, | 12 84 |
| 10 | 3194 | <i>a</i> Edward Purdy, - | Private, 3d Maryland regiment, - | Nov. 1, 1780, | 249 02 |
| 15 | 3207 | <i>a</i> Ephraim Emery, - | Paymaster, 6th Mass. regiment, - | Nov. 4, 1783, | 254 33 |
| 19 | 3212 | <i>a</i> Bartlett Lee, - | Matross, 1st regiment of artillery, - | Aug. 1, 1780, | 254 11 |
| 19 | 3228 | <i>a</i> Josiah Pierce, - | Drummer, Boston and Q. of France, - | July 15, 1780, | 70 93 |
| 20 | 3237 | <i>b</i> Robert Rice, - | Wagoner, southern department, - | Sept. 1, 1781, | 3 50 |
| 22 | 3222 | <i>a</i> Isaac Fenno, - | Marine, Boston, - | July 11, 1780, | 48 21 |
| 22 | 3218 | <i>a</i> Benjamin Balch, - | Landsman, Boston, - | July 16, 1780, | 99 92 |
| 22 | 3223 | <i>a</i> Richard Carey, - | Armorer, - | July 16, 1780, | 75 82 |
| 22 | 3229 | <i>a</i> Joseph Wood, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 232 44 |
| 22 | 3231 | <i>a</i> Edward Evans, - | Private, 4th Maryland regiment, - | Aug. 1, 1780, | 229 89 |
| 22 | 3216 | <i>a</i> Benjamin Andrews, - | Seaman, Boston, - | July 16, 1780, | 63 34 |
| 22 | 3217 | <i>a</i> Fortune Dennison, - | Marine, Queen of France, - | July 15, 1780, | 39 17 |
| 22 | 3210 | <i>a</i> William Munday, - | Quartermaster and lieutenant, 2d N. York regiment, - | Jan. 21, 1781, | 145 85 |
| 22 | 3230 | <i>a</i> Ignatius Compton, - | Private, 7th Maryland regiment, - | Aug. 1, 1780, | 26 66 |
| 22 | 3219 | <i>a</i> George Cushman, - | Marine, Providence, - | July 11, 1780, | 51 25 |
| 22 | 3239 | <i>a</i> John Harper, - | Master, Reprisal, - | Oct. 1, 1777, | 308 67 |
| 22 | 3215 | <i>a</i> Isaac Anderson, - | Private, Lee's legion, - | May 1, 1783, | 200 00 |
| 28 | 3253 | <i>a</i> William Dulany, - | Mate, in general hospital, - | Jan. 1, 1780, | 353 80 |
| 29 | 3248 | <i>a</i> John Harris, - | Corporal of marines, Providence, - | July 11, 1780, | 70 83 |
| 29 | 3265 | <i>a</i> Charles Dunn, - | Private, 6th Virginia regiment, - | Feb. 1, 1782, | 547 87 |
| 30 | 3257 | <i>a</i> John McVay, - | Boy, Queen of France, - | July 11, 1780, | 52 69 |
| 30 | 3255 | <i>a</i> James Richardson, - | Boy, Providence, - | July 11, 1780, | 53 83 |
| 30 | 3268 | <i>a</i> Peter Nagle, - | Marine, Columbus, - | Jan. 6, 1777, | 36 33 |
| 30 | 3256 | <i>a</i> Samuel Thompson, - | Marine, Queen of France, - | July 15, 1780, | 52 35 |
| 30 | 3276 | <i>a</i> Dathick Hewitt, - | Captain of an independent company, half-pay, - | July 3, 1785, | 1,680 00 |
| Dec. 7 | 3292 | <i>b</i> Jeremiah Holden, - | Prizes, - | Jan. 1, 1778, | 193 85 |
| 10 | 3285 | <i>a</i> John Harper, - | Master, Reprisal, - | Jan. 1, 1778, | 553 00 |
| 10 | 3288 | <i>b</i> Thos. Fry & Co. - | Store rent, - | Nov. 18, 1777, | 97 66 |
| 10 | 3281 | <i>b</i> John Henderson, - | Clerk, ship Saratoga, - | Aug. 18, 1780, | 7 20 |
| 11 | 3289 | <i>a</i> Eben. Hemmingway, - | Landsman, Queen of France, - | July 16, 1780, | 64 87 |
| 11 | 3295 | <i>a</i> Isaac Mansfield, - | Chaplain, 6th and 27th Mass. reg'ts, - | Sept. 1, 1776, | 116 22 |
| 11 | 3291 | <i>a</i> Joseph Thomas, - | Artificer, Colonel Baldwin's reg't, - | Jan. 1, 1782, | 60 77 |
| 11 | 3290 | <i>a</i> John Conklin, - | Artificer, Colonel Baldwin's reg't, - | Jan. 1, 1782, | 68 40 |
| 12 | 3296 | <i>a</i> Jeremiah Holden, - | Mate & master, Reprisal & Lexington, - | Sept. 19, 1777, | 47 78 |
| 12 | 3302 | <i>a</i> Charles Erskine, - | Lieut., Vir. dragoons, commutation, - | Mar. 12, 1783, | 2,300 00 |
| 13 | 3313 | <i>a</i> John Adlington, - | Boy, Q. of France and Providence, - | July 11, 1780, | 63 22 |

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| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|----------------------------|--|---------------------|-------------------------------|
| 1792. | | | | | |
| Dec. 14 | 3307 | a Thomas Butler, - | Marine, Q. of France and Providence, | July 15, 1780, | \$ 45 79 |
| 14 | 3311 | a Morris Hinch, - | Sweeper, Q. of France do. - | July 15, 1780, | 30 69 |
| 14 | 3310 | a Henry Doile, - | Marine, Q. of France do. - | July 15, 1780, | 58 92 |
| 15 | 3287 | b John Smith, - | Supplies, - | Jan. 1, 1778, | 89 85 |
| 17 | 3324 | a James McElroy, - | Dragoon, 3d Virginia regiment, - | Nov. 13, 1781, | 295 33 |
| 17 | 3320 | a William Holt, - | Private, 3d Maryland regiment, - | Aug. 18, 1781, | 349 22 |
| 17 | 3326 | a Thomas Almond, - | Private, Lee's legion, - | July 3, 1783, | 234 17 |
| 17 | 3325 | a David Stern, - | Dragoon, 1st Virginia regiment, - | June 17, 1783, | 337 50 |
| 17 | 3327 | a James Carter, - | Matross, Colonel Proctor's artillery, | Mar. 1, 1781, | 50 83 |
| 1793. | | | | | |
| Jan. 4 | 3372 | a William Barnes, - | Landsman, Boston, - | July 16, 1780, | 48 60 |
| 4 | 3418 | a John Love, - | Private, 6th Maryland regiment, - | Mar. 22, 1781, | 248 73 |
| 4 | 3398 | a Ebenezer Tanner, - | Seaman, Confederacy, - | Jan. 28, 1780, | 57 06 |
| 4 | 3361 | a William McCracken, | Lieutenant, old 13th Penn. regiment, | Nov. 24, 1778, | 64 00 |
| 4 | 3397 | a Daniel Uncus, - | Seaman, Confederacy, - | May 3, 1780, | 81 07 |
| 4 | 3376 | a John Davis, - | Surgeon, Col. John Patton's regiment, | April 1, 1779, | 144 00 |
| 4 | 3399 | a John Lee, - | Seaman, Raleigh, - | Dec. 15, 1778, | 8 32 |
| 4 | 3343 | a Samuel Cavenner, - | Seaman, Hancock, - | Jan. 23, 1778, | 64 00 |
| 4 | 3391 | a Thomas White, - | Lieut., Col. W. Montgomery's reg't, | Jan. 1, 1777, | 80 40 |
| 5 | 3363 | a William O. Callis, - | Lieutenant, 4th Virginia regiment, - | Nov. 24, 1778, | 64 02 |
| 5 | 3367 | a Jesse Chandler, - | Private, 3d Vir. reg't cavalry, - | July 2, 1783, | 234 17 |
| 5 | 3425 | a James Walker, - | Landsman, carpenter, &c. Warren, Providence, and Boston, - | July 16, 1780, | 93 56 |
| 5 | 3394 | a Joseph Purdy, - | Drum major, 5th Maryland regiment, | Oct. 19, 1782, | 65 83 |
| 5 | 3448 | a London Hall, - | Private, Rhode Island line, - | Sept. 1, 1780, | 160 21 |
| 7 | 3447 | a Prince Hammond, - | Private, Rhode Island line, - | Sept. 1, 1780, | 178 01 |
| 7 | 3395 | a William Belknap, - | Lieutenant, Col. Livingston's reg't, | Jan. 1, 1781, | 53 35 |
| 7 | 3400 | a Abel Spicer, - | Quartermaster, Confederacy, - | Aug. 4, 1779, | 74 10 |
| 7 | 3454 | a Noah Hide, - | Cooper, - | Mar. 1, 1781, | 320 00 |
| 8 | 3438 | a Joseph Shearman, - | Landsman, ship Fly, - | April 10, 1776, | 15 56 |
| 8 | 3439 | a Jonathan Satchell, - | Coxswain and quartermaster, Trumbull and Confederacy, - | April 14, 1781, | 56 95 |
| 9 | 3436 | a Nathaniel Swan, - | Seaman, Trumbull and Confederacy, | May 23, 1780, | 68 84 |
| 9 | 3437 | a Skipper Lunt, - | Seaman, Trumbull and Confederacy, | April 14, 1781, | 23 12 |
| 9 | 3446 | a John Hampton, - | Pilot, French fleet, - | Aug. 1, 1778, | 12 40 |
| 9 | 3449 | b John Kelly, - | Foragemaster, - | Jan. 1, 1783, | 30 30 |
| 9 | 3456 | a Elijah Munroe, - | Quartermaster and Q. gunner, Prov. | July 11, 1780, | 112 85 |
| 9 | 3474 | a John Hepner, - | Private, 3d New Jersey regiment, - | Aug. 1, 1780, | 232 26 |
| 9 | 3375 | a John Morgan, - | Captain, old 5th Pennsylvania reg't, | May 22, 1779, | 485 08 |
| 14 | 3471 | b John Blair, - | - | Aug. 1, 1780, | 40 00 |
| 16 | 3499 | a Thomas Gibson, - | Private, 3d New Jersey regiment, - | Jan. 1, 1781, | 29 78 |
| 16 | 3493 | b Amariah Ballinger, - | Hire of a shallop transporting wood, | Dec. 23, 1779, | 119 33 |
| 16 | 3486 | b John Ellis, - | Teamster, - | July 1, 1783, | 146 64 |
| 16 | 3480 | a William Hamilton, - | Boy, Confederacy, - | April 14, 1781, | 17 51 |
| 16 | 3475 | a James Buckley, - | Private, Lee's legion, - | Feb. 5, 1781, | 282 11 |
| 19 | 3517 | a Peter Gorr, - | Private, 13th Pennsylvania regiment, | May 1, 1778, | 2 66 |
| 22 | 3392 | a William Anderson, - | Lieutenant, Col. Montgomery's reg't, | Jan. 1, 1777, | 77 40 |
| 22 | 3471 | b John McDonald, - | - | Aug. 1, 1780, | 40 00 |
| 23 | 3535 | a James Head, - | Boy, Queen of France, - | July 15, 1780, | 45 60 |
| 23 | 3536 | a Thomas Dupee, - | Boy, Alliance, - | July 5, 1780, | 39 11 |
| 23 | 3543 | b Thomas Hamilton, - | Commissary of issues at Wyoming, Pennsylvania, - | Nov. 1, 1781, | 116 81 |
| 24 | 3542 | a Alexander Touch, - | Steward, Providence, - | July 11, 1780, | 163 33 |
| 28 | 3550 | a John Brannon, - | Dragoon, Lee's legion, - | May 5, 1781, | 293 23 |
| 28 | 2646 | b Benjamin Wells, - | Provisions, - | Aug. 10, 1781, | 60 86 |
| 28 | 3576 | b Thomas Hamilton, - | Assist. deputy quartermaster general, | March 1, 1780, | 158 66 |
| 30 | 3471 | b Jonathan Fuller, - | - | March 1, 1780, | 48 00 |
| 30 | 3588 | a James Davis, - | Captain, 3d Virginia regiment, - | Dec. 1, 1778, | 96 00 |
| 31 | 3572 | a Richard Wall, - | Cadet, B. H. Richard, - | Aug. 1, 1782, | 239 17 |
| 31 | 3571 | a George Speake, - | Corporal, Col. N. Gist's regiment, | Jan. 1, 1782, | 85 51 |
| 31 | 3570 | a Thomas Massie, - | Major, 2d Virginia regiment, - | Aug. 1, 1779, | 14 00 |
| 31 | 3568 | a Daniel Bergmeyer, - | Private, Col. Flower's reg't artillery, | Jan. 1, 1782, | 59 63 |
| 31 | 3581 | a Walley Allen, - | Private, 1st Rhode Island regiment, | March 4, 1782, | 562 04 |
| 31 | 3565 | a William Haynes, - | Private, Lee's legion, - | July 3, 1783, | 234 17 |
| 31 | 3583 | a James McGee, - | Serg. & lieut. maj., Col. N. Gist's reg. | Aug. 1, 1780, | 283 59 |
| Feb. 1 | 3596 | a Darby Oram, - | Of carpenter's crew, on board Alliance, | July 5, 1781, | 21 15 |
| 1 | 3592 | b Turner Richardson, - | Cl'k in issuing dep. under J. Robertson, | May 1, 1782, | 85 00 |
| 1 | 3591 | a Samuel McWilliams, - | Private, Delaware line, - | Jan. 1, 1781, | 50 44 |
| 2 | 3573 | b Jno. Ely & Th. Chapin, - | Boards and shingles, - | April 1, 1781, | 71 18 |
| 4 | 3600 | a John Sydleman, - | Baker, Confederacy, - | May 19, 1780, | 68 74 |
| 5 | 3471 | b John Firringer, - | - | April 17, 1780, | 10 40 |
| 5 | 3599 | a Jonathan Cogswell, - | Sail-maker, Queen of France, - | July 5, 1780, | 90 91 |
| 6 | 3604 | a Thomas Byrum, - | Sergeant, 5th Maryland line, - | Jan. 14, 1781, | 335 49 |
| 6 | 3614 | a Davis Ratcliff, - | Private, 10th and 6th Virginia reg'ts. | Sept. 1, 1780, | 239 04 |
| 7 | 3471 | b Jacob Duffield, - | - | Jan. 1, 1778, | 80 00 |
| 8 | 3612 | a John Bollington, - | Private, 1st regiment light dragoons, | Nov. 16, 1783, | 80 00 |
| 8 | 3609 | a James Boyle, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 231 07 |
| 8 | 3610 | a James Blades, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, | 200 43 |
| 8 | 3611 | a Robert Body, - | Drummer, 6th Maryland regiment, | Sept. 1, 1780, | 181 57 |
| 11 | 3624 | a Benjamin Hopkins, - | Lieut., Seth Warner's reg., half-pay, | Sept. 6, 1787, | 1,120 00 |
| 12 | 3625 | a Weight Hopkins, - | Captain, Seth Warner's reg., half-pay, | July 15, 1786, | 1,680 00 |
| 18 | 3644 | a David Hickey, - | Private, 11th Pennsylvania regiment, | Jan. 1, 1780, | 10 17 |
| 19 | 3647 | a Michael Wilkinson, - | Private, 6th Virginia regiment, - | Nov. 20, 1782, | 192 89 |

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| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------------------------------|--|---------------------|-------------------------------|
| 1793. | | | | | |
| Feb. 19 | 3645 | <i>a</i> John Crozier, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | \$161 50 |
| 19 | 3649 | <i>b</i> Josiah Dishell, - | Hire of a schooner, - | Jan. 15, 1782, | 191 38 |
| 21 | 3657 | <i>a</i> James Willis, - | Private, 2d and 6th Mass. regiments, | July 19, 1782, | 146 27 |
| 22 | 3656 | <i>a</i> John Ryland, - | Corporal, Col. Harrison's artillery, | June 30, 1783, | 246 50 |
| 25 | 3664 | <i>b</i> Cuthbert Abel, - | Forage-master, - | Jan. 1, 1783, | 86 37 |
| 25 | 3659 | <i>a</i> William Cato, - | Private, 2d Maryland regiment, - | Aug. 1, 1780, | 223 31 |
| 26 | 3666 | <i>a</i> James Thompson, - | Private, partisan legion, - | Aug. 30, 1782, | 435 81 |
| 26 | 3661 | <i>a</i> John Jacobs, - | Seaman, Confederacy, - | May 19, 1780, | 108 22 |
| 26 | 3667 | <i>a</i> Benjamin Thompson, | Brigade major, Pulasky's legion, - | May 1, 1778, | 72 50 |
| 26 | 3685 | <i>a</i> Thomas Wishart, - | Lieutenant, Virginia line, - | April 21, 1781, | 384 00 |
| 26 | 3674 | <i>a</i> Patrick Sammons, - | Private, 10th Virginia regiment, - | Jan. 30, 1782, | 551 54 |
| 26 | 3679 | <i>a</i> Thomas Blackwell, - | Captain, 10th Virginia regiment, - | Dec. 1, 1778, | 96 00 |
| 26 | 3680 | <i>a</i> John Mountjoy, - | Captain, 10th Virginia regiment, - | Dec. 1, 1778, | 96 00 |
| 26 | 3671 | <i>a</i> Nathan Smith, - | Apothecary's mate, southern dep't. | June 5, 1782, | 491 83 |
| 27 | 3688 | <i>a</i> Robert Doyle, - | Private, 3d regiment Virginia artillery, | July 13, 1783, | 222 26 |
| 27 | 3672 | <i>a</i> Benjamin Faup, - | Private, 6th Maryland regiment, - | Jan. 1, 1781, | 177 70 |
| 27 | 3692 | <i>b</i> John Alexander, - | Forage-master, - | July 1, 1783, | 84 33 |
| 28 | 3689 | <i>a</i> John Strawn, - | Quartermaster's serg. Lee's legion, | Aug. 1, 1780, | 280 46 |
| 28 | 3695 | <i>a</i> Benjamin Kimball, - | Captain, Colonel Cilley's regiment, | Aug. 23, 1786, | 286 68 |
| 28 | 3696 | <i>b</i> Edward Carnes, - | Supplies, - | Feb. 1, 1782, | 1,735 42 |
| 28 | 3697 | <i>a</i> William Upshaw, - | Pay, - | July 1, 1781, | 92 34 |
| 28 | 3683 | <i>b</i> William Edmunstun, | - | Aug. 12, 1783, | 5 88 |
| 28 | 3691 | <i>a</i> Littlebury Scott, - | Private, 1st Virginia regiment, - | July 13, 1783, | 210 00 |
| March 1 | 3712 | <i>a</i> Gibson Clough, - | Ensign, Colonel Hutchinson's reg't. | Nov. 24, 1778, | 184 89 |
| 1 | 3711 | <i>a</i> Benjamin Holden, - | Lieut., Colonel Hutchinson's reg't. | Nov. 24, 1778, | 720 00 |
| 2 | 3708 | <i>a</i> Daniel Parker, - | Lieut., 2d South Carolina regiment, | Aug. 1, 1781, | 370 95 |
| 2 | 3707 | <i>a</i> John Lynch, - | Matross, Maryland line, - | Aug. 5, 1781, | 472 32 |
| 2 | 3709 | <i>a</i> Dempsey Williams, - | Serg. & serg. maj., 5th & 1st S. C. reg. | Jan. 1, 1781, | 204 83 |
| 2 | 3710 | <i>a</i> Robert Crosson, - | Serg. & serg. maj., 5th & 1st S. C. reg. | Sept. 1, 1781, | 132 81 |
| 2 | 3699 | <i>a</i> Joseph Joyner, - | Private, 3d South Carolina regiment, | July 1, 1781, | 106 39 |
| 2 | 3709 | <i>a</i> James Scott, - | Private, 3d South Carolina regiment, | July 1, 1781, | 106 39 |
| 2 | 3698 | <i>a</i> Jesse Farrer, - | Private, 3d South Carolina regiment, | March 22, 1781, | 236 28 |
| 2 | 3715 | <i>a</i> Peter Kelley, - | Corporal, 5th South Carolina regiment, | Dec. 1, 1781, | 221 57 |
| 2 | 3716 | <i>a</i> Jacob Johnston, - | Private, 2d South Carolina regiment, | Nov. 16, 1783, | 30 00 |
| 3 | 3717 | <i>b</i> Thomas Grant, - | Assistant quartermaster, under John Davis, dep. quartermaster general, | May 16, 1782, | 472 06 |
| 5 | 3701 | <i>a</i> Joseph Harrington, - | Seaman, Boston, - | Oct. 27, 1778, | 45 14 |
| 5 | 3722 | <i>a</i> Jonathan Gibson, - | Captain, Maryland line, - | Jan. 1, 1783, | 490 93 |
| 5 | 3718 | <i>a</i> William Berbage, - | Drummer, 2d South Carolina line, - | Sept. 19, 1781, | 132 72 |
| 5 | 3720 | <i>a</i> Thomas Moore, - | Private and corporal, 5th S. C. line, | July 16, 1781, | 176 72 |
| 5 | 3719 | <i>a</i> Dide Cottle, - | Private, Virginia line, - | Aug. 1, 1780, | 77 60 |
| 6 | 3723 | <i>b</i> John Campbell, - | Assistant dep. quartermaster, N. Y. | Sept. 1, 1784, | 1,103 65 |
| 6 | 3728 | <i>a</i> Robert Williams, - | Private, 4th South Carolina regiment, | Jan. 1, 1781, | 240 85 |
| 6 | 3724 | <i>a</i> Peter Bozeman, - | Private, 2d South Carolina regiment, | Jan. 1, 1781, | 49 91 |
| 6 | 3726 | <i>a</i> Henry Gregory, - | Dragoon, 3d South Carolina regiment, | July 1, 1781, | 71 88 |
| 7 | 3731 | <i>a</i> Thomas Oliver, - | Private, 2d South Carolina regiment, | March 1, 1781, | 130 24 |
| 9 | 3739 | <i>b</i> Hopedill McNeal, - | Supplies, - | Oct. 11, 1777, | 58 74 |
| 11 | 3736 | <i>a</i> Daniel Bears, - | Lieut., midship. & gunner, Columbus, | Jan. 16, 1777, | 179 07 |
| 12 | 3737 | <i>a</i> Jeremiah Vangordan, - | Private, 3d Pennsylvania regiment, | Jan. 1, 1781, | 33 33 |
| 12 | 3738 | <i>a</i> John Smith, - | Sergeant, 4th South Carolina regiment, | Jan. 1, 1781, | 266 90 |
| 13 | 3763 | <i>a</i> Jeremiah Jackson, - | Ensign, 4th Massachusetts regiment, | March 1, 1779, | 48 00 |
| 14 | 3761 | <i>a</i> James Gunn, - | Captain, 1st regiment light dragoons, | June 6, 1781, | 1,054 01 |
| 14 | 3758 | <i>a</i> Joseph Henderson, - | Paymaster, - | Aug. 10, 1782, | 400 00 |
| 16 | 3771 | <i>a</i> Samuel Harvey, - | Marine, Andra Doria, - | April 9, 1776, | 5 74 |
| 16 | 3772 | <i>a</i> John D. Yeaton, - | Midshipman, Deane, - | April 30, 1780, | 79 13 |
| 16 | 2893 | <i>b</i> Asa Waterman, - | Assistant commissary of issues, - | April 14, 1781, | 327 71 |
| 16 | 3776 | <i>a</i> James Gunn, - | Captain, 1st regiment light dragoons, | March 22, 1783, | 50 00 |
| 22 | 3787 | <i>a</i> John Wiley, - | Captain, Col. Jackson's reg't. Mass. | Oct. 21, 1778, | 332 68 |
| April 1 | 3809 | <i>a</i> Stephen Parsons, - | Boy, Ranger, - | July 11, 1780, | 67 48 |
| 1 | 3778 | <i>a</i> Peter Blossom, - | Private, 2d New York regiment, - | Aug. 1, 1778, | 32 25 |
| 1 | 3801 | <i>b</i> Samuel Miles, - | Deputy quartermaster, Pennsylvania, | Feb. 11, 1784, | 1 77 |
| 1 | 3794 | <i>a</i> John White, - | Colonel, half pay, 4th Georgia bat. - | Nov. 20, 1787, | 3,150 00 |
| 1 | 3785 | <i>a</i> James Robinson, - | Boy, Andra Doria, - | Dec. 15, 1777, | 7 46 |
| 1 | 3807 | <i>a</i> Charles Morehead, - | Sergeant, Lee's legion, - | June 8, 1783, | 357 50 |
| 1 | 3794 | <i>a</i> John Kitchen, - | Private, 6th South Carolina regiment, | July 1, 1781, | 150 43 |
| 1 | 3798 | <i>a</i> Thomas Hale, - | Sergeant, 5th South Carolina regiment, | Aug. 1, 1780, | 64 40 |
| 1 | 3795 | <i>b</i> John Smith, - | Cl'k to W. Rippey, dep. qu'm. general, | June 1, 1780, | 111 66 |
| 1 | 3806 | <i>a</i> George Grimes, - | Private, Virginia artillery, - | July 2, 1783, | 234 16 |
| 1 | 3806 | <i>a</i> Stephen Freeman, - | Private, Virginia artillery, - | July 2, 1783, | 234 16 |
| 1 | 3802 | <i>a</i> Ebenezer Parkman, - | Private, regiment artificers, - | May 1, 1781, | 122 09 |
| 1 | 3802 | <i>a</i> Thomas Parkman, - | Private, regiment artificers, - | Jan. 1, 1783, | 22 91 |
| 6 | 3859 | <i>a</i> John Barker, - | Seaman, Providence, - | July 11, 1780, | 81 87 |
| 6 | 3837 | <i>a</i> Archibald Randale, - | Seaman, Reprisal, - | March 16, 1779, | 150 03 |
| 6 | 3847 | <i>a</i> Richard Harper, - | Seaman, Queen of France, - | July 15, 1780, | 53 36 |
| 6 | 3820 | <i>a</i> Thomas Inloe, - | Private, 2d Virginia regiment, - | Aug. 1, 1780, | 210 05 |
| 6 | 3827 | <i>a</i> Samuel Peckham, - | Drummer, Providence, - | Jan. 1, 1777, | 32 75 |
| 8 | 3873 | <i>a</i> William Lowther, - | Ensign, Col. McCallister's regiment, | May 1, 1778, | 43 06 |
| 8 | 3471 | <i>b</i> Michael Dougherty, - | - | Aug. 1, 1780, | 210 00 |
| 11 | 3877 | <i>a</i> Joseph Curtis, - | Seaman, B. H. Richard, - | Aug. 1, 1779, | 6 32 |
| 11 | 3885 | <i>a</i> James Hardy, - | Sergeant, 3d Maryland regiment, - | Aug. 1, 1780, | 290 35 |
| 11 | 3897 | <i>a</i> Thomas Buttery, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, | 164 75 |
| 11 | 3886 | <i>a</i> Frederick Ayres, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 165 43 |
| 12 | 3814 | <i>a</i> John Jones, - | Sergeant, S. C. regiment of artillery, | July 1, 1781, | 295 88 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|---------------------------------|---|---------------------|-------------------------------|
| 1793. | | | | | |
| April 12 | 3814 | <i>a</i> John Nowling, - | Corporal, S. C. regiment of artillery, | July 1, 1781, | \$178 91 |
| 12 | 3814 | <i>a</i> Joseph Hull, - | Corporal, S. C. regiment of artillery, | July 1, 1781, | 367 33 |
| 12 | 3814 | <i>a</i> William Bell, - | Corporal, S. C. regiment of artillery, | July 1, 1781, | 367 33 |
| 12 | 3814 | <i>a</i> Benjamin Swancoat, | Corporal, S. C. regiment of artillery, | July 1, 1781, | 367 33 |
| 12 | 3814 | <i>a</i> John Jones, - | Corporal, S. C. regiment of artillery, | July 1, 1781, | 372 85 |
| 12 | 3814 | <i>a</i> Jacob Paul, - | Matross, S. C. regiment of artillery, | July 1, 1781, | 354 73 |
| 12 | 3814 | <i>a</i> Hill Hewett, - | Matross, S. C. regiment of artillery, | July 1, 1781, | 354 73 |
| 12 | 3814 | <i>a</i> John Williams, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 354 73 |
| 13 | 3814 | <i>a</i> Jeremiah Allen, - | Sergeant, S. C. regiment artillery, - | July 1, 1781, | 324 72 |
| 13 | 3814 | <i>a</i> William Maloy, - | Matross, - | July 1, 1781, | 354 73 |
| 13 | 3901 | <i>a</i> Melatiah Pease, - | Landsman, Sloop Providence, - | March 9, 1778, | 4 00 |
| 13 | 3905 | <i>a</i> Henry Dixon, - | Lieutenant colonel, - | March 4, 1789, | 360 00 |
| 13 | 3893 | <i>a</i> Jacob Crawford, - | Boy, Lexington, - | March 5, 1780, | 138 68 |
| 13 | 3894 | <i>a</i> Edward Jarvis, - | Boy, Alliance, - | Aug. 11, 1782, | 236 73 |
| 16 | 3814 | <i>a</i> Jacob Miller, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 354 73 |
| 16 | 3814 | <i>a</i> Mark Marlow, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 276 40 |
| 16 | 3814 | <i>a</i> John Morrow, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 280 33 |
| 16 | 3814 | <i>a</i> Meredith West, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 264 62 |
| 16 | 3814 | <i>a</i> John Wilson, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> John Pitman, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 245 15 |
| 16 | 3814 | <i>a</i> John Colley, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 274 67 |
| 16 | 3814 | <i>a</i> Samuel Self, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 280 95 |
| 16 | 3814 | <i>a</i> Maurice Paul, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 348 73 |
| 16 | 3814 | <i>a</i> Charles Amonet, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> William Herrington, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> Andrew Henderson, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> Charles Miller, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> James Moon, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> Benjamin Jones, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> Jeremiah Smart, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 16 | 3814 | <i>a</i> Samuel White, - | Gunner, S. C. regiment artillery, - | July 1, 1781, | 371 53 |
| 16 | 3471 | <i>b</i> Stophel Shitger, - | - | August 1, 1780, | 63 20 |
| 16 | 3904 | <i>a</i> John I. Jacobs, - | Lt. and paymaster, 6th Md. regm't. | Jan. 20, 1781, | 319 23 |
| 16 | 3902 | <i>a</i> James Austin, - | Private, Spencer's regiment, - | August 1, 1780, | 204 89 |
| 16 | 3903 | <i>a</i> William White, - | Corporal, Spencer's regiment, - | Jan. 1, 1781, | 252 30 |
| 17 | 3920 | <i>a</i> John Cockley, - | Private, 1st N. Y. regiment, - | July 3, 1783, | 200 66 |
| 17 | 3915 | <i>a</i> James Carey, - | Carpenter's mate, Boston and Alliance, - | Nov. 1, 1780, | 21 31 |
| 18 | 3931 | <i>b</i> John Palmer, - | Harbor-master, Fishkill landing, - | Jan. 1, 1782, | 166 00 |
| 18 | 3925 | <i>a</i> Thomas F. Jackson, - | Lt., 2d regiment, light dragoons, - | Dec. 1, 1779, | 100 00 |
| 19 | 3943 | <i>a</i> Oliver Clark, - | Captain, Rhode Island line, - | Jan. 1, 1779, | 96 00 |
| 23 | 3954 | <i>b</i> John Hancock, - | Retained rations, - | August 1, 1778, | 171 09 |
| 23 | 3952 | <i>a</i> William Smith, - | Corporal, 1st S. C. regiment, - | July 1, 1781, | 289 58 |
| 23 | 3952 | <i>a</i> Matthew Smith, - | Private, 1st S. C. regiment, - | July 1, 1781, | 182 13 |
| 23 | 3956 | <i>a</i> Abraham Bradley, - | Marine, ship Alliance, - | Sept. 1, 1780, | 32 09 |
| 23 | 3928 | <i>a</i> Baylor Hill, - | Captain, (half-pay) 1st Virginia regiment light dragoons, - | March 14, 1783, | 3,240 00 |
| 23 | 3919 | <i>a</i> Elias Jeanneret, - | Sergeant, S. C. regiment artillery, - | July 1, 1781, | 402 33 |
| 23 | 3919 | <i>a</i> James Smith, - | Sergeant, S. C. regiment artillery, - | July 1, 1781, | 379 33 |
| 23 | 3919 | <i>a</i> James Bell, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 165 69 |
| 23 | 3919 | <i>a</i> Adam Briggs, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 354 73 |
| 23 | 3919 | <i>a</i> Gideon Souls, - | Matross, S. C. regiment artillery, - | July 1, 1781, | 311 09 |
| 23 | 3919 | <i>a</i> Samuel Hickman, - | Matross, S. C. regiment artillery, - | Sept. 28, 1781, | 422 18 |
| 23 | 3919 | <i>a</i> Edward Conner, - | Corporal, S. C. regiment artillery, - | July 1, 1781, | 304 16 |
| 23 | 3919 | <i>a</i> Richard Todd, - | Corporal, S. C. regiment artillery, - | Jan. 28, 1782, | 578 83 |
| 23 | 3919 | <i>a</i> Nicholas Prince, - | Gunner, S. C. regiment artillery, - | July 1, 1781, | 285 65 |
| 24 | 3959 | <i>a</i> Thomas Gor, - | Musician, 7th Maryland regiment, - | Sept. 1, 1780, | 221 28 |
| 24 | 3961 | <i>a</i> William Malour, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 223 34 |
| 24 | 3907 | <i>a</i> Jacob Horman, - | Corporal, 4th S. C. regiment, - | July 1, 1781, | 178 91 |
| 25 | 3960 | <i>a</i> Thomas Hare, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 197 56 |
| 25 | 3962 | <i>a</i> Prince Jinckes, - | Drummer, Rhode Island line, - | March 29, 1781, | 360 89 |
| 25 | 3962 | <i>a</i> Prince Green, - | Private, Rhode Island line, - | March 27, 1781, | 338 90 |
| 25 | 3962 | <i>a</i> Britton Saltonstall, - | Private, Rhode Island line, - | March 27, 1781, | 340 13 |
| 25 | 3962 | <i>a</i> Bristol Rhodes, - | Private, Rhode Island line, - | April 10, 1781, | 291 89 |
| 25 | 3949 | <i>a</i> Samuel Briscoe, - | Assistant to D. Yates, d. q. master, - | Jan. 1, 1783, | 120 00 |
| May 1 | 3910 | <i>a</i> Aquila Sing, - | Matross, 4th South Carolina regiment, - | Jan. 1, 1781, | 166 89 |
| 1 | 4003 | <i>a</i> William Phisick, - | Carpenter's mate, Bonhomme Richard, - | Sept. 23, 1779, | 35 84 |
| 1 | 3972 | <i>a</i> Ichabod Spencer, - | Lieutenant, 1st Connecticut regiment, - | Sept. 19, 1780, | 44 43 |
| 1 | 3933 | <i>a</i> Samuel Johnson, - | Seaman, Providence, - | July 11, 1780, | 57 61 |
| 1 | 4001 | <i>a</i> Ebenezer Goddard, - | Sergeant marines, Deane, - | April 30, 1780, | 35 88 |
| 1 | 3968 | <i>a</i> Samuel Pritchard, - | Lieutenant marines, Deane, - | May 30, 1781, | 367 51 |
| 1 | 3975 | <i>a</i> William Farmer, - | Carpenter and boatswain's mate, Warren and Boston, - | July 15, 1780, | 107 34 |
| 2 | 4004 | <i>a</i> Edward Dougherty, - | Sergeant, 4th Maryland line, - | August 1, 1780, | 189 22 |
| 8 | 3185 | <i>a</i> William Haines, - | Private, 2d N. Y. regiment artillery, - | Jan. 1, 1783, | 91 66 |
| 8 | 3185 | <i>a</i> William Haines, - | Private, 2d N. Y. regiment artillery, - | Jan. 1, 1784, | 6 45 |
| 8 | 3185 | <i>a</i> Ferrol Melliot, - | Private, 2d N. Y. regiment artillery, - | Jan. 1, 1783, | 3 33 |
| 8 | 3185 | <i>a</i> Ferrol Melliot, - | Private, N. Y. regiment artillery, - | Dec. 1, 1783, | 50 31 |
| 8 | 3185 | <i>a</i> Ferrol Melliot, - | Private, N. Y. regiment artillery, - | Jan. 1, 1784, | 7 38 |
| 8 | 3185 | <i>a</i> Ferrol Melliot, - | Private, N. Y. regiment artillery, - | Nov. 4, 1783, | 80 00 |
| 8 | 3185 | <i>a</i> Jonathan Squires, - | Private, N. Y. regiment artillery, - | Jan. 1, 1784, | 30 10 |
| 8 | 3185 | <i>a</i> Jonathan Squires, - | Private, N. Y. regiment artillery, - | Jan. 1, 1783, | 91 66 |
| 14 | 4024 | <i>a</i> Ebenezer Stockton, - | Mate, general hospital, - | Jan. 1, 1782, | 857 51 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------|----------------------------------|---|-------------------------------|
| 1793. | | | | | |
| May | 14 | 4045 | <i>a</i> Francisco Floridi, - | Private, Virginia line, - | March 24, 1781, \$275 63 |
| | 14 | 4016 | <i>a</i> John Crowder, - | Private, 3d Penn. regiment, - | Nov. 4, 1783, 67 34 |
| | 14 | 4006 | <i>a</i> Thomas Hancock, - | Seaman, Confederacy, - | Oct. 14, 1779, 5 33 |
| | 14 | 4034 | <i>a</i> Samuel Hemmingway, - | Landsman, Boston, - | July 16, 1780, 52 90 |
| | 14 | 4015 | <i>a</i> Richard Botlon, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 211 03 |
| | 14 | 4038 | <i>a</i> Thomas Rea, - | Boy, Queen of France, - | July 15, 1780, 53 13 |
| | 15 | 4040 | <i>a</i> Increase Blake, - | Boy, Warren and Queen of France, - | July 15, 1780, 65 04 |
| | 15 | 4044 | <i>a</i> Cruise Maser, - | Private, 2d Maryland regiment, - | Sept. 1, 1780, 238 48 |
| | 15 | 4047 | <i>a</i> Timothy Carter, - | Corporal, 7th Maryland regiment, - | August 1, 1780, 211 92 |
| | 15 | 4041 | <i>a</i> Hugh Robinson, - | Corporal, 4th Maryland regiment, - | August 1, 1780, 210 25 |
| | 16 | 4071 | <i>a</i> John Sollars, - | Carpenter's mate, Reprisal, - | October 1, 1777, 101 78 |
| | 16 | 4019 | <i>a</i> Thomas Hathaway, - | Private, 13th Virginia regiment, - | Jan. 1, 1781, 300 00 |
| | 16 | 4057 | <i>a</i> Christopher Myers, - | Private, 7th Maryland regiment, - | August 1, 1780, 211 17 |
| | 16 | 4083 | <i>b</i> Blair McClenachan, - | Supplies, - | Feb. 20, 1780, 1,391 68 |
| | 16 | 4007 | <i>a</i> Daniel McCarty, - | Matross, S. C. regiment artillery, - | Sept. 1, 1781, 237 77 |
| | 16 | 4052 | <i>a</i> John Norcot, - | Landsman, Providence, - | Aug. 26, 1779, 3 66 |
| | 16 | 4033 | <i>a</i> Rudolph Groman, - | Private, 10th regiment Penn. - | August 1, 1780, 142 63 |
| | 17 | 4065 | <i>a</i> John Hohn, - | Corporal, Virginia line, - | July 1, 1781, 323 37 |
| | 18 | 4089 | <i>b</i> Nicholas Quackenbush, - | - | Oct. 25, 1781, 22 50 |
| | 18 | 2792 | <i>a</i> Joseph Gray, - | Private, 4th Pennsylvania regiment, - | Jan. 1, 1777, 24 39 |
| | 18 | 3185 | <i>a</i> Sylvanus Traverse, - | Private, 2d N. Y. regiment, - | July 2, 1783, 184 00 |
| | 18 | 4086 | <i>a</i> Joseph Moncrie, - | Boy, Providence, - | July 11, 1780, 42 25 |
| | 21 | 4094 | <i>a</i> Wm. Higginbotham, - | Sergeant, 2d Virginia regiment, - | August 1, 1780, 333 54 |
| | 22 | 4095 | <i>a</i> Thomas Applebee, - | Marine, Ranger, - | April 28, 1779, 1 33 |
| | 22 | 4096 | <i>b</i> John Colbath, - | Marine, Ranger, - | Aug. 24, 1779, 12 06 |
| | 23 | 4102 | <i>a</i> Zebulon Pike, - | Captain, Col. Moyland's regiment, - | March 22, 1783, 100 00 |
| | 23 | 4100 | <i>a</i> Thomas Fry, - | Midshipman, Deane, - | Sept. 1, 1779, 76 29 |
| | 24 | 4099 | <i>b</i> John Eayres, - | Conductor, military stores, - | October 2, 1782, 662 25 |
| | 24 | 4110 | <i>a</i> Abraham Kinney, - | Lieutenant, 2d regiment dragoons, - | July 1, 1781, 100 00 |
| | 24 | 4111 | <i>a</i> James Campfield, - | Surgeon, 2d regiment dragoons, - | Sept. 1, 1781, 100 00 |
| | 29 | 3185 | <i>a</i> Samuel Johnson, - | Private, 2d N. Y. regiment, - | Jan. 1, 1784, 1 03 |
| | 29 | 4121 | <i>a</i> Benjamin Moran, - | Private, Maryland line, - | August 1, 1780, 235 42 |
| | 29 | 4120 | <i>a</i> Joseph Hoole, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 30 | 4133 | <i>b</i> Samuel Doughty, - | Ferryman, State New York, - | Jan. 1, 1782, 225 93 |
| | 31 | 3185 | <i>a</i> John Johns, - | Private, 2d N. Y. regiment, - | Dec. 1, 1783, 66 67 |
| | 31 | 3185 | <i>a</i> John Johns, - | Private, 2d N. Y. regiment, - | Jan. 1, 1784, 1 00 |
| | 31 | 3185 | <i>a</i> John Johns, - | Private, 2d N. Y. regiment, - | Jan. 1, 1783, 20 56 |
| | 31 | 4122 | <i>a</i> Ambrose Wheeler, - | Private, 12th Virginia regiment, - | August 1, 1780, 201 51 |
| | 31 | 4113 | <i>a</i> Joseph Pease, - | Seaman, Trumbull, - | Nov. 15, 1780, 23 86 |
| | 31 | 4129 | <i>a</i> Galbraith Wilson, - | Private, Col. Rawling's regiment, - | March 14, 1781, 337 75 |
| | 31 | 4126 | <i>a</i> William McMackin, - | Gunner, S. C. artillery, - | July 1, 1781, 366 00 |
| June | 4 | 4147 | <i>a</i> Aaron Hagues, - | Captain, Col. Wigglesworth's regt. - | April 1, 1779, 96 00 |
| | 4 | 4152 | <i>a</i> Thomas Devaughn, - | Sergeant, 6th Virginia regiment, - | June 1, 1780, 302 56 |
| | 5 | 4149 | <i>a</i> David Reese, - | Private, 3d N. J. regiment, - | August 1, 1780, 232 54 |
| | 5 | 4153 | <i>a</i> Aaron Hale, - | Lieutenant, 1st Conn. regiment, - | April 1, 1777, 22 85 |
| | 6 | 4148 | <i>a</i> Henry Haskill, - | Lieut. Col. 15th Massachusetts reg. - | April 1, 1777, 144 00 |
| | 6 | 4156 | <i>a</i> Elias Longstretch, - | Captain, 1st New Jersey regiment, - | April 1, 1777, 395 23 |
| | 6 | 4159 | <i>a</i> John Doyal, - | Private, 1st Maryland regiment, - | August 1, 1780, 200 51 |
| | 10 | 4179 | <i>a</i> Simeon Thayer, - | Major, United States' army, half-pay, - | March 4, 1789, 2,453 33 |
| | 12 | 3784 | <i>a</i> John White, - | Colonel, 4th Georgia battalion, - | June 22, 1780, 3,553 57 |
| | 12 | 4175 | <i>b</i> Oliver Glean, - | Clerk to ass. dep. quarterm. of Albany, - | Oct. 24, 1781, 239 13 |
| | 14 | 4183 | <i>a</i> Phillip Turner, - | Surgeon general, eastern department, - | April 23, 1782, 35 14 |
| | 18 | 4199 | <i>a</i> Potter White, - | Boy, Queen of France, - | July 15, 1780, 74 66 |
| | 26 | 4212 | <i>a</i> William Gonnar, - | Dragoon, 3d Virginia regiment, - | May 7, 1782, 218 47 |
| | 28 | 4196 | <i>b</i> William Cannington, - | Supplies, - | April 25, 1780, 317 82 |
| | 29 | 4209 | <i>a</i> Samuel Tyler, - | Marine, Providence, - | July 11, 1780, 48 59 |
| | 29 | 2288 | <i>a</i> Stephen Rockwell, - | Seaman, Alliance, - | Nov. 1, 1781, 30 46 |
| | 29 | 4204 | <i>a</i> William Ellis, - | Private, 4th Maryland regiment, - | August 1, 1780, 233 83 |
| July | 3 | 4234 | <i>a</i> William Huff, - | Private, Lee's legion, - | Jan. 1, 1783, 50 00 |
| | 3 | 4222 | <i>a</i> Henry Wrightington, - | Seaman, Alliance, - | March 8, 1780, 49 12 |
| | 3 | 4221 | <i>a</i> John Aunable, - | Seaman, Alliance, - | Feb. 10, 1780, 29 94 |
| | 3 | 4232 | <i>a</i> David Boyles, - | Private, M. Harrison's regiment, - | July 10, 1783, 222 24 |
| | 3 | 4233 | <i>a</i> Charles Boyles, - | Private, M. Harrison's regiment, - | July 10, 1783, 222 24 |
| | 3 | 4235 | <i>a</i> George Foster, - | Private, Lee's legion, - | July 5, 1783, 234 17 |
| | 6 | 4266 | <i>a</i> Benjamin Williams, - | Matross, South Carolina artillery, - | July 1, 1781, 354 73 |
| | 6 | 2792 | <i>a</i> Nathaniel Horner, - | Private, 4th Pennsylvania regiment, - | Jan. 1, 1777, 14 65 |
| | 6 | 4265 | <i>a</i> William McKinsley, - | Private, 6th Maryland regiment, - | Aug. 16, 1780, 186 16 |
| | 6 | 4269 | <i>a</i> Thomas L. Cheeke, - | Sergeant, 14th Virginia regiment, - | Oct. 1, 1780, 318 57 |
| | 9 | 4280 | <i>a</i> Thomas Steptoe, - | Musician, North Carolina line, - | Nov. 16, 1783, 113 67 |
| | 11 | 4298 | <i>a</i> William Coulter, - | Corporal, 1st Virginia regiment, - | May 6, 1783, 196 32 |
| | 12 | 4276 | <i>a</i> John Gallard, - | Cook, Confederacy, - | Feb. 13, 1781, 34 79 |
| | 12 | 4277 | <i>a</i> William Raymon, - | Quartermaster, Confederacy, - | May 19, 1780, 83 07 |
| | 12 | 4282 | <i>a</i> John Robbins, - | Private, North Carolina line, - | April 1, 1783, 80 00 |
| | 12 | 4283 | <i>a</i> Benjamin Thornhill, - | Private, North Carolina line, - | Jan. 1, 1783, 80 00 |
| | 12 | 4274 | <i>a</i> William Barry, - | Seaman, Confederacy, - | May 20, 1780, 64 85 |
| | 17 | 4323 | <i>a</i> James Elliott, - | Matross, Col. Harrison's regiment, - | July 13, 1783, 222 26 |
| | 17 | 4320 | <i>a</i> John Smith, - | Seaman, Confederacy, - | May 19, 1780, 13 44 |
| | 18 | 4329 | <i>a</i> Charles Magill, - | Assist. quarterm. of Winchester, Va. - | March 1, 1782, 1,138 01 |
| | 23 | 2792 | <i>a</i> Thomas Robinson, - | Captain, 4th Pennsylvania regiment, - | Jan. 1, 1777, 343 32 |
| | 27 | 4368 | <i>a</i> William Fleming, - | Corporal, 1st Virginia regiment, - | June 29, 1783, 246 50 |
| | 27 | 4362 | <i>a</i> John Knight, - | Seaman, Confederacy, - | April 14, 1781, 29 00 |
| | 27 | 4369 | <i>a</i> John Mason, - | Private, Virginia regiment, - | Nov. 16, 1783, 54 17 |

STATEMENT—Continued.

| Date of certificate. | No. of statement. | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|-------------------|--------|--------------------------------|--|-------------------------------|
| 1793. | | | | | |
| July | 27 | 4364 | <i>a</i> Robert Swift, - | Seaman, Confederacy, - | May 11, 1780, \$ 30 54 |
| | 27 | 4370 | <i>a</i> Benjamin Lawson, - | Private, Virginia artillery, - | Jan. 1, 1783, 58 56 |
| | 27 | 4367 | <i>a</i> Jesse Armstrong, - | Private, Virginia artillery, - | July 2, 1783, 234 16 |
| | 27 | 4365 | <i>a</i> John Alexander, - | Sergeant, Lee's legion, - | Feb. 12, 1783, 207 50 |
| | 27 | 4371 | <i>a</i> James Stewart, - | Matross, 1st Virginia regiment, - | Nov. 16, 1783, 134 16 |
| | 27 | 4366 | <i>a</i> Joseph Scott, - | Captain, Col. Posey's regiment, - | Jan. 1, 1783, 146 67 |
| | 27 | 4379 | <i>a</i> John Purcell, - | Private, Lee's legion, - | July 2, 1783, 234 17 |
| | 30 | 4406 | <i>a</i> William Adams, - | Private, 1st North Carolina regiment, - | May 1, 1782, 86 44 |
| | 30 | 4403 | <i>a</i> John Risdale, - | Marine, Reprisal, - | Oct. 25, 1777, 94 44 |
| | 30 | 4404 | <i>a</i> John Risdale, - | Marine, Reprisal, - | Jan. 1, 1778, 71 00 |
| | 31 | 4408 | <i>a</i> Henley Glaseon, - | Private, 1st Maryland regiment, - | Jan. 1, 1781, 133 74 |
| August | 1 | 4415 | <i>a</i> Robert Richardson, - | Private, 4th Maryland regiment, - | August 1, 1780, 180 30 |
| | 1 | 4421 | <i>a</i> William Lee, - | Private, 2d Maryland regiment, - | August 1, 1780, 88 99 |
| | 1 | 4414 | <i>a</i> John Young, - | Midshipman, Confederacy, - | April 14, 1781, 48 52 |
| | 1 | 4416 | <i>a</i> Thomas Doyle, - | Private, 4th Maryland regiment, - | August 1, 1780, 180 82 |
| | 1 | 4419 | <i>a</i> Daniel Anderson, - | Private, 4th Maryland regiment, - | August 1, 1780, 221 78 |
| | 2 | 4420 | <i>a</i> Andrew Moore, - | Private, 7th Maryland regiment, - | August 1, 1780, 160 11 |
| | 2 | 4422 | <i>a</i> Joseph Carrol, - | Private, 4th Maryland regiment, - | Aug't 10, 1780, 209 85 |
| | 2 | 4423 | <i>a</i> Michael Ellis, - | Fifer, 2d Maryland regiment, - | August 1, 1780, 146 45 |
| | 2 | 4424 | <i>a</i> Richard Nelson, - | Private, 4th Maryland regiment, - | August 1, 1780, 161 70 |
| | 2 | 4427 | <i>a</i> John Schoolfield, - | Midshipman, frigate Virginia, - | Oct. 18, 1781, 644 16 |
| | 2 | 4425 | <i>a</i> John Gwinn, - | Sergeant, 4th Maryland regiment, - | August 1, 1780, 253 99 |
| | 2 | 2792 | <i>a</i> James Lord, - | Private, 4th Pennsylvania regiment, - | Jan. 1, 1777, 16 65 |
| | 6 | 4438 | <i>a</i> Thomas Henley, - | Aid-de-camp to Major Gen. Heath, - | Jan. 1, 1777, 47 78 |
| | 7 | 4441 | <i>a</i> Caleb Brannon, - | Private, 4th Maryland regiment, - | August 1, 1780, 196 16 |
| | 7 | 4437 | <i>a</i> Thomas Burnes, - | Surgeon, frigate Boston, - | July 16, 1780, 544 67 |
| | 7 | 4440 | <i>a</i> John Kelly, - | Corporal, Col. Spencer's regiment, - | August 1, 1780, 206 01 |
| | 7 | 4436 | <i>a</i> William Warner, - | Boy, Queen of France, - | June 25, 1780, 32 97 |
| | 7 | 4442 | <i>a</i> George Laws, - | Private, 4th Maryland regiment, - | August 1, 1780, 33 16 |
| | 7 | 4447 | <i>a</i> George Hagarthy, - | Sergeant, 2d Maryland regiment, - | August 1, 1780, 186 24 |
| | 7 | 4445 | <i>a</i> Andrew Stoops, - | Private, 7th Maryland regiment, - | August 1, 1780, 202 59 |
| | 7 | 4446 | <i>a</i> Edward Kelly, - | Private, Col. Spencer's regiment, - | August 1, 1780, 207 31 |
| | 8 | 4456 | <i>a</i> Samuel Cavender, - | Seaman, Hancock, - | Jan. 23, 1778, 60 89 |
| | 8 | 4460 | <i>a</i> Hezekiah Edwards, - | Matross, 2d Connecticut regiment, - | Jan. 1, 1781, 46 95 |
| | 8 | 4455 | <i>a</i> John Spencer, - | Marine, Queen of France, - | July 15, 1780, 35 69 |
| | 9 | 4466 | <i>a</i> Isaac Allen, - | Midshipman, Trumbull, - | Nov. 15, 1780, 53 03 |
| | 12 | 4467 | <i>a</i> Cornelius Phenix, - | Boatswain's yeoman, Lexington, - | Sept. 10, 1776, 9 00 |
| | 16 | 4431 | <i>b</i> John Werrat, - | Continental agent, - | Jan. 1, 1779, 1,979 06 |
| | 19 | 4469 | <i>a</i> John King, - | Boy, Queen of France, - | July 15, 1780, 56 12 |
| | 21 | 4481 | <i>a</i> Archibald Martin, - | Private, 4th Maryland regiment, - | August 1, 1780, 148 70 |
| | 22 | 4494 | <i>a</i> William Jones, - | Boy, Queen of France, - | July 15, 1780, 44 15 |
| | 22 | 4495 | <i>a</i> Abel Holton, - | Boy, Queen of France, - | July 15, 1780, 38 26 |
| | 22 | 4496 | <i>a</i> John Clever, - | Boy, Queen of France, - | July 15, 1780, 41 56 |
| | 22 | 4497 | <i>a</i> John Mahany, - | Seaman, Queen of France, - | July 15, 1780, 56 66 |
| | 22 | 4500 | <i>a</i> Thomas Kelly, - | Seaman, Queen of France, - | July 15, 1780, 56 72 |
| | 22 | 4501 | <i>a</i> Joseph Raggo, - | Boy, Queen of France, - | July 15, 1780, 46 95 |
| | 23 | 4498 | <i>a</i> Edward Sherden, - | Seaman, Providence, - | July 11, 1780, 64 36 |
| | 23 | 4499 | <i>a</i> Levi Dennis, - | Seaman, Queen of France, - | July 6, 1780, 46 78 |
| | 24 | 4515 | <i>a</i> Dominic Koine, - | Private, Maryland line, - | Nov. 16, 1783, 80 00 |
| | 28 | 4517 | <i>a</i> Joseph Baker, - | Lieutenant, Col. Bailey's regiment, - | Oct. 1, 1779, 13 95 |
| | 30 | 4529 | <i>a</i> Aaron Rhea, - | Lt. Col. Sheldon's reg. light dragoons, - | May 1, 1781, 100 00 |
| Nov. | 25 | 4584 | <i>a</i> William Strother, - | Sergeant, Lee's legion, - | May 15, 1783, 357 50 |
| | 26 | 4531 | <i>a</i> Cæsar Greene, - | Marine, Queen of France, - | March 31, 1780, 38 13 |
| | 26 | 4583 | <i>a</i> William Milwood, - | Seaman, Queen of France, - | July 6, 1780, 39 62 |
| | 26 | 4574 | <i>a</i> Peter Seaver, - | Cook's mate, Queen of France, - | May 15, 1780, 27 91 |
| | 26 | 4582 | <i>a</i> Peter St. Meddard, - | Surgeon's mate, Providence & Deane, - | April 30, 1780, 159 25 |
| | 29 | 4596 | <i>a</i> Benjamin Elliott, - | Private, 1st South Carolina regiment, - | July 1, 1781, 186 02 |
| | 29 | 4597 | <i>a</i> William Elliott, - | Private, 1st South Carolina regiment, - | July 1, 1781, 272 30 |
| Dec. | 4 | 4617 | <i>a</i> Jonas Page, - | Boy, Confederacy, - | May 19, 1780, 7 21 |
| | 4 | 4619 | <i>a</i> George Crosley, - | Sergeant, 1st South Carolina regim't, - | July 1, 1781, 377 56 |
| | 5 | 3526 | <i>a</i> Rawleigh Downman, - | Capt. Georgia line. commut. pay, &c. - | March 29, 1782, 4,412 50 |
| | 5 | 4614 | <i>a</i> Joseph Ravenscroft, - | Marine, brig Cobat, - | August 6, 1776, 20 74 |
| | 5 | 4615 | <i>a</i> Joseph Smith, - | Sailmaker, Confederacy, - | May 17, 1780, 65 92 |
| | 5 | 4616 | <i>a</i> George Griffiths, - | Seaman, Confederacy, - | April 14, 1781, 33 43 |
| | 5 | 4620 | <i>a</i> Daniel Green, - | Sergeant, 2d South Carolina regim't, - | July 1, 1781, 365 62 |
| | 18 | 4641 | <i>a</i> Eppa Fielding, - | Private, 1st regiment light dragoons, - | May 23, 1783, 182 73 |
| 1794. | | | | | |
| Jan. | 2 | 4644 | <i>b</i> Amos Sage, - | Supplies, - | May 11, 1780, 15 62 |
| | 2 | 4647 | <i>a</i> William Keith, - | Boy, Lexington, - | Jan. 19, 1781, 94 47 |
| | 2 | 4648 | <i>a</i> David Holmes, - | Seaman, Confederacy, - | March 1, 1780, 17 66 |
| | 2 | 4649 | <i>a</i> James Holt, - | Marine, Providence, - | July 11, 1780, 50 10 |
| | 2 | 4743 | <i>a</i> Jeremiah Frazier, - | Private, 1st New York regiment, - | July 17, 1783, 227 33 |
| | 2 | 4653 | <i>a</i> Richard Rose, - | Private, 1st regiment dragoons, - | June 1, 1783, 191 28 |
| | 3 | 4690 | <i>a</i> Luke Demsey, - | Private, 3d Maryland regiment, - | August 1, 1780, 163 66 |
| | 3 | 4699 | <i>a</i> Nath. Hull, - | Private, 4th Maryland regiment, - | August 1, 1780, 185 16 |
| | 4 | 4715 | <i>a</i> Frederick Lamb, - | Fifer, 2d South Carolina regiment, - | Nov. 16, 1783, 145 13 |
| | 4 | 4722 | <i>a</i> Nath. Gordon, - | Private, 6th and 1st S. Carolina reg'ts, - | July 1, 1781, 154 14 |
| | 6 | 4731 | <i>a</i> Enos Nero, - | Marine, Confederacy, - | May 20, 1780, 37 28 |
| | 6 | 4740 | <i>a</i> Richard Law, - | Midshipman, Trumbull, - | Oct. 1, 1781, 66 14 |
| | 6 | 4700 | <i>a</i> James Fitzgerald, - | Private, 2d Maryland regiment, - | August 1, 1780, 170 59 |
| | 6 | 4704 | <i>a</i> John McKnight, - | Private, 4th Maryland regiment, - | August 1, 1780, 160 65 |
| | 6 | 4705 | <i>a</i> John Davis, - | Private, 3d Maryland regiment, - | August 1, 1780, 162 95 |
| | 6 | 4706 | <i>a</i> George Phillips, - | Private, Colonel Rawling's regiment, - | August 1, 1780, 119 95 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|-----------------------------|---|---------------------|-------------------------------|
| 1794. | | | | | |
| Jan. 6 | 4707 | a John Holliday, - | Private, 6th Maryland regiment, - | August 1, 1780, | \$166 87 |
| 6 | 4709 | a John Pearce, - | Private, 1st Maryland regiment, - | August 1, 1780, | 203 92 |
| 7 | 4725 | a Joshua Ammonds, - | Private, 3d South Carolina regiment, - | Jan. 1, 1782, | 133 74 |
| 7 | 4728 | a Moses Nowton, - | Fifer, 2d South Carolina regiment, - | Nov. 16, 1783, | 169 16 |
| 10 | 4796 | a William Fleming, - | Master at arms and midshipman, frigate Deane, - | April 30, 1780, | 213 14 |
| 10 | 4737 | a Jacob Hirsh, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, | 239 28 |
| 10 | 4701 | a Henry Kid, - | Private, 1st Virginia regiment, - | Jan. 1, 1783, | 69 44 |
| 10 | 4710 | a John Shumway, - | Captain, 1st Connecticut regiment, - | Oct. 1, 1780, | 1 54 |
| 10 | 4716 | b Meredith & Clymer, - | Sheetings and osnaburgs, - | Dec. 29, 1779, | 654 74 |
| 10 | 4717 | b C. Biddle & R. Tellier, - | Clothing, - | Nov. 4, 1783, | 842 43 |
| 10 | 4745 | a John Harris, - | Private, 4th Virginia regiment, - | June 2, 1783, | 90 00 |
| 10 | 4727 | a Samuel Hutson, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 227 35 |
| 10 | 4730 | a Henry Driver, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 181 05 |
| 11 | 4775 | a Jonathan Donnison, - | Master, frigate Providence, - | Sept. 25, 1780, | 407 95 |
| 11 | 4788 | a David Swain, - | Seaman, Boston, - | July 16, 1780, | 61 19 |
| 14 | 4798 | b Jonathan Patteson, - | Assistant commissary of issues, southern department, - | Nov. 20, 1781, | 426 00 |
| 14 | 4789 | a Elias Lord, - | Marine, Ranger, - | July 11, 1780, | 35 75 |
| 14 | 4792 | a John Brown, - | Seaman, Alliance, - | Sept. 6, 1780, | 54 49 |
| 14 | 4809 | a Nicholas Duartis, - | Seaman, Confederacy, - | May 19, 1780, | 70 50 |
| 14 | 4810 | a Ebenezer Wade, - | Seaman, Confederacy, - | May 19, 1780, | 56 19 |
| 14 | 4813 | a Elnathan Berdein, - | Marine, Confederacy, - | May 19, 1780, | 52 63 |
| 14 | 4814 | a Fortune Quaco, - | Marine, Confederacy, - | May 25, 1780, | 20 59 |
| 15 | 4363 | a Richard Stewart, - | Seaman, Columbus, - | August 1, 1776, | 48 34 |
| 15 | 4823 | a Quaco Robinson, - | Seaman, Confederacy, - | April 14, 1781, | 88 73 |
| 15 | 4829 | a Samuel Morris, - | Private, 11th Virginia regiment, - | March 8, 1782, | 120 00 |
| 16 | 4825 | a William Shirtnursey, - | Seaman, Confederacy, - | May 18, 1780, | 43 77 |
| 16 | 4832 | a Elihu Lyman, - | Lieutenant, 4th Massachusetts reg't, - | April 1, 1779, | 64 00 |
| 16 | 4830 | a George Reynolds, - | Seaman, Confederacy, - | April 12, 1780, | 46 56 |
| 20 | 4833 | a James Higgins, - | Captain, 8th Virginia regiment, - | Oct. 1, 1778, | 96 00 |
| 20 | 4835 | a Stephen Champlin, - | Seaman, Trumbull, - | Nov. 15, 1780, | 19 46 |
| 20 | 4843 | a John Griggs, - | Corporal, 2d Virginia regiment, - | Feb. 1, 1782, | 128 82 |
| 20 | 4847 | a John Eddy, - | Marine, Providence, - | July 11, 1780, | 53 46 |
| 20 | 4844 | a Micajah Posey, - | Private, 7th Pennsylvania regiment, - | Jan. 1, 1781, | 33 50 |
| 21 | 4848 | a William Allen, - | Matross, 4th S. C. regiment artillery, - | Jan. 1, 1783, | 298 53 |
| 21 | 4849 | a Amos Latham, - | Sergeant, marines, and midshipman, Confederacy, - | July 23, 1780, | 23 20 |
| 21 | 4850 | a Benjamin Hazard, - | Seaman, Confederacy, - | April 14, 1781, | 21 99 |
| 22 | 4851 | a James Osborn, - | Private, 9th Pennsylvania regiment, - | Jan. 1, 1781, | 29 55 |
| 22 | 4852 | a Jesse Hunt, - | Seaman, Confederacy, - | April 14, 1781, | 29 90 |
| 22 | 4853 | a James Lewis, - | Seaman, Trumbull, - | Nov. 15, 1780, | 18 01 |
| 22 | 4863 | a John Luddington, - | Sergeant-major, Col. S. Warner's, regiment, - | May 9, 1782, | 226 67 |
| 24 | 4875 | b Levi Maxey, - | Note of hand granted him by P. Philips, - | Nov. 1, 1777, | 63 69 |
| 27 | 4877 | a William Hilton, - | Private, 5th South Carolina regiment, - | August 1, 1780, | 180 03 |
| 27 | 4878 | a Joseph Bailey, - | Private, 6th and 1st S. C. regiments, - | August 1, 1781, | 157 36 |
| 27 | 4882 | a John Green, - | Seaman, Trumbull, - | Nov. 15, 1780, | 28 73 |
| 27 | 4889 | a Stephen Johnson, - | Seaman, Queen of France, - | July 15, 1780, | 60 55 |
| 27 | 4891 | a Peter McGrew, - | Private, 3d South Carolina regiment, - | Nov. 16, 1783, | 98 59 |
| 27 | 4890 | a John Collins, - | Seaman, Queen of France, - | July 6, 1780, | 56 00 |
| 27 | 4892 | a Joshua Greenage, - | Private, Virginia line, - | July 1, 1781, | 76 07 |
| 27 | 4868 | a William Nix, - | Fifer, 6th and 1st S. C. regiments, - | July 1, 1781, | 186 04 |
| 27 | 4874 | a John McMahan, - | Sergeant, 3d South Carolina regiment, - | July 1, 1781, | 291 86 |
| 28 | 4866 | a Christ'r Garlington, - | Private, 2d South Carolina regiment, - | May 1, 1782, | 17 39 |
| 28 | 4866 | a John Taylor, - | Sergeant, 2d South Carolina regiment, - | Nov. 16, 1783, | 220 46 |
| 29 | 4866 | a Thomas Deane, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 230 92 |
| 29 | 4866 | a Thomas Douglass, - | Private, 3d South Carolina regiment, - | Nov. 16, 1783, | 148 76 |
| 29 | 4866 | a William Partridge, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 219 72 |
| 29 | 4866 | a Jeremiah Busby, - | Private, 3d South Carolina regiment, - | Nov. 16, 1783, | 32 02 |
| 29 | 4866 | a George Jefferes, - | Private, 3d South Carolina regiment, - | Nov. 16, 1783, | 101 78 |
| 29 | 4866 | a William Haslam, - | Fife-major, 3d S. C. regiment, - | July 1, 1781, | 90 63 |
| 29 | 4866 | a William Knixton, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 228 25 |
| 29 | 4866 | a Samuel Oliver, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 180 82 |
| 29 | 4866 | a John Sibly, - | Sergeant, 3d South Carolina regiment, - | August 1, 1781, | 124 91 |
| 29 | 4866 | a William Sibbey, - | Sergeant, 3d South Carolina regiment, - | August 1, 1781, | 83 81 |
| 29 | 4866 | a Benjamin Carter, - | Private, 3d South Carolina regiment, - | July 7, 1782, | 409 72 |
| 30 | 4831 | a James Watkins, - | Corporal, 3d Maryland regiment, - | Sept. 1, 1780, | 171 52 |
| 30 | 4929 | a Nathaniel Alexander, - | Captain, 13th Mass. regiment, - | May 1, 1779, | 85 92 |
| 31 | 4899 | a Thomas Perfect, - | Seaman, Queen of France, - | July 15, 1780, | 116 61 |
| 31 | 4900 | a Ephraim Finck, - | Marine, Queen of France, - | July 15, 1780, | 39 63 |
| 31 | 4904 | a Peter Chambliss, - | Private, 5th South Carolina regiment, - | June 20, 1782, | 452 19 |
| 31 | 4907 | a Robert Dewley, - | Corporal, 3d South Carolina regiment, - | July 1, 1780, | 257 33 |
| 31 | 4901 | a George Mew, - | Marine, Queen of France, - | July 15, 1780, | 54 25 |
| 31 | 4910 | a Robert Cross, - | Seaman, Trumbull, - | Nov. 15, 1780, | 20 31 |
| 31 | 4911 | a John Smith, - | Marine, Queen of France, - | July 15, 1780, | 41 41 |
| 31 | 4915 | a Elijah Barbee, - | Private, 1st regiment light dragoons, - | Nov. 16, 1783, | 143 93 |
| Feb. 1 | 4920 | a James Cullen, - | Seaman, Trumbull, - | June 2, 1780, | 2 77 |
| 3 | 4950 | a John Gheon, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 197 04 |
| 4 | 4946 | a Zach Weaver, - | Lieutenant, 3d Pennsylvania regiment, - | June 1, 1778, | 320 00 |
| 4 | 4962 | a Zachariah Collins, - | Private, 7th Virginia regiment, - | Jan. 1, 1782, | 112 22 |
| 4 | 4928 | a John Howard, - | Private, Gist's detachment, Virginia and Maryland line, - | Jan. 1, 1782, | 44 22 |

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| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------------------------------|---|---------------------|-------------------------------|
| 1794. | | | | | |
| Feb. 4 | 4949 | <i>a</i> Alexander Stewart, | Private, 2d New Jersey regiment, - | Aug. 26, 1782, | \$312 99 |
| 5 | 4958 | <i>a</i> William Moore, - | Matross, 4th S. C. regiment artillery, | July 1, 1781, | 165 20 |
| 5 | 4944 | <i>a</i> Joseph Smith, - | Private, 13th Mass. regiment, - | Sept. 30, 1792, | 273 63 |
| 7 | 4921 | <i>a</i> John Campbell, - | Private, 3d South Carolina regiment, | July 1, 1781, | 175 00 |
| 7 | 4921 | <i>a</i> Finley McCaskell, - | Private, 3d South Carolina regiment, | July 1, 1781, | 179 77 |
| 7 | 4924 | <i>a</i> Samuel Chandler, - | Chaplain, Trumbull, - | Nov. 20, 1780, | 1 84 |
| 7 | 4950 | <i>a</i> Turkell Hunter, - | Seaman, Confederacy, - | April 14, 1781, | 40 94 |
| 7 | 4951 | <i>a</i> Robert Martin, - | Sergeant, 3d South Carolina regiment, | Nov. 16, 1783, | 14 39 |
| 7 | 4952 | <i>a</i> Robert Dunlap, - | Private, 3d South Carolina regiment, | July 1, 1781, | 219 72 |
| 7 | 4989 | <i>a</i> Abdiel McAllister, - | Lieutenant, 6th Penn. regiment, - | Jan. 1, 1779, | 320 00 |
| 7 | 4940 | <i>a</i> Gideon Sherman, - | Seaman, Trumbull, - | Nov. 15, 1780, | 9 01 |
| 7 | 4941 | <i>a</i> Christopher Hill, - | Seaman, Providence, - | July 11, 1780, | 61 89 |
| 7 | 4942 | <i>a</i> Joseph Wheaton, - | Landsman, Providence, - | July 11, 1780, | 47 15 |
| 8 | 4943 | <i>a</i> Francis Atwood, - | Seaman, Trumbull, - | Nov. 15, 1780, | 42 62 |
| 10 | 4999 | <i>a</i> John Stephens, - | Lieutenant commandant, schooner Lewis and brig Chance, - | May 1, 1778, | 77 53 |
| 11 | 5009 | <i>a</i> Jacob Coleman, - | Sergeant, 9th Virginia regiment, - | August 1, 1780, | 152 40 |
| 11 | 4948 | <i>a</i> Thomas Rundebou, - | Cooper's mate, Confederacy, - | April 14, 1781, | 90 81 |
| 11 | 4947 | <i>a</i> Elisha Fuller, - | Seaman, Trumbull, - | Nov. 15, 1780, | 26 85 |
| 12 | 4964 | <i>a</i> John Shine, - | Barber, Queen of France, - | July 15, 1780, | 51 14 |
| 12 | 4965 | <i>a</i> George Davidson, - | Seaman, Queen of France, - | July 15, 1780, | 91 12 |
| 12 | 4966 | <i>a</i> John Ding, - | Seaman, Queen of France, - | July 15, 1780, | 66 64 |
| 12 | 4967 | <i>a</i> James Carril, - | Sailmaker's mate, Queen of France, | July 15, 1780, | 54 94 |
| 12 | 4969 | <i>a</i> Thomas Low, - | Marine, Queen of France, - | July 15, 1780, | 51 28 |
| 12 | 4979 | <i>a</i> Cato Room, - | Seaman, Queen of France, - | July 15, 1780, | 110 14 |
| 12 | 4986 | <i>a</i> Zachariah Nevil, - | Private, 3d regiment light dragoons, | Nov. 16, 1783, | 71 21 |
| 12 | 4992 | <i>a</i> Robert Lovill, - | Marine, Queen of France, - | July 15, 1780, | 60 70 |
| 12 | 4988 | <i>a</i> William Berrins, - | Seaman, Queen of France, - | July 15, 1780, | 53 44 |
| 13 | 4995 | <i>a</i> Isaac Jackson, - | Private, Virginia line, - | July 12, 1783, | 203 33 |
| 14 | 5030 | <i>b</i> Lord Butler, - | Assistant deputy quartermaster general, pay - | Sept. 16, 1780, | 206 00 |
| 14 | 5036 | <i>a</i> Drury Jeffers, - | Private, North Carolina line, - | Jan. 1, 1783, | 77 33 |
| 14 | 5037 | <i>a</i> Thomas Perkins, - | Private, North Carolina line, - | Jan. 1, 1780, | 80 00 |
| 14 | 4978 | <i>a</i> William Partlow, - | Seaman, Queen of France, - | July 15, 1780, | 61 47 |
| 14 | 4987 | <i>a</i> Alexander Carter, - | Marine, Queen of France, - | July 15, 1780, | 40 78 |
| 14 | 4996 | <i>a</i> Joseph Stephens, - | Boy, Queen of France, - | July 15, 1780, | 59 09 |
| 14 | 4997 | <i>a</i> Richard Apperson, - | Captain, 6th Virginia regiment, - | Oct. 1, 1778, | 96 00 |
| 14 | 4994 | <i>a</i> Thomas Taylor, - | Seaman, Queen of France, - | July 15, 1780, | 78 35 |
| 14 | 4993 | <i>a</i> William Edwards, - | Marine, Queen of France, - | July 15, 1780, | 45 68 |
| 14 | 5002 | <i>a</i> Thomas Dimond, - | Marine, Queen of France, - | July 15, 1780, | 42 63 |
| 14 | 5010 | <i>a</i> John Cochran, - | Seaman, Queen of France, - | July 15, 1780, | 89 39 |
| 17 | 5064 | <i>a</i> William Cook, - | Colonel, 12th Pennsylvania regiment, | June 1, 1778, | 5 76 |
| 18 | 5015 | <i>a</i> James Silcock, - | Private, Lee's legion, - | Jan. 5, 1783, | 199 73 |
| 18 | 5014 | <i>a</i> William Guillam, - | Private, 3d and 1st reg'ts lt. dragoons, | May 26, 1783, | 183 60 |
| 18 | 4013 | <i>a</i> Adam Crow, - | Private, 7th Maryland regiment, - | Aug. 1, 1780, | 165 61 |
| 18 | 5016 | <i>a</i> Thomas Brown, - | Private, 1st regiment light dragoons, | July 3, 1783, | 234 17 |
| 19 | 5073 | <i>a</i> Jabez Fitch, - | Lieutenant, 17th Mass. regiment, - | Nov. 24, 1778, | 270 49 |
| 19 | 5062 | <i>a</i> David Winton, - | Quartermaster, ranger, - | July 11, 1780, | 44 83 |
| 19 | 5078 | <i>a</i> William Cook, - | Colonel, 12th Pennsylvania regiment, | April 1, 1777, | 310 00 |
| 20 | 5032 | <i>a</i> Thomas Wall, - | Marine, Queen of France, - | July 11, 1780, | 31 99 |
| 20 | 5035 | <i>a</i> Nathan Smith, - | Marine, Queen of France, - | July 11, 1780, | 33 84 |
| 20 | 5034 | <i>a</i> Henry Sheppard, - | Marine, Queen of France, - | July 11, 1780, | 40 70 |
| 20 | 5033 | <i>a</i> John Elsditt, - | Marine, Queen of France, - | July 11, 1780, | 63 43 |
| 20 | 4936 | <i>b</i> Samuel Wood, - | House rent, fuel, &c., - | Jan. 1, 1782, | 10 00 |
| 21 | 5051 | <i>a</i> William Hamilton, - | Boy, Confederacy, - | April 14, 1781, | 17 52 |
| 21 | 5052 | <i>a</i> Ishmael Bowers, - | Seaman, Alfred and Rawleigh, - | Oct. 12, 1778, | 55 54 |
| 21 | 5060 | <i>a</i> Nath. Cleves, - | Lieutenant, Massachusetts line, - | Nov. 24, 1778, | 232 94 |
| 21 | 5066 | <i>b</i> Henry Stouffer, - | Superintendent of hide dept., pay, | Oct. 30, 1781, | 71 17 |
| 21 | 5067 | <i>a</i> John Chandler, - | Marine, Boston, - | July 15, 1780, | 51 62 |
| 21 | 5070 | <i>a</i> Solomon Coomes, - | Seaman, Hancock, - | Oct. 4, 1777, | 31 86 |
| 21 | 5058 | <i>a</i> Lemuel Holmes, - | Lieutenant, Massachusetts line, - | Nov. 24, 1778, | 133 37 |
| 21 | 5081 | <i>a</i> Jeremiah Putnam, - | Ensign, Massachusetts line, - | Nov. 24, 1778, | 176 04 |
| 21 | 5088 | <i>a</i> John Wort, - | Private, 6th Pennsylvania regiment, | Jan. 1, 1782, | 32 22 |
| 25 | 3471 | <i>b</i> Henry Shade, - | - | Aug. 1, 1780, | 58 66 |
| 25 | 5102 | <i>a</i> William Ware, - | Sergeant, Virginia line, - | Oct. 21, 1782, | 395 00 |
| 26 | 5104 | <i>a</i> Nathan Scotten, - | Private, Lee's legion, - | Jan. 28, 1782, | 217 62 |
| 27 | 3185 | <i>a</i> William Gall, - | Private, 2d N. Y. regiment artillery, | Jan. 1, 1784, | 21 46 |
| 27 | 5091 | <i>a</i> John Brown, - | Boy, Providence, - | July 11, 1780, | 46 76 |
| 27 | 5096 | <i>a</i> Edward Lane, - | Corporal, 3d S. Carolina regiment, | July 1, 1781, | 255 56 |
| 27 | 5099 | <i>a</i> Benjamin Lane, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 231 19 |
| 27 | 5100 | <i>a</i> William Edwards, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 183 48 |
| 27 | 5098 | <i>a</i> Owen Richardson, - | Corporal, 3d S. Carolina regiment, | July 1, 1781, | 216 97 |
| 27 | 5097 | <i>a</i> Henry Wilson, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 219 72 |
| 27 | 5097 | <i>a</i> Joshua Reynolds, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 186 19 |
| 28 | 5097 | <i>a</i> Benjamin Alexander, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 232 06 |
| 28 | 5097 | <i>a</i> James Smith, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 219 72 |
| 28 | 5097 | <i>a</i> Moses Wilson, - | Private and drummer, 3d S. C. regt. | July 1, 1781, | 231 02 |
| 28 | 5097 | <i>a</i> Alexander McCarty, - | Private and drummer, 3d S. C. regt. | July 1, 1781, | 177 30 |
| 28 | 5097 | <i>a</i> Charles Anthony, - | Private and drummer, 3d S. C. regt. | July 1, 1781, | 219 72 |
| 28 | 5097 | <i>a</i> Drury Harris, - | Private and drummer, 3d S. C. regt. | July 1, 1781, | 221 59 |
| 28 | 5097 | <i>a</i> John Cook, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 203 05 |
| 28 | 5103 | <i>a</i> Stephen Coats, - | Marine, Queen of France, - | July 15, 1780, | 40 26 |
| 28 | 5105 | <i>a</i> John Warner, - | Landsman, Boston, - | July 16, 1780, | 47 56 |

STATEMENT—Continued.

| Date of certificate. | No. of statement. | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|-------------------|--------|-------------------------------|--|-------------------------------|
| 1794. | | | | | |
| March | 1 | 5128 | <i>a</i> Isaac Jenkins, - | Private, 1st Maryland regiment, - | Sept. 1, 1780, \$100 24 |
| | 1 | 5127 | <i>a</i> Aaron Simond, - | Private, Colonel Grayson's regiment, - | July 1, 1780, 40 00 |
| | 1 | 5126 | <i>a</i> Matthew Cofer, - | Private, Colonel Grayson's regiment, - | July 1, 1780, 40 00 |
| | 3 | 5106 | <i>a</i> Christian Wilkins, - | Marine, Boston, - | July 16, 1780, 48 78 |
| | 3 | 5107 | <i>a</i> Thomas Holeman, - | Seaman, Queen of France, - | July 15, 1780, 49 82 |
| | 3 | 5108 | <i>a</i> William Rogers, - | Boy, Queen of France, - | July 15, 1780, 43 64 |
| | 3 | 5109 | <i>a</i> Hugh Smith, - | Fifer, 1st South Carolina regiment, - | July 1, 1780, 223 83 |
| | 3 | 5111 | <i>a</i> Benijah Henry, - | Private, 6th South Carolina regiment, - | July 1, 1780, 225 96 |
| | 3 | 5112 | <i>a</i> Henry Webb, - | Sergeant, 2d South Carolina regiment, - | July 1, 1780, 373 81 |
| | 4 | 5122 | <i>a</i> Samuel Campbell, - | Sergeant, 3d South Carolina regiment, - | July 1, 1780, 181 05 |
| | 4 | 5129 | <i>a</i> Nath. Lucas, - | Captain, 4th Virginia regiment, - | Nov. 24, 1778, 96 00 |
| | 4 | 5113 | <i>a</i> John Smith, - | Private, 3d South Carolina regiment, - | July 1, 1781, 219 72 |
| | 4 | 5124 | <i>a</i> Joseph Loring, - | Corporal marines, Boston, - | July 16, 1780, 56 91 |
| | 4 | 5123 | <i>a</i> Boice C. Jameson, - | Boy, Boston, - | July 16, 1780, 51 31 |
| | 4 | 5125 | <i>a</i> Eli Berdue, - | Marine, Boston, - | July 16, 1780, 52 48 |
| | 4 | 5121 | <i>a</i> Morris Poor, - | Seaman, Queen of France, - | July 15, 1780, 74 78 |
| | 5 | 5139 | <i>a</i> John McKinsley, - | Private, B. H. Richard and Alliance, - | Sept. 6, 1780, 67 40 |
| | 5 | 5143 | <i>a</i> Henry Lebo, - | Private, Harrison's artillery and Washington's dragoons, - | March 1, 1781, 238 76 |
| | 5 | 5144 | <i>a</i> Reuben Coplan, - | Private 3d South Carolina regiment, - | July 1, 1781, 164 98 |
| | 5 | 5146 | <i>a</i> Stephen Porter, - | Private 3d South Carolina regiment, - | Oct. 7, 1779, 53 33 |
| | 6 | 5145 | <i>a</i> Ezekiel Campbell, - | Private, 3d South Carolina regiment, - | July 1, 1781, 197 04 |
| | 6 | 5133 | <i>a</i> Abraham Lyon, - | Captain, Jersey brigade, - | Nov. 24, 1778, 96 00 |
| | 6 | 5147 | <i>a</i> John Gneisley, - | Private, 8th Virginia regiment, - | March 1, 1782, 356 00 |
| | 6 | 5148 | <i>a</i> Robert Roach, - | Private, Virginia artillery, - | Nov. 16, 1783, 54 17 |
| | 7 | 5130 | <i>a</i> Abraham Temple, - | Marine, Boston, - | July 15, 1780, 85 31 |
| | 7 | 5134 | <i>a</i> James Craig, - | Captain, 8th Virginia regiment, - | Nov. 24, 1778, 96 00 |
| | 7 | 5131 | <i>a</i> Owen Ryan, - | Seaman, Queen of France, - | July 15, 1780, 68 40 |
| | 8 | 5149 | <i>a</i> Esek Whipple, - | Seaman, Queen of France, - | July 15, 1780, 67 83 |
| | 8 | 5150 | <i>a</i> Patrick Gore, - | Corporal marines, Boston, - | July 16, 1780, 57 58 |
| | 8 | 5151 | <i>a</i> William Spaul, - | Seaman, Queen of France, - | July 15, 1780, 54 15 |
| | 11 | 5152 | <i>a</i> William Kimball, - | Marine, Boston, - | July 16, 1780, 92 15 |
| | 11 | 5153 | <i>a</i> Richard Lilly, - | Seaman, Queen of France, - | July 15, 1780, 62 35 |
| | 11 | 5159 | <i>a</i> David Morgan, - | Marine, Rawleigh, - | Dec. 13, 1776, 32 66 |
| | 11 | 5161 | <i>a</i> Peter Betto, - | Private, Lee's legion, - | Jan. 1, 1783, 98 61 |
| | 12 | 5170 | <i>b</i> Eve Nick, - | - | May 1, 1778, 1 33 |
| | 12 | 5163 | <i>a</i> John Clark, - | Drummer, Boston, - | July 11, 1780, 55 60 |
| | 12 | 5167 | <i>a</i> Zaccheus Swain, - | Seaman, Boston, - | July 16, 1780, 56 74 |
| | 13 | 5165 | <i>a</i> James Gordon, - | Marine, Boston, - | July 16, 1780, 58 79 |
| | 13 | 5166 | <i>a</i> John Friend, - | Marine, Boston, - | July 16, 1780, 58 47 |
| | 13 | 5172 | <i>a</i> Ephraim Bennett, - | Landsman, Boston, - | July 16, 1780, 48 46 |
| | 15 | 5173 | <i>a</i> John Stroud, - | Seaman, Boston, - | July 16, 1780, 63 16 |
| | 15 | 5174 | <i>a</i> John Baptist, - | Seaman, Boston, - | July 16, 1780, 54 86 |
| | 15 | 5177 | <i>a</i> Elisha Aldrick, - | Corporal marines, Providence, - | July 11, 1780, 60 20 |
| | 15 | 5179 | <i>a</i> Isaac Hicks, - | Captain and paymaster, Georgia line, - | Mar. 23, 1783, 1,638 17 |
| | 17 | 5180 | <i>a</i> Joseph Turner, - | Matross, 4th S. Carolina regiment, - | Nov. 16, 1783, 255 06 |
| | 17 | 5181 | <i>a</i> James Stafford, - | Sergeant, 1st S. Carolina regiment, - | Aug. 1, 1780, 217 09 |
| | 17 | 5182 | <i>a</i> Caleb Trowbridge, - | Captain, continental line, - | Nov. 24, 1778, 480 00 |
| | 18 | 5184 | <i>b</i> Nicholas Jones, - | - | Sept. 16, 1776, 21 24 |
| | 19 | 4689 | <i>a</i> William Lunsford, - | Cornet and q'rmaster, Lee's legion, - | Jan. 1, 1783, 125 88 |
| | 20 | 5188 | <i>a</i> Jacob Stake, - | Captain, 10th Pennsylvania regiment, - | Nov. 16, 1783, 434 28 |
| | 22 | 5204 | <i>b</i> William Rushworm, - | Foragemaster, Southern department, - | Oct. 1, 1782, 33 66 |
| | 28 | 5220 | <i>a</i> Seth Warner, - | Colonel, - | Aug. 1, 1780, 752 26 |
| | 28 | 5220 | <i>a</i> Samuel Safford, - | Lieut. Col. S. Warner's regiment, - | Aug. 1, 1780, 561 06 |
| | 28 | 5220 | <i>a</i> Gideon Brownson, - | Captain and major, S. Warner's reg't, - | Aug. 1, 1780, 813 04 |
| | 28 | 5220 | <i>a</i> George Sexton, - | Lieut. and ensign, S. Warner's reg't, - | Aug. 1, 1780, 222 95 |
| | 28 | 5220 | <i>a</i> Samuel Beach, - | Lieut. and ensign, S. Warner's reg't, - | Aug. 1, 1780, 218 50 |
| | 28 | 5220 | <i>a</i> Benj. Butterfield, - | Lieut. and ensign, S. Warner's reg't, - | Aug. 1, 1780, 265 47 |
| | 28 | 5220 | <i>a</i> Oliver Barret, - | Lieut. and ensign, S. Warner's reg't, - | Aug. 1, 1780, 48 52 |
| | 28 | 5220 | <i>a</i> Benjamin Hopkins, - | Adj. and lieut. adj., S. Warner's reg't, - | Sept. 6, 1780, 472 91 |
| | 29 | 5238 | <i>a</i> Charles Audy, - | Private, 3d S. Carolina regiment, - | July 1, 1781, 181 90 |
| | 29 | 5237 | <i>a</i> James Robinson, - | Private, 6th S. Carolina regiment, - | July 1, 1781, 270 69 |
| April | 1 | 5193 | <i>b</i> Amasa Loomiss, - | Conductor of military stores, - | June 29, 1780, 905 78 |
| | 1 | 5199 | <i>a</i> Levi Holmes, - | Seaman, frigate Trumbull, - | Jan. 15, 1778, 60 67 |
| | 1 | 5200 | <i>a</i> David Miller, - | Boy, frigate Trumbull, - | March 1, 1778, 38 88 |
| | 1 | 5236 | <i>a</i> Joseph McHoney, - | Private, Virginia regiment, - | Aug. 28, 1783, 203 33 |
| | 1 | 5222 | <i>a</i> John B. Hopkins, - | Captain, navy, - | May 5, 1779, 1,331 80 |
| | 1 | 5194 | <i>a</i> Elias Dayton, - | Colonel, New Jersey regiment, - | March 1, 1777, 616 02 |
| | 1 | 5195 | <i>a</i> John P. Rathbon, - | Captain, navy, - | July 15, 1780, 1,503 66 |
| | 2 | 5239 | <i>a</i> John Bird, - | Sergeant, 6th and 1st S. Carolina reg'ts | July 1, 1781, 343 27 |
| | 2 | 5240 | <i>b</i> Samuel Royer, - | Assist. deputy quartermaster general, under J. Davis, - | Sept. 1, 1779, 42 66 |
| | 3 | 5228 | <i>a</i> Thomas Singletary, - | Private, 5th and 1st S. Carolina reg'ts, - | June 4, 1780, 167 48 |
| | 3 | 5224 | <i>a</i> Samuel Mather, - | Private, 5th and 1st S. Carolina reg'ts, - | Jan. 26, 1778, 47 73 |
| | 3 | 5197 | <i>a</i> Jesse Housely, - | Private, 1st regiment dragoons, - | Jan. 1, 1781, 331 48 |
| | 3 | 5249 | <i>a</i> Samuel Claggete, - | Mate, general hospital, - | Feb. 18, 1780, 114 10 |
| | 3 | 5198 | <i>a</i> Daniel Burchide, - | Private, 1st regiment dragoons, - | Nov. 16, 1783, 11 31 |
| | 3 | 5203 | <i>a</i> Edmund Edwards, - | Private, Virginia regiment, - | July 13, 1783, 203 33 |
| | 3 | 5223 | <i>a</i> Simon R. Ward, - | Seaman, Trumbull, - | June 20, 1780, 16 17 |
| | 3 | 5269 | <i>a</i> Jonathan Dyer, - | Private, 1st Maryland regiment, - | April 22, 1781, 353 36 |
| | 4 | 5279 | <i>a</i> John Davis, - | Sergeant, 2d South Carolina regim't, - | Jan. 1, 1781, 279 82 |
| | 4 | 5196 | <i>a</i> Philip Owen, - | Artificer at New London, Virginia, - | March 7, 1782, 79 67 |
| | 4 | 5186 | <i>a</i> John Fisk, - | Landsman, frigate Boston, - | July 16, 1780, 51 02 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------|---------------------------|--|-------------------------------|
| 1791. | | | | | |
| April | 4 | 5187 | a Israel Barney, - | Drummer, frigate Boston, - | July 16, 1780, \$56 49 |
| | 4 | 5189 | a John Ketcherman, - | Seaman, frigate Boston, - | July 16, 1780, 62 10 |
| | 4 | 5190 | a Charles Clickley, - | Seaman, Queen of France, - | July 15, 1780, 52 43 |
| | 4 | 5191 | a Joseph Wallis, - | Seaman, frigate Boston, - | July 16, 1780, 65 21 |
| | 4 | 5201 | a Ebenezer Price, - | Seaman, Queen of France, - | July 15, 1780, 58 21 |
| | 4 | 5202 | a Joseph Peck, - | Gunner's mate, frigate Boston, - | July 16, 1780, 74 25 |
| | 4 | 5216 | b Matthew McConnell, - | Treasurer of Society of Cincinnati, - | Nov. 4, 1783, 26 67 |
| | 4 | 5217 | a John Brown, - | Seaman, Queen of France, - | July 15, 1780, 56 25 |
| | 4 | 5218 | a Walter Tilley, - | Boy, Alfred, - | April 17, 1776, 14 53 |
| | 4 | 5221 | a James Hayes, - | Mate, Queen of France, - | July 15, 1780, 128 60 |
| | 4 | 5225 | a Reuben Stone, - | Private, 6th and 1st S. Carolina reg. - | July 1, 1781, 228 38 |
| | 4 | 5225 | a James Kitchen, - | Private, 6th and 1st S. Carolina reg. - | July 1, 1781, 150 51 |
| | 4 | 5225 | a William Chapman, - | Private, 3d South Carolina regiment, - | July 1, 1781, 219 72 |
| | 4 | 5225 | a Elijah McGuire, - | Private and sergeant, S. Carolina reg. - | July 1, 1781, 289 18 |
| | 4 | 5225 | a James Hamilton, Sen. - | Sergeant, 6th South Carolina regim't, - | July 1, 1781, 352 35 |
| | 4 | 5232 | a James Burney, - | Seaman, frigate Boston, - | July 16, 1780, 65 98 |
| | 4 | 5233 | a John Chase, - | Landsman, Providence, - | July 11, 1780, 50 98 |
| | 4 | 5234 | a Levi Cole, - | Marine, Providence, - | July 11, 1780, 50 13 |
| | 4 | 5235 | a Philip O'Bransher, - | Seaman, Providence, - | July 11, 1780, 58 42 |
| | 4 | 5250 | a John Artis, - | Private, 6th and 1st S. Carolina reg. - | Jan. 1, 1783, 154 96 |
| | 4 | 5250 | a John Barr, - | Private, 6th and 1st S. Carolina reg. - | July 1, 1781, 150 51 |
| | 4 | 5250 | a Charles Barnes, - | Private, 6th and 1st S. Carolina reg. - | Nov. 16, 1783, 147 37 |
| | 4 | 5250 | a Jacob Shaver, - | Private, 6th and 1st S. Carolina reg. - | July 1, 1781, 267 44 |
| | 5 | 5252 | b Gabriel Maupin, - | Conductor of military stores, - | August 18, 1781, 117 00 |
| | 5 | 5252 | b Benjamin Calvard, - | Conductor of military stores, - | August 18, 1781, 87 60 |
| | 5 | 5252 | b Thady Kelly, - | Conductor of military stores, - | August 18, 1781, 135 00 |
| | 5 | 5252 | b Edward Moore, - | Conductor of military stores, - | August 18, 1781, 164 83 |
| | 5 | 5252 | b John Morris, - | Conductor of military stores, - | August 18, 1781, 147 00 |
| | 5 | 5252 | b Peter Marks, - | Conductor of military stores, - | August 18, 1781, 94 50 |
| | 5 | 5252 | b William Mann, - | Conductor of military stores, - | July 31, 1781, 256 67 |
| | 5 | 5252 | b William Mosely, - | Conductor of military stores, - | June 21, 1781, 43 20 |
| | 5 | 5252 | b William Porter, - | Conductor of military stores, - | May 20, 1781, 36 66 |
| | 5 | 5252 | b Charles Erskine, - | Conductor of military stores, - | April 20, 1781, 35 26 |
| | 5 | 5252 | b Paul Woolfolk, - | Conductor of military stores, - | April 20, 1781, 77 10 |
| | 5 | 5250 | a John Van, - | Sergeant, 6th and 1st S. Carolina reg. - | July 1, 1781, 334 01 |
| | 5 | 5253 | b Bourne Price, - | Commissary military stores, - | August 18, 1781, 149 80 |
| | 5 | 5253 | a Philip Hix, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 13 50 |
| | 7 | 5253 | a Matthew Moody, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 64 75 |
| | 7 | 5253 | a John Chaplin, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 23 33 |
| | 7 | 5253 | a William Hendricks, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 31 00 |
| | 7 | 5253 | a Isaac Wilson, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 41 50 |
| | 7 | 5253 | a Joseph Hackworth, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 13 50 |
| | 7 | 5253 | a Joseph Clark, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 28 00 |
| | 7 | 5253 | a Robert Fowler, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 44 33 |
| | 7 | 5253 | a William Major, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 30 91 |
| | 7 | 5253 | a Samuel Tarr, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 45 83 |
| | 7 | 5253 | a Adam Cain, - | Services, laboratory N. London, Va. - | August 31, 1781, 12 83 |
| | 7 | 5253 | a Thomas Thompson, - | Services, laboratory N. London, Va. - | August 31, 1781, 41 33 |
| | 7 | 5253 | a Samuel Colter, - | Services, laboratory N. London, Va. - | August 31, 1781, 47 33 |
| | 7 | 5253 | a Pledge Palmer, - | Services, laboratory N. London, Va. - | August 31, 1781, 20 00 |
| | 7 | 5253 | a Joseph Henderson, - | Services, laboratory N. London, Va. - | August 6, 1781, 38 67 |
| | 7 | 5290 | a John Ryan, - | Private, 12th Virginia regiment, - | July 1, 1781, 298 30 |
| | 7 | 5298 | a Samuel Love, - | Private, 4th North Carolina regim't, - | March 1, 1783, 78 00 |
| | 8 | 5253 | a Samuel Darborow, - | Services, laboratory N. London, Va. - | Sept. 1, 1781, 45 67 |
| | 8 | 5299 | a Robert King, - | Lieutenant, 3d Pennsylvania regim't, - | Nov. 24, 1778, 64 00 |
| | 8 | 5297 | a Jacob Rogers, - | Private, 6th South Carolina regiment, - | July 1, 1781, 266 41 |
| | 8 | 5293 | a William Lucy, - | Sergeant, 5th South Carolina regim't, - | July 1, 1781, 349 76 |
| | 8 | 5244 | a William Burd, - | Private and corporal, 6th and 1st do. - | July 1, 1781, 286 26 |
| | 9 | 5309 | a William Emson, - | Sergeant, 5th and 1st S. Carolina reg. - | May 12, 1780, 213 87 |
| | 9 | 5175 | a Samuel Tilley, - | Carpenter, ship Alfred, - | Jan. 14, 1777, 142 00 |
| | 10 | 5241 | a Nathaniel Bailey, - | Seaman, Queen of France, - | July 15, 1780, 56 86 |
| | 10 | 5242 | a John McClure, - | Landsman, Boston, - | July 16, 1780, 56 51 |
| | 10 | 5243 | a John Perkins, - | Landsman, Boston, - | July 16, 1780, 54 14 |
| | 11 | 5246 | a Nicholas Sanders, - | Seaman, Providence, - | July 11, 1780, 63 73 |
| | 11 | 5247 | a Edward Broker, - | Cook, Providence, - | July 11, 1780, 120 88 |
| | 11 | 5248 | a Gasper Duncan, - | Landsman, Providence, - | July 11, 1780, 50 59 |
| | 11 | 5314 | a Paul Doane, - | Seaman, Confederacy, - | April 14, 1781, 35 40 |
| | 11 | 5315 | a Joseph Keth, - | Seaman, Confederacy, - | August 20, 1779, 37 59 |
| | 11 | 5316 | a William Marsh, - | Sergeant, marines, Confederacy, - | May 19, 1780, 56 90 |
| | 11 | 5317 | a Andrew Gordon, - | Marine, Confederacy, - | April 14, 1781, 33 06 |
| | 11 | 5318 | a Joseph Wilcox, - | Gunner's mate, Confederacy, - | August 20, 1779, 51 54 |
| | 11 | 5319 | a John Wigglesworth, - | Midshipman, Confederacy, - | August 30, 1780, 39 00 |
| | 11 | 5320 | a John Watson, Jun. - | Seaman, Confederacy, - | April 14, 1781, 35 36 |
| | 11 | 5321 | a John Parker, - | Seaman, Confederacy, - | April 14, 1781, 62 85 |
| | 15 | 5323 | a Thomas Anderson, - | Private, 3d South Carolina regiment, - | July 1, 1781, 185 98 |
| | 15 | 5323 | a Ashford Gore, - | Private, 3d South Carolina regiment, - | July 1, 1781, 229 02 |
| | 15 | 5323 | a Thomas Morris, - | Sergeant, 3d South Carolina regiment, - | July 1, 1781, 295 03 |
| | 15 | 5329 | b Joshua Fisher & Sons, - | - | July 10, 1778, 3,225 85 |
| | 15 | 5340 | a Stephen Garrison, - | Private, 4th North Carolina regiment, - | Nov. 3, 1781, 238 42 |
| | 15 | 5328 | a Anthony Hosey, - | Seaman, Reprisal, - | Jan. 1, 1778, 72 00 |
| | 15 | 5341 | a Adiel Sherwood, - | Lieutenant, 1st New York regiment, - | August 1, 1780, 875 72 |
| | 15 | 5349 | a Shadrack Chapman, - | Private, 6th South Carolina regiment, - | July 1, 1781, 270 69 |
| | 15 | 5349 | a Enoch Chapman, - | Private, 6th South Carolina regiment, - | July 1, 1781, 270 69 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|-------------------------------|--|---------------------|-------------------------------|
| 1794. | | | | | |
| April 15 | 5342 | <i>a</i> Samuel McFarren, | Lieutenant, 6th Pennsylvania reg't, | March 1, 1779, | \$ 320 00 |
| 15 | 4184 | <i>a</i> William Davidson, | Lieut. Colonel, North Carolina line, | Jan. 1, 1781, | 2,357 38 |
| 15 | 5346 | <i>a</i> Samuel Carr, | Captain, | Dec. 8, 1780, | 14 59 |
| 17 | 5370 | <i>a</i> Frederick Segern, | Lieutenant, Armand's legion, | Feb. 1, 1781, | 849 40 |
| 17 | 5368 | <i>a</i> Robert Craddock, | Lieutenant, Virginia line, | Jan. 1, 1783, | 97 77 |
| 17 | 5371 | <i>a</i> William Darrah, | Sergeant, 1st New Hampshire reg. | Oct. 18, 1782, | 487 81 |
| 19 | 5382 | <i>a</i> Anthony Duffield, | Sergeant-major, 3d S. Carolina reg. | Nov. 16, 1783, | 208 36 |
| 19 | 5382 | <i>a</i> John Prest, | Sergeant-major, 3d S. Carolina reg. | Nov. 16, 1783, | 357 32 |
| 19 | 5382 | <i>a</i> Thomas Powell, | Drummer, 3d South Carolina regim't, | Nov. 16, 1783, | 161 33 |
| 19 | 5382 | <i>a</i> James Buchannon, | Drummer, 3d South Carolina regim't, | Nov. 16, 1783, | 161 33 |
| 19 | 5382 | <i>a</i> James Castello, | Private, 3d South Carolina regiment, | Nov. 16, 1783, | 129 59 |
| 19 | 5382 | <i>a</i> James Austin, | Private, 3d South Carolina regiment, | Nov. 16, 1783, | 38 01 |
| 19 | 5382 | <i>a</i> Richard Adoms, | Private, 3d South Carolina regiment, | Nov. 16, 1783, | 35 12 |
| 19 | 5377 | <i>a</i> Silas Bramble, | Seaman, Trumbull, | Nov. 15, 1780, | 46 64 |
| 19 | 5353 | <i>a</i> Nath. Hawthorn, | Private, Armand's legion, | Jan. 1, 1782, | 84 13 |
| 19 | 5375 | <i>a</i> Samuel Knapp, | Seaman, Confederacy, | May 18, 1780, | 33 96 |
| 19 | 5376 | <i>a</i> Nathan Kinman, | Midshipman, Confederacy, | July 23, 1780, | 23 20 |
| 21 | 5352 | <i>a</i> William Scot, | Private, 4th North Carolina regim't, | August 1, 1780, | 202 40 |
| 21 | 5366 | <i>a</i> Richard Pritchard, | Boy, Alliance, | Nov. 6, 1780, | 49 92 |
| 21 | 5355 | <i>a</i> John Kirk, | Seaman, Alliance, | Dec. 10, 1780, | 23 72 |
| 21 | 5365 | <i>a</i> John Bland, | Landsman, Alliance, | Sept. 6, 1780, | 30 09 |
| 21 | 5364 | <i>a</i> John McGee, | Landsman, Alliance, | Sept. 6, 1780, | 50 85 |
| 21 | 5367 | <i>a</i> James Haslam, | Marine, Alliance, | Sept. 6, 1780, | 33 99 |
| 21 | 5362 | <i>a</i> William Taylor, | Landsman, Alliance, | Feb. 10, 1780, | 47 67 |
| 21 | 5363 | <i>a</i> Henry Wilson, | Landsman, Alliance, | Feb. 3, 1780, | 15 52 |
| 21 | 5386 | <i>a</i> John Jones, | Private, Virginia line, | Nov. 16, 1783, | 41 78 |
| 21 | 5395 | <i>a</i> Elisha Bemus, | Landsman, Alliance, | July 16, 1780, | 56 46 |
| 21 | 5334 | <i>b</i> Edward Murphy, | Horses lost and horse hire, | May 1, 1778, | 62 77 |
| 21 | 5334 | <i>b</i> Hugh Logan, | Horses lost and horse hire, | May 1, 1778, | 52 55 |
| 21 | 5334 | <i>b</i> James Campbell, | Horses lost and horse hire, | May 1, 1778, | 65 00 |
| 21 | 5334 | <i>b</i> Alexander Handly, | Horses lost and horse hire, | May 1, 1778, | 21 11 |
| 21 | 5334 | <i>b</i> William Crawford, | Horses lost and horse hire, | May 1, 1778, | 84 44 |
| 21 | 5334 | <i>b</i> Micajah Goodwin, | Horses lost and horse hire, | May 1, 1778, | 83 95 |
| 21 | 5334 | <i>b</i> John Barclay, | Horses lost and horse hire, | May 1, 1778, | 49 16 |
| 22 | 5334 | <i>b</i> Patrick Murphy, | Horses lost and horse hire, | May 1, 1778, | 6 83 |
| 22 | 5334 | <i>b</i> William Smith, | Horses lost and horse hire, | May 1, 1778, | 6 83 |
| 22 | 5334 | <i>b</i> Thomas Hamilton, | Horses lost and horse hire, | May 1, 1778, | 7 50 |
| 22 | 5334 | <i>b</i> Henry Davis, | Horses lost and horse hire, | May 1, 1778, | 7 08 |
| 22 | 5334 | <i>b</i> W. Smith & J. Davis, | Horses lost and horse hire, | May 1, 1778, | 5 00 |
| 22 | 5334 | <i>b</i> David James, | Horses lost and horse hire, | May 1, 1778, | 83 |
| 22 | 5334 | <i>b</i> William Davidson, | Horses lost and horse hire, | May 1, 1778, | 4 94 |
| 22 | 5334 | <i>b</i> John Anderson, | Horses lost and horse hire, | May 1, 1778, | 3 05 |
| 22 | 5334 | <i>b</i> Jacob Passinger, | Horses lost and horse hire, | May 1, 1778, | 3 44 |
| 22 | 5334 | <i>b</i> James Simpson, | Horses lost and horse hire, | May 1, 1778, | 11 27 |
| 22 | 5334 | <i>b</i> Robert Armstrong, | Horses lost and horse hire, | May 1, 1778, | 31 61 |
| 22 | 5334 | <i>b</i> John Peyton, | Horses lost and horse hire, | May 1, 1778, | 96 66 |
| 22 | 5405 | <i>b</i> Daniel Vail, | For board of three pilots, | Aug. 31, 1781, | 19 60 |
| 23 | 5356 | <i>a</i> John Weir, | Boy, Alliance, | July 5, 1780, | 20 17 |
| 24 | 5357 | <i>a</i> Alexander Anguish, | Seaman, Alliance, | Sept. 6, 1780, | 64 79 |
| 24 | 5358 | <i>a</i> George Allen, | Barber, Alliance, | Sept. 6, 1780, | 19 89 |
| 24 | 5359 | <i>a</i> Benjamin Youlan, | Seaman, Alliance, | May 17, 1780, | 49 01 |
| 24 | 5360 | <i>a</i> Henry Nylander, | Seaman, Alliance, | Feb. 6, 1780, | 86 26 |
| 24 | 5361 | <i>a</i> Charles Ross, | Seaman, Alliance, | Feb. 10, 1780, | 55 31 |
| 24 | 5396 | <i>a</i> Benjamin Luce, | Marine, Boston, | July 16, 1780, | 72 04 |
| 24 | 5397 | <i>a</i> Thomas Gage, | Landsman, Boston, | July 16, 1780, | 52 65 |
| 24 | 5402 | <i>a</i> William Hill, | Marine, Boston, | July 16, 1780, | 175 34 |
| 24 | 5406 | <i>a</i> William Sherlock, | Sergeant, 6th S. Carolina regiment, | Nov. 11, 1783, | 174 69 |
| 24 | 5410 | <i>a</i> Stephen Burdin, | Seaman, Providence, | July 11, 1780, | 58 63 |
| 24 | 5411 | <i>a</i> Benjamin Roberts, | Seaman, Providence, | July 11, 1780, | 46 36 |
| 24 | 5412 | <i>a</i> John Burdin, | Boy, Providence, | July 11, 1780, | 47 81 |
| 24 | 3185 | <i>a</i> Jephtha Lee, | Soldier, 2d New York regiment, | Dec. 1, 1783, | 50 83 |
| 25 | 5414 | <i>a</i> David Wesley, | Boy, Providence, | July 11, 1780, | 52 51 |
| 25 | 5415 | <i>a</i> John Williams, | Seaman, Providence, | July 11, 1780, | 60 51 |
| 25 | 5416 | <i>a</i> Anthony Griffin, | Seaman, Boston, | July 16, 1780, | 57 95 |
| 28 | 5417 | <i>b</i> Thomas Talbot, | For the frame of a frigate, | Oct. 1, 1777, | 1,666 66 |
| 28 | 5425 | <i>a</i> Allen Jeffers, | Private, 3d South Carolina regiment, | July 1, 1783, | 108 25 |
| 28 | 5426 | <i>b</i> John Hawkins, | Assistant commissary of forage, | Jan. 1, 1781, | 253 62 |
| 29 | 5428 | <i>b</i> David Bullock, | Foragemaster, | Jan. 1, 1781, | 54 34 |
| 30 | 5429 | <i>a</i> James Holmes, | Private, Lee's legion, | Aug. 1, 1780, | 45 79 |
| 30 | 5431 | <i>a</i> John Tilton, | Landsman, Boston, | July 16, 1780, | 77 00 |
| 30 | 5432 | <i>a</i> William Havens, | Seaman, Boston, | July 16, 1780, | 62 27 |
| 30 | 5433 | <i>a</i> John White, | Seaman, Boston, | July 16, 1780, | 44 16 |
| 30 | 5430 | <i>a</i> William Wedge, | Private, 7th Maryland regiment, | Aug. 1, 1780, | 173 59 |
| 30 | 4834 | <i>a</i> Andrew Irvine, | Captain, Pennsylvania line, | May 3, 1783, | 503 19 |
| 30 | 5439 | <i>a</i> Robert Wilson, | Private, 3d S. Carolina regiment, | July 1, 1781, | 186 00 |
| 30 | 5439 | <i>a</i> Esom Franklin, | Private, 3d S. Carolina regiment, | July 1, 1781, | 231 99 |
| 30 | 5439 | <i>a</i> William Cockrell, | Private, 3d S. Carolina regiment, | July 1, 1781, | 219 72 |
| May 2 | 5444 | <i>a</i> Jacob Boyer, | Private, 3d Pennsylvania regiment, | Sept. 1, 1777, | 8 49 |
| 2 | 5445 | <i>a</i> George Hinds, | Private, 1st regiment light dragoons, | Jan. 17, 1782, | 312 35 |
| 5 | 5443 | <i>a</i> Reuben Hall, | Sergeant, 6th and 1st S. C. regiments, | July 1, 1781, | 371 38 |
| 5 | 5446 | <i>a</i> Solomon McGraw, | Private, 3d and 5th S. C. regiments, | July 1, 1781, | 219 72 |
| 5 | 5446 | <i>a</i> Hardy Williams, | Private, 3d and 5th S. C. regiments, | Jan. 1, 1782, | 262 44 |
| 5 | 5451 | <i>b</i> Walter Quackenbust, | Assist. commissary of forage, N. Y. | Nov. 3, 1781, | 380 97 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. | |
|----------------------|------------------|--------|----------------------------------|---|-------------------------------|----------|
| 1794. | | | | | | |
| May | 6 | 5448 | <i>a</i> William Hawes, - | Captain, artificers, - | Jan. 1, 1784, | \$355 24 |
| | 6 | 5156 | <i>a</i> Joshua Brewster, - | Cooper, Bonhomme Richard, - | Oct. 24, 1779, | 49 62 |
| | 6 | 5442 | <i>a</i> Jacob Weaver, - | Private, 3d S. Carolina regiment, - | July 1, 1781, | 228 97 |
| | 6 | 5449 | <i>a</i> Robert Jouett, - | Lieutenant, Virginia line, - | Jan. 1, 1783, | 115 55 |
| | 7 | 5450 | <i>a</i> Rufus Blodget, - | Private, 6th Massachusetts reg't, - | Jan. 1, 1781, | 34 32 |
| | 7 | 5454 | <i>a</i> Levi Quick, - | Private, 5th S. Carolina regiment, - | Nov. 16, 1783, | 164 24 |
| | 7 | 5455 | <i>a</i> Robert Gamble, - | Private and sergeant, 2d S. C. reg't, - | Feb. 1, 1782, | 483 08 |
| | 7 | 5452 | <i>a</i> Mary Kent, - | - | Jan. 21, 1779, | 48 72 |
| | 7 | 5456 | <i>a</i> Ephraim Potter, - | Private, 2d S. Carolina regiment, - | Nov. 16, 1783, | 261 19 |
| | 7 | 5458 | <i>a</i> Christian House, - | Private, New York regiment, - | March 1, 1782, | 565 65 |
| | 7 | 5458 | <i>a</i> Jacob House, - | Private, New York regiment, - | July 18, 1783, | 227 33 |
| | 7 | 5458 | <i>a</i> Garret Marselus, - | Private, New York regiment, - | July 18, 1783, | 227 33 |
| | 9 | 5459 | <i>b</i> Joseph Potter, - | Issuing commissary of forage, - | Nov. 10, 1780, | 21 03 |
| | 9 | 5461 | <i>a</i> George Blackmore, - | Corporal and sergeant, 1st S. C. reg't, - | Nov. 16, 1783, | 426 10 |
| | 9 | 5463 | <i>a</i> Samuel Brown, - | Private, 1st regiment light dragoons, - | May 17, 1783, | 178 51 |
| | 9 | 5464 | <i>a</i> James McGhaw, - | Boy, Alliance, - | Sept. 6, 1780, | 23 50 |
| | 10 | 5460 | <i>a</i> William Jamison, - | Lieut. marines, midshipman, Boston, - | July 16, 1780, | 261 90 |
| | 10 | 5462 | <i>a</i> Jonathan Gore, - | Matross, 4th South Carolina regiment, - | Aug. 1, 1780, | 164 33 |
| | 10 | 5466 | <i>a</i> Thomas Burbridge, - | Private, 2d South Carolina regiment, - | Aug. 1, 1780, | 19 91 |
| | 10 | 5467 | <i>a</i> Thomas Slape, - | Drummer, 1st Virginia regiment, - | July 23, 1783, | 245 00 |
| | 10 | 5468 | <i>a</i> Jonathan Burbridge, - | Private, 2d Virginia regiment, - | Aug. 1, 1780, | 54 01 |
| | 12 | 5472 | <i>a</i> Patrick McCabe, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 226 42 |
| | 12 | 5472 | <i>a</i> George Scott, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 197 03 |
| | 12 | 5472 | <i>a</i> Arthur McGraw, - | Private and corporal, 3d S. C. reg't, - | July 1, 1781, | 193 33 |
| | 12 | 5476 | <i>a</i> Gideon Lowrey, - | Private, 1st South Carolina regiment, - | July 1, 1781, | 186 24 |
| | 12 | 5478 | <i>a</i> Daniel O'Brian, - | Private, 1st South Carolina regiment, - | July 1, 1781, | 174 78 |
| | 12 | 5480 | <i>a</i> Thomas Smith, - | Private, 5th Virginia regiment, - | Aug. 1, 1780, | 209 98 |
| | 12 | 5485 | <i>a</i> Cleon Moore, - | Captain, 5th Virginia regiment, - | Oct. 1, 1778, | 16 00 |
| | 12 | 5484 | <i>a</i> Christopher Greenup, - | Lieutenant, Virginia line, - | Oct. 1, 1778, | 16 20 |
| | 13 | 5483 | <i>a</i> Willis Green, - | Lieutenant, Virginia line, - | Oct. 1, 1778, | 19 84 |
| | 13 | 5482 | <i>a</i> Motley Wildy, - | Corporal, priv., & musician, Va. line, - | Aug. 1, 1780, | 235 51 |
| | 13 | 5488 | <i>a</i> William Sawers, - | Private, 3d regiment light dragoons, - | July 2, 1783, | 234 17 |
| | 13 | 5488 | <i>a</i> Jesse Chandler, - | Private, 3d regiment light dragoons, - | July 2, 1783, | 234 17 |
| | 13 | 5488 | <i>a</i> Seaton Sled, - | Sergeant, 3d reg't light dragoons, - | Nov. 16, 1783, | 283 41 |
| | 13 | 5488 | <i>a</i> William Dangerfield, - | Sergeant major, 3d reg't lt. dragoons, - | Nov. 16, 1783, | 132 35 |
| | 13 | 5481 | <i>a</i> Joseph Brooks, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 219 72 |
| | 13 | 5481 | <i>a</i> Robert Campbell, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 174 78 |
| | 13 | 2481 | <i>a</i> Raymond Jones, - | Private, 3d South Carolina regiment, - | July 1, 1781, | 219 72 |
| | 13 | 5489 | <i>a</i> Ephraim McGrow, - | Private, S. Carolina and Virginia line, - | July 1, 1781, | 197 03 |
| | 13 | 5489 | <i>a</i> William Kelly, - | Private, S. Carolina and Virginia line, - | July 1, 1781, | 268 22 |
| | 13 | 5489 | <i>a</i> John Connerly, - | Fife major, S. C. and Virginia line, - | Jan. 1, 1782, | 135 00 |
| | 14 | 5492 | <i>a</i> James Parmenter, - | Private, 7th Massachusetts regiment, - | June 20, 1782, | 293 55 |
| | 14 | 5491 | <i>a</i> Isaac Williams, - | Private, 3d and 1st S. C. regiments, - | Nov. 16, 1783, | 99 55 |
| | 14 | 5493 | <i>a</i> David Poor, - | Lieutenant in Col. Hutchinson's reg't, - | Jan. 1, 1781, | 500 62 |
| | 16 | 4624 | <i>a</i> Daniel De Benneville, - | Surgeon, 13th Virginia regiment, - | April 16, 1782, | 4,544 00 |
| | 23 | 5515 | <i>a</i> Isaac Freeman, - | Matross, Harrison's artillery, - | July 2, 1783, | 234 17 |
| | 23 | 5514 | <i>a</i> Jonah Trisbie, - | Lieutenant, 1st Massachusetts reg't, - | April 1, 1779, | 64 00 |
| | 24 | 5525 | <i>a</i> Isaac Davis, - | Private, 10th Virginia regiment, - | July 14, 1783, | 203 33 |
| | 24 | 5525 | <i>a</i> Thomas Davis, - | Private, 10th Virginia regiment, - | July 14, 1783, | 203 33 |
| | 24 | 5525 | <i>a</i> James Bassett, - | Private, 10th Virginia regiment, - | July 14, 1783, | 203 33 |
| | 26 | 5513 | <i>a</i> Joseph Roye, - | Private, 3d South Carolina regiment, - | Feb. 1, 1781, | 194 50 |
| | 26 | 5513 | <i>a</i> Jonathan Parker, - | Private, 3d South Carolina regiment, - | Feb. 1, 1781, | 188 69 |
| | 26 | 5531 | <i>a</i> Peter Tousiger, - | Matross, 4th South Carolina regiment, - | July 1, 1781, | 165 69 |
| | 26 | 5531 | <i>a</i> Mordecai McFarland, - | Sergeant, 4th South Carolina regiment, - | Aug. 1, 1780, | 32 63 |
| | 26 | 5528 | <i>b</i> Lord Butler, - | Assistant deputy quartermaster, - | June 16, 1781, | 360 00 |
| | 26 | 5526 | <i>a</i> Isaac Garrick, - | Matross, 4th S. Carolina regiment, - | July 1, 1781, | 354 61 |
| | 26 | 5536 | <i>a</i> George Bowers, - | Private, 3d regiment light dragoons, - | July 1, 1783, | 232 46 |
| | 26 | 5420 | <i>a</i> Robert Williams, - | Lieut. and paymaster, 4th Mass. reg't, - | Nov. 4, 1783, | 1,573 33 |
| | 29 | 5535 | <i>a</i> Richard Groom, - | Private, 5th Virginia regiment, - | June 1, 1781, | 209 11 |
| | 30 | 5537 | <i>a</i> Thomas Bolton, - | Matross and gunner, 4th S. C. reg't, - | July 1, 1781, | 363 12 |
| | 30 | 5543 | <i>b</i> Clark Wise, - | Forage master, southern department, - | Jan. 1, 1783, | 62 33 |
| | 30 | 5540 | <i>a</i> George Lard, - | Private, 3d regiment light dragoons, - | Aug. 1, 1780, | 261 74 |
| | 30 | 5541 | <i>a</i> John McKinstrey, - | Captain, Col. Patterson's regiment, - | Jan. 1, 1777, | 409 33 |
| | 30 | 5534 | <i>a</i> Edward Boylston, - | Capt. of artificers, Col. Flower's reg't, - | Sept. 1, 1781, | 457 66 |
| | 31 | 5542 | <i>a</i> William Cox, - | Private, 1st South Carolina regiment, - | July 1, 1781, | 270 69 |
| | 31 | 5549 | <i>a</i> Thomas Rumble, - | Private, New York reg't artillery, - | March 4, 1789, | 353 67 |
| June | 2 | 5546 | <i>a</i> Joseph Nash, - | Fifer and private, 6th Maryland reg't, - | July 1, 1781, | 306 55 |
| | 2 | 5547 | <i>a</i> John Russell, - | Private, 1st North Carolina regiment, - | Jan. 1, 1782, | 22 67 |
| | 2 | 5554 | <i>a</i> Jesse Hendley, - | Private, 3d South Carolina regiment, - | Aug. 1, 1780, | 140 93 |
| | 4 | 5556 | <i>a</i> Robert Charles, - | Ensign, Virginia line, - | Jan. 1, 1782, | 184 00 |
| | 4 | 5552 | <i>a</i> John Prescott, - | Private, 3d South Carolina regiment, - | Aug. 1, 1780, | 96 28 |
| | 4 | 5551 | <i>a</i> John Hamilton, - | Private, 1st South Carolina regiment, - | Aug. 1, 1780, | 157 37 |
| | 5 | 5553 | <i>a</i> Ephraim Parker, - | Matross and fifer, 4th S. C. reg't, - | July 1, 1781, | 282 01 |
| | 5 | 5533 | <i>a</i> Benjamin Neale, - | Private, South Carolina line, - | June 1, 1781, | 112 86 |
| | 5 | 5533 | <i>a</i> Abraham Garrott, - | Private, South Carolina line, - | Oct. 1, 1781, | 104 53 |
| | 5 | 5533 | <i>a</i> James Parnell, - | Private, South Carolina line, - | July 1, 1781, | 270 69 |
| | 5 | 5533 | <i>a</i> William Rozer, - | Private, corporal, and serg't, S.C. line, - | Aug. 9, 1781, | 395 08 |
| | 5 | 5533 | <i>a</i> John Mills, - | Private, South Carolina line, - | Aug. 1, 1781, | 145 91 |
| | 5 | 5533 | <i>a</i> Thomas Taylor, - | Private, South Carolina line, - | Aug. 1, 1781, | 219 72 |
| | 5 | 5533 | <i>a</i> Isaac Haddock, - | Private, South Carolina line, - | June 1, 1781, | 153 30 |
| | 5 | 5533 | <i>a</i> John Bushby, - | Private, South Carolina line, - | July 1, 1781, | 213 69 |
| | 5 | 5559 | <i>a</i> Robert Bancroft, - | Matross, 3d Massachusetts regiment, - | Jan. 24, 1783, | 286 93 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|------------------------------------|---|---------------------|-------------------------------|
| 1794. | | | | | |
| June | 5 | 5533 <i>a</i> Osburn Jeffers, - | Private, South Carolina line, - | July 1, 1781, | \$219 23 |
| | 5 | 5533 <i>a</i> John Burkett, - | Matross, South Carolina line, - | July 1, 1781, | 188 72 |
| | 5 | 5533 <i>a</i> John Hickman, - | Matross, South Carolina line, - | Aug. 1, 1780, | 155 66 |
| | 5 | 5533 <i>a</i> Edward Hickman, - | Matross, South Carolina line, - | Aug. 1, 1780, | 166 78 |
| | 5 | 5533 <i>a</i> Matthew Sullivan, - | Matross and gunner, S. Carolina line, | July 1, 1781, | 358 86 |
| | 7 | 5563 <i>a</i> James Chew, - | - | Oct. 1, 1779, | 41 17 |
| | 7 | 5561 <i>b</i> John Carter, - | Continental agent, Virginia, - | June 16, 1778, | 22 18 |
| | 7 | 5566 <i>a</i> Lewis Dubois, - | Colonel, 5th New York regiment, - | April 29, 1782, | 7,520 00 |
| | 7 | 5507 <i>a</i> Thomas Jackson, - | Private, South Carolina regiment, - | July 1, 1781, | 270 69 |
| | 7 | 5507 <i>a</i> Reuben Bailey, - | Private, South Carolina line, - | July 1, 1781, | 228 49 |
| | 9 | 5507 <i>a</i> Benj. Buchanan, - | Private and corporal, S. Carolina line, | July 1, 1781, | 286 01 |
| | 9 | 5507 <i>a</i> George Buchanan, - | Serg't and corporal, S. Carolina line, | July 1, 1781, | 342 39 |
| | 9 | 5507 <i>a</i> James Buchanan, - | Serg't and corporal, S. Carolina line, | July 1, 1781, | 354 60 |
| | 9 | 5507 <i>a</i> John Boan, - | Private, South Carolina line, - | July 1, 1781, | 226 42 |
| | 9 | 5507 <i>a</i> Thomas Burns, - | Private, South Carolina line, - | July 1, 1781, | 68 55 |
| | 9 | 5567 <i>a</i> William McCondry, - | Private, 7th Massachusetts regiment, | April 8, 1783, | 277 52 |
| | 9 | 5507 <i>a</i> James Tinney, - | Private, South Carolina line, - | July 1, 1781, | 184 21 |
| | 9 | 5507 <i>a</i> John Tinney, - | Private, South Carolina line, - | July 1, 1781, | 229 02 |
| | 9 | 5507 <i>a</i> Britain Goodwin, - | Private, South Carolina line, - | July 1, 1781, | 170 39 |
| | 9 | 5507 <i>a</i> Michael Tanny, - | Private and corporal, S. Carolina line, | July 1, 1781, | 250 29 |
| | 9 | 5507 <i>a</i> Matthew Johnson, - | Private, South Carolina line, - | July 1, 1781, | 115 98 |
| | 9 | 5507 <i>a</i> Moses Livingston, - | Private, South Carolina line, - | July 1, 1781, | 184 00 |
| | 9 | 5507 <i>a</i> James McDaniel, - | Private and serg't, S. Carolina line, | July 1, 1781, | 325 69 |
| | 10 | 5507 <i>a</i> Jesse Smith, - | Private, South Carolina line, - | July 1, 1781, | 230 61 |
| | 10 | 5507 <i>a</i> Charles Smith, - | Private, South Carolina line, - | July 1, 1781, | 270 69 |
| | 10 | 5507 <i>a</i> Conrad Rife, - | Private, South Carolina line, - | July 1, 1781, | 230 61 |
| | 10 | 5507 <i>a</i> Samuel Windsor, - | Private, South Carolina line, - | July 1, 1781, | 173 94 |
| | 10 | 5507 <i>a</i> John Weatherford, - | Matross, South Carolina line, - | July 1, 1781, | 285 41 |
| | 10 | 5507 <i>a</i> John Bostick, - | Serg't and serg't major, S. C. line, | July 1, 1781, | 418 85 |
| | 10 | 5507 <i>a</i> John Hagers, - | Private, South Carolina line, - | Aug. 1, 1780, | 115 83 |
| | 10 | 5507 <i>a</i> Jared Withington, - | Private, South Carolina line, - | Aug. 1, 1780, | 51 44 |
| | 11 | 5507 <i>a</i> James Johnston, - | Private, South Carolina line, - | Aug. 1, 1780, | 106 40 |
| | 11 | 5507 <i>a</i> Matthew Morrow, - | Private, South Carolina line, - | Sept. 1, 1780, | 107 55 |
| | 11 | 5507 <i>a</i> James Kilgore, - | Private, South Carolina line, - | Sept. 1, 1781, | 183 23 |
| | 11 | 5507 <i>a</i> Thomas Tomlin, - | Private, South Carolina line, - | Nov. 16, 1783, | 87 93 |
| | 11 | 5507 <i>a</i> John Bailey, - | Private, South Carolina line, - | July 1, 1781, | 228 49 |
| | 11 | 5507 <i>a</i> John Bean, - | Private, South Carolina line, - | July 1, 1781, | 270 69 |
| | 11 | 5507 <i>a</i> William Bean, - | Private, South Carolina line, - | July 1, 1781, | 173 09 |
| | 11 | 5507 <i>a</i> James Bean, - | Private, South Carolina line, - | July 1, 1781, | 185 79 |
| | 11 | 5507 <i>a</i> Michael Houslider, - | Private, South Carolina line, - | July 1, 1781, | 186 73 |
| | 11 | 5507 <i>a</i> John Jackson, - | Private, South Carolina line, - | July 1, 1781, | 219 72 |
| | 11 | 5507 <i>a</i> Ambrose Jackson, - | Private, South Carolina line, - | July 1, 1781, | 228 95 |
| | 11 | 5507 <i>a</i> Elijah Johnston, - | Private, South Carolina line, - | July 1, 1781, | 258 72 |
| | 11 | 5507 <i>a</i> Samuel Kelly, - | Private, South Carolina line, - | July 1, 1781, | 232 14 |
| | 12 | 5507 <i>a</i> Nicholas Megler, - | Private, South Carolina line, - | July 1, 1781, | 176 89 |
| | 12 | 5507 <i>a</i> Michael Powell, - | Private, South Carolina line, - | July 1, 1781, | 215 35 |
| | 12 | 5507 <i>a</i> John Sadler, - | Private, South Carolina line, - | July 1, 1781, | 181 89 |
| | 12 | 5507 <i>a</i> Charles Quail, - | Private, South Carolina line, - | July 1, 1781, | 219 72 |
| | 12 | 2792 <i>a</i> John Divinnay, - | Private, 4th Pennsylvania regiment, | Jan. 1, 1777, | 16 15 |
| | 12 | 2792 <i>a</i> John Loughred, - | Private, 4th Pennsylvania regiment, | Jan. 1, 1777, | 15 90 |
| | 12 | 2792 <i>a</i> Thomas Reiley, - | Private, 4th Pennsylvania regiment, | Jan. 1, 1777, | 5 99 |
| | 13 | 5578 <i>a</i> William Love, - | Lieutenant, 3d South Carolina reg't, | July 1, 1781, | 943 40 |
| | 13 | 5507 <i>a</i> William Jubritton, - | Private, 3d South Carolina regiment, | Aug. 1, 1780, | 81 98 |
| | 13 | 5580 <i>b</i> James McAllister, - | Assistant commissary of purchases, | Dec. 1, 1781, | 1,377 81 |
| | 13 | 5594 <i>a</i> Ebenezer Winship, - | Captain, continental army, - | Jan. 1, 1777, | 107 00 |
| | 13 | 5587 <i>a</i> Thomas Eghill, - | Private, 4th Virginia regiment, - | July 1, 1781, | 217 67 |
| | 13 | 5507 <i>a</i> Henry Kilgore, - | Private, South Carolina line, - | Sept. 1, 1781, | 182 59 |
| | 14 | 5507 <i>a</i> James Doherty, - | Private, South Carolina line, - | July 1, 1781, | 219 72 |
| | 14 | 5507 <i>a</i> John Bunch, - | Private, South Carolina line, - | July 1, 1781, | 219 72 |
| | 14 | 5507 <i>a</i> Thomas Clemons, - | Private, South Carolina line, - | July 1, 1781, | 224 82 |
| | 14 | 5507 <i>a</i> John Owens, - | Private, South Carolina line, - | July 1, 1781, | 232 14 |
| | 14 | 5507 <i>a</i> Jacob Miller, - | Private, South Carolina line, - | July 1, 1781, | 227 05 |
| | 14 | 5507 <i>a</i> Caleb Owens, - | Private, South Carolina line, - | July 1, 1781, | 232 14 |
| | 14 | 5507 <i>a</i> James Carter, - | Private, South Carolina line, - | July 1, 1781, | 229 02 |
| | 14 | 5507 <i>a</i> Frederick Sellers, - | Private, South Carolina line, - | July 1, 1781, | 231 96 |
| | 16 | 5507 <i>a</i> William Peoples, - | Private, South Carolina line, - | July 1, 1781, | 197 03 |
| | 16 | 5507 <i>a</i> John Hunter, - | Private, South Carolina line, - | July 1, 1781, | 226 42 |
| | 16 | 5507 <i>a</i> John Lorman, - | Private, South Carolina line, - | July 1, 1781, | 197 03 |
| | 16 | 5507 <i>a</i> James White, - | Private, South Carolina line, - | July 1, 1781, | 106 39 |
| | 16 | 5507 <i>a</i> Berry Jeffers, - | Private, South Carolina line, - | July 1, 1781, | 221 58 |
| | 16 | 5507 <i>a</i> Gideon Griffin, - | Private, South Carolina line, - | July 1, 1781, | 221 58 |
| | 16 | 5507 <i>a</i> Benjamin Johnston, - | Private, South Carolina line, - | July 1, 1781, | 219 72 |
| | 16 | 5507 <i>a</i> Jacob Salters, - | Private, South Carolina line, - | July 1, 1781, | 219 72 |
| | 16 | 5507 <i>a</i> John McCune, - | Private, South Carolina line, - | June 1, 1781, | 123 12 |
| | 16 | 5507 <i>a</i> Francis Holly, - | Private, South Carolina line, - | July 1, 1781, | 280 22 |
| | 16 | 5507 <i>a</i> Robert Read, - | Private, South Carolina line, - | Sept. 1, 1781, | 74 88 |
| | 16 | 5507 <i>a</i> John Bosher, - | Matross, South Carolina line, - | July 1, 1781, | 346 89 |
| | 16 | 5507 <i>a</i> John Driver, - | Matross, South Carolina line, - | July 1, 1781, | 284 28 |
| | 17 | 5507 <i>a</i> Thomas Walters, - | Drummer, South Carolina line, - | July 1, 1781, | 273 39 |
| | 17 | 5507 <i>a</i> Simeon West, - | Matross, South Carolina line, - | July 1, 1781, | 262 94 |
| | 17 | 5507 <i>a</i> William Gardner, - | Matross, South Carolina line, - | July 1, 1781, | 347 75 |
| | 17 | 5507 <i>a</i> John Davis, - | Matross, South Carolina line, - | July 1, 1781, | 341 80 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------|---------------------------------|--|-------------------------------|
| 1794. | | | | | |
| June | 17 | 5507 | <i>a</i> James Johnston, - | Matross and gunner, S. Carolina line, | July 1, 1781, \$ 358 86 |
| | 18 | 4451 | <i>a</i> Isaac Coran, - | Captain, artillery artificers, - | Aug. 1, 1780, 1,694 80 |
| | 20 | 5611 | <i>b</i> Thurmer Hoggard, - | Balance due for frame of a frigate, &c. | Oct. 1, 1777, 1,088 11 |
| | 20 | 5604 | <i>b</i> John Colgin, - | Assistant commissary of issues, - | Dec. 9, 1780, 770 00 |
| July | 1 | 5596 | <i>a</i> David Hopkins, - | Captain dragoons, S. Moylan's reg't, | June 1, 1777, 387 30 |
| | 1 | 5635 | <i>a</i> Arterner Banister, - | Private, 6th Virginia regiment, - | Aug. 1, 1780, 195 13 |
| | 1 | 5640 | <i>a</i> Samuel Brushhears, - | Fifer, 3d South Carolina regiment, | July 1, 1781, 260 05 |
| | 1 | 5640 | <i>a</i> Lewis McNeale, - | Private, 3d South Carolina regiment, | July 1, 1781, 219 72 |
| | 1 | 5640 | <i>a</i> John Lee, - | Private, 3d South Carolina regiment, | July 1, 1781, 230 60 |
| | 5 | 5693 | <i>a</i> Wade Blair, - | Private and drummer, 3d S. C. reg't, | July 1, 1781, 213 35 |
| | 5 | 5693 | <i>a</i> Ephraim Whittington, - | Private, 3d South Carolina regiment, | July 1, 1781, 176 89 |
| | 5 | 5693 | <i>a</i> Ezel John, - | Private, 3d South Carolina regiment, | July 1, 1781, 172 67 |
| | 5 | 5698 | <i>a</i> Dennis Mullin, - | Private, 7th Maryland regiment, - | July 1, 1781, 236 07 |
| | 5 | 5617 | <i>a</i> Peter Rieb, - | Private, 7th Maryland regiment, - | Jan. 1, 1782, 151 91 |
| | 11 | 5706 | <i>a</i> Patrick Mooney, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 229 01 |
| | 12 | 5706 | <i>a</i> Peter Curwell, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 177 40 |
| | 14 | 5724 | <i>a</i> John Carel Adams, - | Private and corporal S. Carolina reg't, | Nov. 16, 1783, 122 14 |
| | 14 | 5713 | <i>a</i> John Whaley, - | Private and fifer, 3d S. Carolina reg't, | July 1, 1781, 245 41 |
| July | 15 | 5711 | <i>a</i> John Scarborough, - | Private, 1st regiment light dragoons, | May 21, 1783, 176 31 |
| | 15 | 5713 | <i>a</i> Jacob Meadows, - | Private, 3d South Carolina regiment, | July 1, 1781, 229 08 |
| | 15 | 5713 | <i>a</i> George Carter, - | Private, 3d South Carolina regiment, | July 1, 1781, 185 98 |
| | 15 | 5713 | <i>a</i> James Jennings, - | Private, 3d South Carolina regiment, | July 1, 1781, 230 16 |
| | 15 | 5719 | <i>a</i> Samuel Johnston, - | Private and sergeant, 1st S. C. reg't, | July 1, 1781, 262 59 |
| | 15 | 5713 | <i>a</i> Reason Jenkins, - | Private, 3d South Carolina regiment, | July 1, 1781, 184 60 |
| | 15 | 5737 | <i>a</i> Hugh McDowell, - | Matross, Harrison's artillery, - | August 1, 1780, 233 47 |
| | 16 | 5712 | <i>b</i> Maxcey Ewell, - | In the com. and quartermaster's dep. | March 10, 1782, 838 53 |
| | 18 | 5738 | <i>a</i> Johnson Elkins, - | Corporal and sergeant, 3d S. C. reg't, | July 1, 1781, 335 41 |
| | 18 | 5739 | <i>a</i> Jesse Caskins, - | Private, 15th Virginia regiment, - | July 1, 1781, 309 57 |
| | 18 | 5750 | <i>a</i> John Thumb, - | Ensign, 11th Pennsylvania regiment, | Nov. 24, 1778, 68 00 |
| | 22 | 5753 | <i>a</i> Benjamin Fatheree, - | Quartermaster sergeant, 3d S. C. reg. | Nov. 16, 1783, 144 67 |
| | 22 | 5754 | <i>a</i> Edward Larkin, - | Private, 1st Virginia regiment, - | July 14, 1783, 203 33 |
| | 22 | 5735 | <i>a</i> Andrew Welch, - | Private, 6th Virginia regiment, - | April 16, 1782, 461 00 |
| | 23 | 5772 | <i>a</i> John Bush, - | Lieutenant, 2d South Carolina reg't, | Oct. 10, 1780, 373 33 |
| | 24 | 3823 | <i>a</i> Alexander Dow, - | Lieutenant, Colonel Malcolm's reg't, | August 1, 1780, 9 62 |
| | 28 | 5773 | <i>a</i> Edmund Davis, - | Private, 1st South Carolina regiment, | July 1, 1781, 270 69 |
| | 28 | 5774 | <i>a</i> James Hayes, - | Private, 3d South Carolina regiment, | August 1, 1780, 136 38 |
| | 28 | 5785 | <i>a</i> George Brown, - | Private, 7th Maryland regiment, - | Sept. 1, 1780, 170 40 |
| August | 5 | 5772 | <i>a</i> John Bush, - | Lieutenant, seven years' half-pay, - | Oct. 10, 1786, 746 07 |
| | 13 | 5828 | <i>b</i> James Weir, - | - | Dec. 1, 1780, 122 00 |
| | 18 | 5842 | <i>a</i> James Rogers, - | Master, Providence, - | May 10, 1779, 72 52 |
| | 19 | 5855 | <i>a</i> John Wingate, - | Private, Virginia line, - | July 1, 1781, 92 45 |
| | 27 | 5872 | <i>a</i> William A. Needham, - | Sergeant, 4th Maryland regiment, - | Nov. 16, 1783, 80 00 |
| | 29 | 5888 | <i>b</i> Thomas Smith, - | Deputy commissary military stores, | Aug. 18, 1781, 271 27 |
| Sept. | 2 | 2792 | <i>a</i> Samuel Dixon, - | Private, 4th Pennsylvania regiment, | Jan. 1, 1777, 3 69 |
| | 5 | 5904 | <i>a</i> Richard Cozzens, - | Private and musician, R. Island line, | May 16, 1781, 233 60 |
| | 5 | 5904 | <i>a</i> Richard Hazzard, - | Private, Rhode Island line, - | Feb. 1, 1781, 266 11 |
| | 5 | 5904 | <i>a</i> Prince Vaughn, - | Private, Rhode Island line, - | Mar. 27, 1781, 341 53 |
| | 5 | 5904 | <i>a</i> Cato Green, - | Private, Rhode Island line, - | Mar. 27, 1781, 340 09 |
| | 5 | 5904 | <i>a</i> York Champlin, - | Private, Rhode Island line, - | Mar. 27, 1781, 338 91 |
| | 5 | 5904 | <i>a</i> Cuff Greene, - | Private, Rhode Island line, - | Mar. 30, 1781, 327 11 |
| | 5 | 5904 | <i>a</i> Primus Babcock, - | Private, Rhode Island line, - | Mar. 27, 1781, 339 30 |
| | 5 | 5904 | <i>a</i> Henry Tabor, - | Private, Rhode Island line, - | Mar. 27, 1781, 359 86 |
| | 5 | 5904 | <i>a</i> Cato Varnum, - | Private, Rhode Island line, - | April 12, 1781, 285 41 |
| | 5 | 5904 | <i>a</i> Scipio Brown, - | Private, Rhode Island line, - | Mar. 27, 1781, 334 46 |
| | 5 | 5904 | <i>a</i> Ichabod Northup, - | Private, Rhode Island line, - | Mar. 27, 1781, 340 62 |
| | 5 | 5904 | <i>a</i> Cæsar Updike, - | Private, Rhode Island line, - | Mar. 27, 1781, 338 91 |
| | 5 | 5904 | <i>a</i> Philo Philips, - | Private, Rhode Island line, - | Mar. 27, 1781, 338 91 |
| | 5 | 5904 | <i>a</i> Jack Watson, - | Private, Rhode Island line, - | Mar. 27, 1781, 340 22 |
| | 5 | 5904 | <i>a</i> Cæsar Sabines, - | Private, Rhode Island line, - | Nov. 16, 1780, 220 55 |
| | 5 | 5904 | <i>a</i> Guy Watson, - | Private, Rhode Island line, - | Mar. 26, 1781, 342 31 |
| | 5 | 5904 | <i>a</i> Prince Bent, - | Private, Rhode Island line, - | Mar. 26, 1781, 339 30 |
| | 10 | 5925 | <i>a</i> Edward Collins, - | Private, 6th Maryland regiment, - | Nov. 1, 1780, 165 42 |
| | 10 | 5925 | <i>a</i> William Ford, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 181 15 |
| | 10 | 5926 | <i>a</i> William Scot, - | Private, 3d South Carolina regiment, | July 1, 1781, 219 72 |
| | 10 | 5926 | <i>a</i> Joseph Williams, - | Private, 3d South Carolina regiment, | July 1, 1781, 219 72 |
| | 17 | 5939 | <i>a</i> Francis Monty, - | Lieutenant, Col. Hazen's regiment, | Mar. 4, 1789, 654 21 |
| October | 1 | 5940 | <i>a</i> George Johnston, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 165 42 |
| | 1 | 5941 | <i>a</i> John Johnston, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 162 54 |
| | 1 | 5942 | <i>a</i> Jacob Johnston, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 222 67 |
| | 1 | 5944 | <i>a</i> John Thompson, - | Sergeant, 6th South Carolina regiment, | July 1, 1781, 293 33 |
| | 1 | 5963 | <i>a</i> Lewis Farmer, - | Lt. Col. 13th Pennsylvania regiment, | Jan. 1, 1778, 59 88 |
| | 18 | 6044 | <i>a</i> Edward Davis, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 163 33 |
| | 18 | 6048 | <i>a</i> Alexander Adamson, - | Drummer, 4th Maryland regiment, | Sept. 1, 1780, 166 86 |
| | 18 | 6049 | <i>a</i> Evan Davis, - | Private, 7th Maryland regiment, - | Sept. 1, 1780, 165 59 |
| | 22 | 6060 | <i>a</i> Thomas Jones, - | Dragoon, Pulasky's legion, - | Jan. 1, 1777, 111 10 |
| Nov. | 5 | 6103 | <i>a</i> George Adamson, - | Private, 4th Maryland regiment, - | Sept. 1, 1780, 239 25 |
| | 5 | 6108 | <i>a</i> William Ward, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 209 78 |
| | 5 | 6109 | <i>a</i> Joseph Hall, - | Musician, Maryland line, - | Sept. 1, 1780, 224 16 |
| | 5 | 6110 | <i>a</i> James Green, - | Private, 4th Maryland regiment, - | Sept. 1, 1780, 185 36 |
| | 6 | 6111 | <i>a</i> John Duffey, - | Private, 7th Maryland regiment, - | Sept. 1, 1780, 224 23 |
| | 7 | 6112 | <i>b</i> William Calder, - | Supplies at Springfield, Mass., - | June 20, 1778, 37 14 |
| | 10 | 6114 | <i>a</i> Charles Taylor, - | Matross, 4th South Carolina regiment, | Aug. 1, 1780, 241 28 |
| | 10 | 6117 | <i>a</i> Joshua Lee, - | Private, Virginia light dragoons, - | July 1, 1783, 234 17 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------|----------------------------------|---|-------------------------------|
| 1794. | | | | | |
| Nov. | 12 | 5557 | <i>a</i> John Marr, - | Private, 7th indep. Maryland comp'y. | Jan. 1, 1777, \$ 29 55 |
| | 12 | 5557 | <i>a</i> Edward Marr, - | Private, 7th indep. Maryland comp'y. | Jan. 1, 1777, 29 55 |
| | 20 | 6132 | <i>a</i> Lawrence Murray, - | Private, 1st South Carolina regiment, | July 1, 1781, 270 69 |
| | 20 | 6135 | <i>a</i> George Harkness, - | Sergeant-major, 6th and 1st S. C. reg. | July 1, 1781, 360 18 |
| | 20 | 6136 | <i>a</i> Jacob Barr, - | Quartermaster sergeant, 1st S. C. reg. | July 1, 1781, 360 18 |
| | 20 | 6131 | <i>a</i> John White, - | Private, 1st South Carolina regiment, | July 1, 1781, 270 69 |
| | 22 | 6138 | <i>a</i> Nathan Wright, - | Private, 1st Virginia regiment, | July 1, 1781, 170 88 |
| | 24 | 6147 | <i>a</i> Stephen Sampson, - | Supplies at Boston, - | April 1, 1779, 34 06 |
| | 26 | 6153 | <i>a</i> Thomas Waters, - | Private and drummer, 4th S. C. reg. | July 1, 1781, 273 78 |
| | 26 | 6152 | <i>b</i> William Steger, - | Assist. com. of issues, Petersburg, Va. | April 1, 1782, 630 00 |
| | 29 | 6169 | <i>a</i> Timothy Shean, - | Private, 4th Maryland regiment, - | Sept. 1, 1780, 239 24 |
| | 29 | 6170 | <i>a</i> George Conner, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 216 39 |
| | 29 | 6176 | <i>a</i> John Smith, - | Private and serg., 1st S. C. regiment, | July 1, 1781, 134 35 |
| Dec. | 1 | 6171 | <i>a</i> William Williams, - | Private, 4th Maryland regiment, - | Sept. 1, 1780, 165 54 |
| | 1 | 6172 | <i>a</i> Daniel Coffee, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 239 24 |
| | 3 | 6175 | <i>a</i> John Maltimer, - | Fifer, 7th Maryland regiment, - | Sept. 1, 1780, 227 97 |
| | 3 | 6177 | <i>a</i> John James, - | Private, 1st Maryland regiment, - | Sept. 1, 1780, 228 57 |
| | 3 | 6178 | <i>a</i> Martin Alcock, - | Private, 4th Maryland regiment, - | Sept. 1, 1780, 210 25 |
| | 3 | 6163 | <i>b</i> Joseph Watkins, - | Commissary military stores, - | Feb. 20, 1779, 8 19 |
| | 5 | 6191 | <i>a</i> Robert Kennedy, - | Private, 3d South Carolina regiment, | July 1, 1781, 228 43 |
| | 5 | 6197 | <i>a</i> Edward Ellis, - | Private, 3d South Carolina regiment, | July 1, 1781, 230 61 |
| | 6 | 6199 | <i>a</i> Henry Goosemould, - | Private, 3d South Carolina regiment, | July 1, 1781, 182 09 |
| | 6 | 3892 | <i>a</i> Henry Allis, - | Captain, 3d Pennsylvania regiment, | March 14, 1779, 43 15 |
| | 16 | 6229 | <i>a</i> Robert Bromell, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 239 25 |
| | 16 | 6229 | <i>a</i> John Bransfield, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 239 25 |
| | 16 | 6236 | <i>a</i> John Stagg, Jun. - | Lieutenant Spence's regiment, - | Jan. 7, 1783, 1,763 97 |
| | 17 | 6232 | <i>b</i> Pardon Gray, - | Assistant commissary of issues, - | Nov. 18, 1777, 795 20 |
| | 17 | 6232 | <i>b</i> Stephen Smith, - | Assistant commissary of issues, - | Nov. 17, 1777, 381 54 |
| | 17 | 6221 | <i>b</i> Stephen Mumford, - | Assistant commissary of issues, - | Nov. 17, 1777, 21 46 |
| | 17 | 6225 | <i>a</i> John Chark, - | Sergeant, 1st Virginia regiment, - | May 1, 1781, 58 33 |
| | 17 | 6225 | <i>a</i> Edward Sims, - | Private, 1st Virginia regiment, - | Oct. 1, 1781, 159 50 |
| | 17 | 6227 | <i>a</i> James Hamilton, Jun. - | Sergeant, 1st South Carolina regiment, | July 1, 1781, 352 35 |
| | 17 | 6227 | <i>a</i> John Nicholson, - | Sergeant, 1st South Carolina regiment, | July 1, 1781, 352 35 |
| | 17 | 6226 | <i>a</i> John White, - | Private, 3d and 4th S. C. regiments, | July 1, 1781, 219 72 |
| | 17 | 6226 | <i>a</i> James Hannah, - | Matross, 3d and 4th S. C. regiments, | July 1, 1781, 165 69 |
| | 17 | 6226 | <i>a</i> William Westcoat, - | Matross, 3d and 4th S. C. regiments, | July 1, 1781, 165 69 |
| | 17 | 6226 | <i>a</i> Joseph Sims, - | Matross, 3d and 4th S. C. regiments, | July 1, 1781, 165 69 |
| | 17 | 6226 | <i>a</i> John Wilson, - | Fifer, 3d and 4th S. C. regiments, - | July 1, 1781, 172 26 |
| 1795. | | | | | |
| Jan. | 2 | 6265 | <i>a</i> Grafton Gatewood, - | Private, Washington's dragoons, - | April 12, 1782, 231 12 |
| | 2 | 6272 | <i>a</i> John Steed, - | Captain, 4th Virginia regiment, - | Feb. 2, 1783, 2,560 00 |
| | 2 | 6245 | <i>a</i> John Cowen, - | Seaman, frigate Boston, - | July 16, 1780, 67 68 |
| | 2 | 6246 | <i>a</i> James Irons, - | Marine, Providence, - | July 11, 1780, 50 95 |
| | 2 | 6247 | <i>a</i> John Davis, - | Marine, Providence, - | July 11, 1780, 56 33 |
| | 2 | 6248 | <i>a</i> Willard Eddy, - | Landsman, Boston, - | July 16, 1780, 51 15 |
| | 2 | 6261 | <i>a</i> Benjamin Sherburn, - | Gunner, 4th South Carolina regiment, | July 1, 1781, 172 33 |
| | 3 | 6275 | <i>a</i> Jesse Rowel, - | Private, 1st North Carolina regiment, | July 1, 1781, 302 15 |
| | 8 | 6277 | <i>a</i> Gideon Davis, - | Marine, Providence, - | July 11, 1780, 55 56 |
| | 8 | 6278 | <i>a</i> Jeremiah Davis, - | Marine, Providence, - | July 11, 1780, 55 48 |
| | 19 | 6347 | <i>a</i> William Mallone, - | Private, 4th South Carolina regiment, | July 11, 1781, 241 66 |
| | 19 | 6351 | <i>a</i> William I. Baldwin, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 243 40 |
| | 19 | 6352 | <i>a</i> James Carman, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 234 64 |
| | 19 | 6353 | <i>a</i> William Atkinson, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 225 93 |
| | 20 | 6354 | <i>a</i> Robert Crawford, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 27 | 6366 | <i>a</i> Patrick Carney, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 223 78 |
| | 27 | 6367 | <i>a</i> George Duvall, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 27 | 6368 | <i>a</i> James Wade, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 30 | 6399 | <i>a</i> Christian Tapperwine, - | Private, 1st New York regiment, - | Mar. 23, 1782, 537 27 |
| | 31 | 6396 | <i>a</i> Owen Sweeny, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 164 71 |
| | 31 | 6400 | <i>a</i> Patrick Cannon, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 211 87 |
| | 31 | 6401 | <i>a</i> Fortunatus Stringer, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 203 78 |
| Feb. | 2 | 6402 | <i>a</i> Michael Collins, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 168 81 |
| | 2 | 6404 | <i>a</i> David Clark, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 232 11 |
| | 3 | 6405 | <i>a</i> Moses Start, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 237 06 |
| | 3 | 6406 | <i>a</i> Michael Palmer, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 221 40 |
| | 3 | 6407 | <i>a</i> James Carty, - | Private, 7th Maryland regiment, - | Sept. 1, 1780, 203 76 |
| | 3 | 6408 | <i>a</i> John Walker, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 223 78 |
| | 3 | 6409 | <i>a</i> James Collins, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 247 75 |
| | 4 | 6411 | <i>a</i> John Forbes, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 208 03 |
| | 4 | 6413 | <i>a</i> Thomas Wright, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 163 12 |
| | 4 | 6414 | <i>a</i> Peter Swanton, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 216 00 |
| | 4 | 6415 | <i>a</i> Henry Grantham, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 167 71 |
| | 4 | 6416 | <i>a</i> Samuel Walker, - | Private, 6th Maryland regiment, - | Sept. 1, 1780, 246 81 |
| | 5 | 6435 | <i>a</i> James Motes, - | Private, 3d South Carolina regiment, | Sept. 1, 1780, 232 72 |
| | 11 | 6462 | <i>a</i> Prince Coleman, - | Seaman, frigate Boston, - | July 16, 1780, 58 01 |
| | 11 | 6463 | <i>a</i> Zaccheus Swain, - | Seaman, frigate Boston, - | July 16, 1780, 55 50 |
| | 12 | 6472 | <i>a</i> William Mackey, - | Assistant commissioner of hides, - | Sept. 18, 1779, 457 04 |
| | 20 | 6433 | <i>a</i> John Corker, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 161 13 |
| | 20 | 6434 | <i>a</i> Thomas Covenah, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 20 | 6436 | <i>a</i> William Baker, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 21 | 6465 | <i>a</i> Michael Cline, - | Private, 6th Maryland regiment, - | May 1, 1781, 142 48 |
| | 21 | 6466 | <i>a</i> William Jones, - | Private, 3d Maryland regiment, - | Sept. 1, 1780, 203 78 |
| | 21 | 6468 | <i>a</i> Michael Craig, - | Private, 3d Maryland line, - | Sept. 1, 1780, 265 59 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------|---------------------------------|--|-------------------------------|
| 1795. | | | | | |
| Feb. | 21 | 6468 | <i>a</i> Benjamin Crothell, - | Private, Maryland line, - | Sept. 1, 1780, \$184 52 |
| | 21 | 6489 | <i>b</i> John Bryant, - | Deputy commissary of military stores, - | Oct. 1, 1785, 906 37 |
| | 23 | 6488 | <i>b</i> Luke Bliss, - | Commissary of military stores, - | Aug. 17, 1782, 121 36 |
| | 24 | 6482 | <i>a</i> William Galvan, - | Major and brigade inspector, - | Mar. 27, 1782, 65 00 |
| | 25 | 6483 | <i>a</i> John Meaderis, - | Captain N. Carolina line. commuta. - | Mar. 22, 1783, 2,400 00 |
| | 27 | 6507 | <i>b</i> Thomas Smith, - | Assist. dep. quartermaster general, - | May 1, 1780, 468 60 |
| | 27 | 6507 | <i>b</i> George Funk, - | Bal. due on set. of T. Smith's acc't, - | May 1, 1780, 276 53 |
| | 27 | 6507 | <i>b</i> Thomas Coulter, - | Bal. due on set. of T. Smith's acc't, - | May 1, 1780, 198 37 |
| | 28 | 6507 | <i>b</i> Charles Clinton, - | Bal. due on set. of T. Smith's acc't, - | May 1, 1780, 629 75 |
| | 28 | 6507 | <i>b</i> Robert Wilson, - | Bal. due on set. of T. Smith's acc't, - | May 1, 1780, 207 43 |
| | 28 | 6507 | <i>b</i> William Gordon, - | Bal. due on set. of T. Smith's acc't, - | May 1, 1780, 85 32 |
| | 28 | 6527 | <i>a</i> Argus McLean, - | Private, corps sappers and miners, - | July 1, 1783, 254 43 |
| March | 2 | 6507 | <i>b</i> Abraham Cable, - | Bal. due on set. of T. Smith's acc't, - | May 1, 1780, 60 00 |
| | 3 | 6528 | <i>a</i> James Brigland, - | Private, 12th Virginia regiment, - | Sept. 1, 1780, 242 90 |
| | 5 | 6539 | <i>a</i> John Loving, - | Private, North Carolina line, - | Nov. 16, 1783, 68 89 |
| | 6 | 6540 | <i>a</i> Joseph Swage, - | Private, North Carolina line, - | Nov. 16, 1783, 68 89 |
| | 6 | 6412 | <i>a</i> John Snelson, - | Private, Virginia line, - | Jan. 1, 1782, 90 00 |
| | 6 | 6412 | <i>a</i> Charles Snelson, - | Private, Virginia line, - | Jan. 1, 1782, 90 00 |
| | 6 | 6541 | <i>a</i> Julius Holland, - | Private, light dragoons, - | Nov. 16, 1783, 104 64 |
| | 6 | 6543 | <i>a</i> Edward Brown, - | Private, 1st South Carolina regiment, - | Nov. 16, 1783, 30 23 |
| | 6 | 6544 | <i>a</i> John Southard, - | Private, light dragoons, - | July 6, 1783, 243 93 |
| | 9 | 6553 | <i>a</i> Benjamin Biggs, - | Private, 7th Maryland regiment, - | Sept. 1, 1780, 172 25 |
| | 14 | 2792 | <i>a</i> John Taggart, - | Private, 4th Pennsylvania regiment, - | Jan. 1, 1777, 16 59 |
| April | 2 | 6614 | <i>a</i> Jacob Apply, - | Private, 1st South Carolina regiment, - | July 1, 1781, 270 69 |
| | 2 | 6613 | <i>a</i> Aaron Tilley, - | Private, 1st South Carolina regiment, - | July 1, 1781, 270 69 |
| | 3 | 6611 | <i>a</i> Thomas Crow, - | Private and fifer, 6th and 1st South Carolina regiments, - | July 1, 1781, 284 23 |
| | 6 | 6642 | <i>a</i> John Hall, - | Private, 5th S. C. regiment, - | July 1, 1781, 225 96 |
| | 6 | 6643 | <i>a</i> Francis Archer, - | Private, 5th S. C. regiment, - | July 1, 1781, 270 69 |
| | 25 | 6727 | <i>a</i> William Satterfield, - | Corporal and sergeant, 7th Md. reg't, - | Sept. 1, 1780, 256 74 |
| | 27 | 6728 | <i>a</i> William Foster, - | Corporal and sergeant, 5th Md. reg't, - | Sept. 1, 1780, 290 69 |
| | 27 | 6729 | <i>a</i> Richard Turner, - | Corporal and sergeant, 3d Md. reg't, - | Sept. 1, 1780, 280 75 |
| | 27 | 6730 | <i>a</i> Thomas Miles, - | Corporal and sergeant, and private, 5th Maryland regiment, - | Sept. 1, 1780, 269 42 |
| May | 1 | 6744 | <i>a</i> Elijah Jones, - | Lieut., Col. Sheldon's light dragoons, - | Mar. 2, 1789, 533 33 |
| | 11 | 6771 | <i>b</i> Richard Mallour, - | Supplies, - | April 1, 1780, 30 35 |
| | 19 | 6784 | <i>a</i> William Rappeto, - | Private, 10th Virginia regiment, - | July 1, 1781, 309 57 |
| | 19 | 6783 | <i>a</i> Luke Bready, - | Private, 3d Virginia regiment, - | Aug. 1, 1780, 220 40 |
| | 23 | 3471 | <i>b</i> Samuel McNeal, - | Huntington cavalry, Pennsylvania, - | Nov. 24, 1777, 44 00 |
| | 29 | 6824 | <i>a</i> John Tinley, - | Matross, 4th S. Carolina regiment, - | July 1, 1781, 354 61 |
| June | 5 | 6850 | <i>a</i> Hugh Conner, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 157 54 |
| | 8 | 6859 | <i>a</i> Richard Tenlinson, - | Private, 5th S. Carolina regiment, - | Dec. 17, 1781, 460 72 |
| | 9 | 6856 | <i>a</i> Thomas Reynolds, - | Private, 5th Maryland regiment, - | Sept. 1, 1780, 99 16 |
| | 9 | 6857 | <i>a</i> Thomas Hayes, - | Private, 7th Maryland regiment, - | Sept. 1, 1780, 238 34 |
| | 15 | 6878 | <i>b</i> William Tissue, - | Foragemaster, under T. Smith, - | Aug. 1, 1780, 172 84 |
| August | 7 | 7085 | <i>a</i> Shadrack Pearson, - | Private, 1st Virginia regiment, - | Aug. 6, 1782, 420 19 |
| | 7 | 7086 | <i>a</i> John Bateman, - | Private, 1st Virginia regiment, - | Aug. 3, 1782, 421 92 |
| | 11 | 7089 | <i>a</i> Jonathan Taylor, - | Private, 3d Virginia light dragoons, - | July 1, 1781, 375 11 |
| | 11 | 7090 | <i>a</i> Peter Thomas, - | Private, 1st Virginia light dragoons, - | Nov. 16, 1783, 19 64 |
| | 11 | 7091 | <i>a</i> Robert Nixon, - | Sergeant, North Carolina line, - | June 8, 1782, 621 32 |
| | 18 | 7120 | <i>a</i> Nath. Dobbes, - | Private, 1st regiment light dragoons, - | Nov. 16, 1783, 19 64 |
| | 19 | 7081 | <i>b</i> Benjamin Flowers, - | Com. general military stores, - | April 28, 1781, 702 41 |
| Sept. | 2 | 7149 | <i>a</i> James Rice, - | Private, 6th South Carolina regiment, - | July 1, 1781, 270 69 |
| | 2 | 7150 | <i>a</i> Nath. Evans, - | Private, 6th South Carolina regiment, - | July 1, 1781, 150 51 |
| | 2 | 7151 | <i>a</i> John Vickers, - | Private, 1st Virginia regiment, - | Sept. 1, 1781, 452 62 |
| Nov. | 26 | 7370 | <i>a</i> Thomas Ostander, - | Lieutenant, 3d New York regiment, - | June 1, 1778, 64 00 |
| Dec. | 2 | 7383 | <i>a</i> Robert Sisson, - | Private and sergeant, 2d Virginia reg. - | July 1, 1781, 294 47 |
| | 4 | 7385 | <i>a</i> James Thomas, - | Private, 1st South Carolina regiment, - | Aug. 1, 1780, 180 02 |
| | 5 | 7386 | <i>a</i> Joseph Maguis, - | Private, 6th South Carolina regiment, - | Aug. 1, 1780, 59 85 |
| | 7 | 7390 | <i>a</i> Richard Wild, - | Lieutenant, Delaware regiment, - | Aug. 15, 1778, 79 02 |
| | 8 | 7392 | <i>a</i> Daniel Gibson, - | Private, 3d South Carolina regiment, - | July 1, 1781, 230 61 |
| | 8 | 7394 | <i>a</i> Charles Burnham, - | Matross and gunner, 4th S. C. reg't, - | Aug. 1, 1780, 249 84 |
| | 8 | 7393 | <i>a</i> Philip Caise, - | Private, 4th South Carolina regiment, - | July 1, 1781, 197 04 |
| | 9 | 7396 | <i>b</i> James McAllester, - | Commissary of purchases, - | Aug. 3, 1779, 233 50 |
| 1796. | | | | | |
| Jan. | 13 | 7538 | <i>a</i> Berry Shields, - | Dragoon, Lieut. Col. Lee's legion, - | April 22, 1783, 154 17 |
| | 18 | 7550 | <i>a</i> Nicholas Coombs, - | Private, 1st Maryland regiment, - | June 1, 1781, 136 39 |
| Feb. | 18 | 7614 | <i>a</i> Frederick Sponseler, - | Private, 5th South Carolina regiment, - | Aug. 1, 1780, 179 81 |
| March | 10 | 7715 | <i>a</i> John Webb, - | Lieutenant colonel, Virginia line, - | Mar. 22, 1783, 3,483 89 |
| | 14 | 7723 | <i>a</i> James Ross, - | Lt. Colonel 8th Pennsylvania reg't, - | Oct. 1, 1777, 209 50 |
| April | 8 | 7660 | <i>a</i> Hannes Hake, - | Private, 3d South Carolina regiment, - | Aug. 1, 1780, 94 73 |
| | 8 | 7662 | <i>a</i> William Crim, - | Private, 6th South Carolina regiment, - | Aug. 1, 1780, 95 15 |
| | 11 | 7801 | <i>a</i> Richard Joy, - | Private, Virginia line, - | May 30, 1783, 150 00 |
| | 20 | 7811 | <i>a</i> William Stevenson, - | Lieut., Col. Harrison's regiment, - | Mar. 23, 1783, 2,000 00 |
| | 20 | 7789 | <i>b</i> Jacob Morgan, - | Deputy quartermaster general, - | Jan. 1, 1781, 248 06 |
| | 28 | 7813 | <i>a</i> Richard Rhodes, - | Private, Rhode Island line, - | April 10, 1781, 292 99 |
| | 28 | 7812 | <i>a</i> Sampson Hazard, - | Private, Rhode Island line, - | Mar. 26, 1781, 340 36 |
| May | 2 | 7850 | <i>a</i> Isaac Artis, - | Private, Grayson's regiment, - | Aug. 1, 1780, 207 49 |
| | 10 | 7889 | <i>a</i> Christopher Gooden, - | Captain, - | Mar. 4, 1789, 480 00 |
| | 10 | 7899 | <i>b</i> John Estis, - | Assistant commissary of purchases, - | Sept. 1, 1780, 204 41 |
| | 23 | 7932 | <i>a</i> Charles Motte, - | Major, 2d South Carolina regiment, - | Oct. 10, 1786, 2,100 00 |
| | 23 | 7918 | <i>a</i> John Clary, - | Private, Virginia regiment, - | Aug. 1, 1780, 202 32 |
| | 24 | 7917 | <i>a</i> Pero Mowrey, - | Private and corporal, R. I. line, - | Mar. 31, 1781, 355 39 |

STATEMENT—Continued.

| Date of certificate. | No. of statement | Names. | Service. | Interest commencing | Amount of certificate issued. |
|----------------------|------------------|--------------------------------|--|---------------------|-------------------------------|
| 1796. | | | | | |
| June 17 | 7418 | <i>a</i> Henry Covington, - | Private, 3d South Carolina regiment. | Aug. 1, 1780, | \$92 42 |
| 17 | 7426 | <i>a</i> Miles Jackson, - | Private, 3d South Carolina regiment, | Aug. 1, 1780, | 90 38 |
| 17 | 7417 | <i>a</i> James Kirkpatrick, | Private, 3d South Carolina regiment, | Aug. 1, 1780, | 92 63 |
| 17 | 7400 | <i>a</i> Abraham Miller, - | Private, 3d South Carolina regiment, | Aug. 1, 1780, | 86 86 |
| 17 | 7411 | <i>a</i> John Miller, - | Private, 3d South Carolina regiment, | Aug. 1, 1780, | 94 33 |
| 17 | 7416 | <i>a</i> Benjamin Holly, -- | Private, 3d South Carolina regiment, | Aug. 1, 1780, | 130 93 |
| 17 | 7398 | <i>a</i> Absalom Wafford, - | Private, 1st South Carolina regiment, | Aug. 1, 1780, | 176 56 |
| 17 | 7397 | <i>a</i> William Wafford, - | Corporal, 6th South Carolina regiment, | Aug. 1, 1780, | 65 75 |
| August 18 | 8129 | <i>b</i> John Pryor, - | Deputy commissary of military stores, | Aug. 19, 1781, | 120 68 |
| 18 | 7982 | <i>b</i> Donaldson Yeates, - | Deputy quartermaster general, - | Dec. 11, 1783, | 2,232 80 |
| 24 | 3185 | <i>a</i> Azor Bagley, - | Private, 2d New York regiment, - | Dec. 1, 1783, | 66 66 |
| 24 | 3185 | <i>a</i> Azor Bagley, - | Private, 2d New York regiment, - | July 1, 1784, | 8 98 |
| 24 | 3185 | <i>a</i> Thomas Jones, - | Private, 2d New York regiment, - | July 1, 1783, | 73 33 |
| Sept. 6 | 3185 | <i>a</i> Willet Carrman, - | Private, 2d New York regiment, - | July 1, 1783, | 80 59 |
| 6 | 3185 | <i>a</i> Isaac Ford, - | Private, 2d New York regiment, - | Dec. 1, 1783, | 66 66 |
| 10 | 8227 | <i>a</i> Caleb Breuster, - | Lieutenant, Col. Lamb's regiment, | Mar. 4, 1789, | 1,066 67 |
| 1797. | | | | | |
| Feb. 21 | 8649 | <i>a</i> Henry Crook, - | Private, U. S. service, - | Mar. 5, 1789, | 197 11 |
| March 8 | 8679 | <i>a</i> John Gorman, - | Private, U. S. service, - | Mar. 5, 1789, | 125 00 |
| July 3 | 8627 | <i>b</i> Mat. Williamson, Jun. | Assistant quartermaster, - | Sept. 1, 1780, | 197 16 |
| 11 | 9040 | <i>a</i> Samuel Brown, - | Matross, Harrison's artillery, - | July 1, 1783, | 234 00 |
| 22 | 9072 | <i>a</i> Francis S. Debevier, | Surgeon's mate, 7th Mass. regiment, | Nov. 4, 1783, | 1,478 80 |
| 1798. | | | | | |
| Feb. 5 | 7042 | <i>b</i> William McCraw, - | Assistant dep. quartermaster general, | July 1, 1782, | 912 06 |
| June 7 | 9409 | <i>a</i> James Melvin, - | Matross, - | Nov. 4, 1783, | 158 67 |

NOTE.—The foregoing statement includes not only the certificates of registered debt, issued under the act of 27th March, 1792, providing for the settlement of the claims of persons under particular circumstances barred by the acts of limitations, but, also, such as were issued under the act of 12th February, 1793, because, in the Treasury statements, there was not any designation to which act the claim related, in point of a removal of the bar to settlement. The statement is, therefore, a record of all the registered debt certificates, issued under those acts indefinitely. But, as the act of 27th March, 1792, has a special reference to the claims of "any officer, soldier, artificer, sailor, or marine, of the late army or navy of the United States, for personal services rendered to the United States, in the military or naval departments," such as come under this designation, in the foregoing list, are marked *a*; those not coming under that description are marked *b*.

TREASURY DEPARTMENT, REGISTER'S OFFICE, September 29, 1810.

JOSEPH NOURSE, Register.

A.

ACTS OF LIMITATION.

RESOLUTIONS OF CONGRESS.

Resolution passed on November 2, 1785.

Resolved, That all persons having claims for services performed in the military department be directed to exhibit the same for liquidations to the commissioners of army accounts, on or before the 1st day of August ensuing the date hereof; and that all claims under the description above mentioned which may be exhibited after that period shall forever thereafter be precluded from adjustment or allowance; and that the commissioners of army accounts give public notice of this resolve in all the States for the term of six months.

Resolution passed on the 23d of July, 1787.

Resolved, That all persons having unliquidated claims against the United States pertaining to the late commissary's, quartermaster's, hospital, clothier's, or marine department, shall exhibit particular abstracts of such claims to the proper commissioner appointed to settle the accounts of those departments, within eight months from the date hereof; and all persons having other unliquidated claims against the United States shall exhibit a particular abstract thereof to the Comptroller of the Treasury of the United States, within one year from the date hereof; and all accounts not exhibited as aforesaid shall be precluded from settlement or allowance.

Extract of "An act providing for the settlement of the claims of persons under particular circumstances barred by the limitations heretofore established:" Passed 27th March, 1792.

Be it enacted, &c. That the operations of the resolutions of the late Congress of the United States passed on the 2d day of November, 1785, and the 23d day of July, 1787, so far as they have barred, or may be construed to bar, the claims of any officer, soldier, artificer, sailor, or marine of the late army or navy of the United States, for personal services rendered to the United States in the military or naval departments, shall, from and after the passing of this act, be suspended, for and during the term of two years.

Extract from "An act relative to claims against the United States not barred by any act of limitation, and which have not been already adjusted:" Passed 12th February, 1793.

Be it enacted, &c. That all claims upon the United States for services or supplies, or for other cause, matter, or thing furnished or done previous to the 4th day of March, 1789, whether founded upon certificates, or other written documents, from public officers, or otherwise, which have not already been barred by any act of limitation, and which shall not be presented at the Treasury before the 1st day of May, 1794, shall forever after be barred and precluded from settlement or allowance.

Extract from "An act limiting the time for presenting claims for destroyed certificates of certain descriptions:"
Passed 21st April, 1794.

Be it further enacted, &c. That all claims for the renewal of certificates of the unsubscribed debt of the United States of the descriptions commonly called "loan office certificates," or "final settlements," which have been accidentally destroyed, shall be forever barred and precluded from settlement or allowance, unless the same shall be presented at the Treasury on or before the 1st day of June, in the year 1795.

Extract from "An act making further provision for the support of public credit, and for the redemption of the public debt:" Passed March 3, 1795.

That all certificates, commonly called loan office certificates, final settlements, and indents of interest, which at the time of passing this act shall be outstanding, shall, on or before the 1st day of January, in the year 1797, be presented at the office of the Auditor of the Treasury of the United States, for the purpose of being exchanged for other certificates of equivalent value and tenor, or at the option of the holders thereof, respectively, to be registered at the said office, and returned; in which case it shall be the duty of the said Auditor to cause some durable mark or marks to be set on each certificate, which shall ascertain and fix its identity, and whether genuine, or counterfeit or forged; and every of the said certificates which shall not be presented at the said office within the said time shall be forever after barred or precluded from settlement or allowance.

Extract from "An act further extending the time for receiving, on loan, the domestic debt of the United States:"
Passed 19th February, 1796.

That the term for receiving, on loan, that part of the domestic debt of the United States which has not been subscribed in pursuance to the provisions heretofore made by law for that purpose, be, and the same is hereby, further extended until the 31st day of December next, on the same terms and conditions as are contained in the act entitled "An act making provision for the debt of the United States."

Extract from "An act respecting loan office and final settlement certificates, indents of interest, and the unfunded or registered debt credited in the books of the Treasury:" Passed 12th June, 1798.

That so much of the act entitled "An act making further provision for the support of public credit," passed the 3d day of March, 1795, as bars from settlement or allowance certificates commonly called loan office and final settlement certificates, and indents of interest, be, and the same is hereby, suspended, for the term of one year from and after the passing of this act.

Extract from "An act limiting the time within which claims against the United States for credits on the books of the Treasury may be presented for allowance:" Passed 9th July, 1798.

That all credits on the books of the Treasury of the United States for transactions during the late war, which, according to the course of the Treasury, have hitherto been discharged by issuing certificates of registered debt, shall be forever barred and precluded from settlement or allowance, unless claimed by the proper creditors, or their legal representatives, on or before the 1st day of March, in the year 1799.

11th CONGRESS.]

No. 217.

[3d SESSION.

CLAIMS OF AN OFFICER IN THE ARMY AFTER HIS COMMISSION HAD EXPIRED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 3, 1811.

SIR:

WAR DEPARTMENT, December 31, 1810.

In obedience to a resolution of the House of Representatives, of the 27th instant, referring the petition of Jervis Cutler to the Secretary of War, he has the honor to report: That the said Jervis Cutler was, on the 3d of May, 1808, appointed, by the President of the United States, to a captaincy in the 7th regiment of infantry, of which he accepted on the 24th of May of the same year; that, not having been nominated to the Senate of the United States at their next session, he was informed by the Secretary of War, by a letter bearing date February 10, 1809, that his commission would expire on the 3d of March following, the day on which the Senate would probably close their session; that Captain Cutler not being considered *legally* in service after that period, his pay and emoluments could not be extended beyond that day; but their continuance to the end of his *actual* service, which, from his petition, appears to have been the 3d of June, 1809, and for such further time as would be sufficient for him to travel from New Orleans to the place of his residence, agreeably to the principles of the 24th section of the act fixing the military peace establishment, is reasonable and just.

All which is respectfully submitted.

W. EUSTIS.

The Hon. the SPEAKER of the House of Representatives.

11th CONGRESS.]

No. 218.

[3d Session.]

REIMBURSEMENT OF EXPENSES INCURRED BY WOUNDS RECEIVED IN THE
REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 7, 1811.

Mr. MILNOR, from the committee to whom was referred the petition of Captain Thomas Campbell, made the following report:

That it appears to your committee, that Captain Campbell was a brave and meritorious officer; that he served faithfully during the whole of the revolutionary war; that, in the course of that service, he was repeatedly and severely wounded; that those wounds have not only rendered him unable to gain a livelihood by manual labor, but have rendered his life a continued scene of suffering, and have subjected him to repeated and heavy expenses. The petitioner further states, that he has a wife and five children to provide for; and that, owing to his debility, and the heavy expenses to which he has been subjected in consequence of his wounds, he finds it difficult to provide a subsistence for them. Under these circumstances, the petitioner prays that the bounty and munificence of his country may be extended towards him, so as to render the decline of a life, which has been devoted to the service of his country, more comfortable than it will otherwise be.

Your committee conceive, that the heroes of the revolution who nobly stepped forward, and expended their blood, and sacrificed their healths, in defending their country's rights, have a strong claim upon the justice and liberality of the Government; and they believe few cases can arise exhibiting a stronger claim than that of the petitioner, when we consider the length and severity of his sufferings, and the heavy expenses to which they have subjected him. Under these impressions, the following resolution is submitted to the consideration of the House:

Resolved, That the sum of ——— dollars be granted to Captain Thomas Campbell, in consideration of the heavy expenses to which he has been subjected, in consequence of wounds received whilst in the service of his country in the revolutionary war.

11th CONGRESS.]

No. 219.

[3d Session.]

ACCOUNTS OF MAJOR GENERAL ANTHONY WAYNE.

COMMUNICATED TO THE SENATE, JANUARY 10, 1811.

Mr. GREGG, from the committee to whom was referred the memorial of Isaac Wayne, son and executor of the late Major General Anthony Wayne, praying relief in the settlement of his accounts with the United States, made the following report:

That they have considered the said memorial, in which are stated the several items, charged in the public accounts against the deceased, and from which the memorialist prays the estate of the deceased may be relieved; and several other items for which he conceives the deceased entitled to credit. That the grounds on which this relief and allowance are prayed for, being distinctly stated in the memorial, the committee desire it may be considered as a part of their report; adding only that they have examined voluminous documents produced by the memorialist, which confirm those statements. The committee being, therefore, of opinion that he is justly entitled to the relief and allowance prayed for, they further beg leave to report a bill for that purpose.

WASHINGTON, January 7, 1811.

To the honorable the Senate, and the honorable the House of Representatives of the United States of America in Congress assembled, humbly shows:

Isaac Wayne, son and executor of the late Major General Anthony Wayne, that his father, after a life distinguished by services rendered to the United States, died on the 15th day of December, 1796, at Fort Erie; that his letter-books and original entries, and most of his private papers, were, owing to the place and circumstances in which he died, wholly lost to his family, though every exertion has been made by his executor to recover them.

That soon after his death, your petitioner personally, and subsequently by letter, applied at the Department of War for a statement of his accounts; but owing to the obscurity and uncertainty in which they were enveloped by the place and circumstances of his father's death, he was never able to obtain such a statement; and in the daily hope that time would put into his possession satisfactory vouchers, to enable him to substantiate his claim for that balance, which, he had reason to believe, was due to him from the United States, he postponed an ultimate settlement. But in that hope he has been disappointed; and the Comptroller of the Treasury, having called upon him, through the district attorney of the United States, for the payment of an apparent balance, on the books of the Treasury, he is necessitated, for the allowance of claims resulting from evidence in the possession of your petitioner, (for which, however, the vouchers required by law, or official rules, are insufficient,) to resort to the justice and equity of the Congress of the United States; in the extension of which, towards him, he relies with full confidence, after the particulars on which his claim is founded have been distinctly spread before them.

This your petitioner solicits liberty to do, in the present memorial, not only out of regard to the interest of the heirs of General Wayne, who have a deep stake in the result, but also from respect to an officer not more distinguished for his courage and capacity in the field than for his delicacy and precision in all the pecuniary concerns of his department.

The difficulties attending the settlement of his accounts arise from three items, charged by the officers of the Treasury, erroneously, in the opinion of your petitioner, and by the refusal to allow certain claims for compensation and advances, just and necessary in their nature, though not supported by legal vouchers; the want of which results from the nature of the service, or the circumstances attending the death of General Wayne.

The first item, to which your petitioner objects, is a charge of \$629 11. This charge is founded on an order, drawn by General Wayne, in favor of Captain Zebulon Pike, a sub-legionary major *pro tempore*, which, according to the rules of the Department of War, cannot be allowed, there having been a sub-legionary major then existing. But your petitioner, to repel this charge, has this evidence: that Captain Isaac Guion, the regular sub-legionary major, was taken out of actual service by civil and military process; that the commander had an authority to supply the vacancy thus created; and that such appointment *pro tempore* took place, and was necessary, inasmuch as it was made in the month of May, 1794, when the army was about to march into the Indian country upon the great service of that year.

The second item of charge, to which your petitioner objects, amounts to \$205 04, and is founded on an order in favor of Major Thomas Hughes. This charge has been debited to General Wayne, because it was for pay and emoluments allowed to Hughes *after* resignation, to which time only, according to the rules of the office, he was entitled to them. To this your petitioner is enabled to reply: that, when Major Hughes resigned, he was in the Indian country, and that the allowance for pay and emoluments *after* that period was for the time necessary to enable him to reach the residence of his family; and that this allowance had always been made in like cases by the predecessors of General Wayne.

The third item is for meal, flour, liquor, and small parts of rations, drawn from the commissary general at Greenville, Miami, and Detroit, in August, September, and November, 1796, amounting to \$1,781 45. Concerning this charge, your petitioner has only to observe that General Wayne was, during those months, at those posts, surrounded by crowds of starving and necessitous Indians, which it was the policy of the United States, and his duty, not to allow to suffer while in their garrisons. From the time, manner, and place of General Wayne's death; from the known fact that he never drew, at any time during his command, public rations for his private table; from the long period which has elapsed without any fault of his representatives; and from the other circumstances in his case, your petitioner confidently relies that the accounting officers will be directed to credit General Wayne's estate for the full amount of this item.

The first claim for allowance made by your petitioner, as representative of General Wayne, and which the officers of the Treasury do not deem themselves authorized to pass to his credit, is a charge for compensation, as sole commissioner, appointed for negotiating a treaty with the western Indians. It appears by an account current, filed in the office of the Department of War, on the 4th of June, 1796, that General Wayne charged the United States with *five hundred and thirty-four days'* services, in that negotiation, at eight dollars the day, being the statute allowance; and that, by a certificate annexed, he declared upon honor, in these words, "that the sum mentioned for my actual service as sole commissioner to treat with the Indian tribes northwest of the Ohio, (and which I believe are made agreeably to the uniform usage and practice, and supported by precedent upon similar occasions,) would not compensate me for the extra labor and expenses necessarily attending that arduous and interesting business." The objection made against this allowance is founded on an opinion given, as is supposed, by one of the attorney generals of the United States objecting to the allowance, because General Wayne had not "*stated each day actually employed in pacific negotiation.*" To which the petitioner has only to reply that such a detailed statement was manifestly impossible. That General Wayne, during all that time, was employed in both the offices of commander-in-chief, and of commissioner; that he has it in his power to show that, from the day of his receiving his commission, to the day of his completing the treaty, he was engaged in successive acts of negotiation; and that it could not be expected, in such a service, that he should make a daily entry, when he made use of the sword, and when he presented the olive branch.

Your petitioner has also further to state, that General Wayne, immediately after filing the above account and making the above certificate, was ordered upon services of a secret and critical nature, and that he never afterwards returned to his family, dying in the western wilderness, as has been stated. All which circumstances being taken into your wise and just consideration, will, your petitioner confidently hopes, induce your honorable body to authorize the proper accounting officer to pass that sum also to the credit of General Wayne.

Another claim, resulting from the evidence in the possession of your petitioner, but which is legally insufficient to justify the officers of the Treasury in allowing it, is for the amount of \$1,500. The evidence on which this rests is a certificate of General Wayne, made on the 10th day of June, 1796, the day on which he left his family for the last time. It being precautionary in its nature, and for extra expenses on account of the Indians, at the treaty, while engaged as commissioner, your petitioner has no other voucher than that certificate, the known circumstances of that negotiation, and the express provisions of the act of Congress contemplating such an expenditure.

The last claim is for an allowance on account of moneys expended on the service in which he died, being for contingencies of secret service and the Indian department. It appears, by the certificate last mentioned, that, for those purposes, on the 8th day of June, 1796, General Wayne received from the Secretary of War \$3,000, for which he was to account. Your petitioner is prepared to prove, that, on the 10th of the same June, he proceeded to the execution of his orders, on a concern of a very delicate, confidential, and important nature; that he completed the objects of his mission; that, in the course of it, he must have expended considerable sums for the objects on account of which the advance was made; that the nature of the service made such advances inevitable; and that on the death of General Wayne, not a single dollar of money of any description was found in his possession.

When all these circumstances are taken into consideration; when the peculiar accuracy of his character, and his high principles of honor, in relation to public moneys intrusted to him, are recollected; when it is known that he was seized in the midst of actual service, in full health, by a disorder which, "at once disqualified him from speaking concerning all temporal concerns;" and that the time and place of his death have precluded absolutely his representatives from obtaining his letter books, and most of his private papers; your petitioner has an entire reliance that your honorable body will not deem a claim of an allowance, equal to the whole amount of the last-mentioned advance, inequitable or unreasonable.

Your petitioner could recur to other circumstances than those which are thus detailed in his petition. He could state that his father, after many years devoted to public service, without any charge of extravagance or dissipation in pecuniary concerns, left only to his children a real estate received from his ancestors. He could recur to the nature of those services, as eminent as they were useful; but to name them would be to intimate that they could be forgotten by his country. His son, your petitioner, can only express his perfect confidence that the wisdom and justice of the National Legislature will relieve the settlement of the account of so distinguished a citizen and soldier from merely formal embarrassments, and extend to it the principles of a liberal policy and extensive equity.

ISAAC WAYNE,

Legal representative of the late Major General Wayne.

11th CONGRESS.]

No. 220.

[3d SESSION.]

DEPRECIATION, ARREARS OF PAY, COMMUTATION, AND BOUNTY LANDS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 19, 1811.

Mr. ROOT, from the Committee of Claims, to whom was referred the petition of Edmund Brooke, made the following report:

That the petitioner claims pay, depreciation of pay, commutation, and bounty lands, for his services in the revolution, as first lieutenant in the first regiment of Virginia artillery on the continental establishment. He states that he was appointed to that office in February, 1781, and continued in service till the siege of York, "when, being extremely ill, he was compelled to ask a furlough for a few weeks." The petitioner does not even state that he ever afterwards joined the army, but that he held himself in readiness to obey any call that might be made on him.

The committee are of opinion, from this statement of facts, that the acts of limitation would be amply sufficient to oppose this claim; but, as one of the members of your committee has expressed a desire that a detailed report be made, and as the vote of the House a few days since, on the claim of Edwin C. Brown, seems to have expressed a decided opposition to the efficacy of those acts, they proceed to perform the task assigned them. They are not sure that they can present this case as its original merits would have required. This claim has often been before Congress, and was reported against at the last session; and the committee, before they proceed, cannot but express their regret that the pertinacity of claimants has, in some measure, been encouraged by the apparent success of some supposed fortunate claimants. The committee proceed to investigate the several items of claims in the order in which they are claimed.

1st. *Pay*.—By a certificate, dated 17th March, 1798, signed "Andrew Dunscomb, late assistant commissioner of army accounts, Virginia," produced, as is supposed, by the petitioner, and referred to in his petition, are these words: "From an examination of the books in the office of the Auditor for the State of Virginia, it appears that Colonel Duval settled the account of Edmund Brooke, as a lieutenant of artillery, on the 5th day of March, 1784."

2d. *Depreciation of pay*.—By the resolve of Congress, of the 10th of April, 1780, "the line of the army, and the independent corps thereof," were promised, when the public finances would admit, that the deficiency of their pay, occasioned by depreciation, should be made good; but this provision is not applicable to any but such as were engaged during the war, or for three years, and were then in service. The petitioner does not come within the provisions of this resolution.

3d. *Commutation*.—By a resolution of Congress, of the 22d of March, 1783, all officers then in service, and who should continue therein to the end of the war, were entitled to receive the amount of five years' full pay, instead of the half-pay for life promised by the resolution of the 21st October, 1780. The latter resolution, from its obvious import, did not make provision for any officers except those then in service or reduced. As the petitioner was not then in service, nor reduced in October, 1780, he could never have been entitled to commutation had he continued in service to the end of the war. It has long since been settled, that the war ended when the troops were disbanded, on the 3d November, 1783; and there is not sufficient proof that he continued in service until that time.

4th. *Bounty lands*.—This subject belongs to the Treasury Department; had it been the sole prayer of the petition, it is believed it would not have been referred to your committee.

The committee recommend to the House the adoption of the following resolution:

Resolved, That the prayer of the petitioner is entirely unfounded, and ought not to be granted.

11th CONGRESS.]

No. 221.

[3d SESSION.]

GRATUITY FOR REVOLUTIONARY SUFFERINGS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 24, 1811.

Mr. CLAY made the following report:

The committee to whom was referred the petition of John Craig have had the same under consideration, and report: That, it appears to them, that the said petitioner took an early and decided part in the defence of the liberties of his country; that, in 1775, he entered the service of his country, in the revolutionary army, in which he continued until the close of the war; that he served in different grades, but was, in the month of December, 1778, promoted to the rank of captain of light dragoons in the Pennsylvania line, which rank he held until the close of the war; and that he was in active service through the whole of the war; when he left the service of his country, his constitution was much impaired and injured; he was without the use of his third finger on the right hand, which was so contracted as to render that hand and arm an incumbrance; notwithstanding, he forebore to apply to his country for relief; but being now bowed down with old age and infirmity, and being poor, and almost helpless, he is compelled to throw himself upon the charity and humanity of his country. The committee deem this one of those hard cases which is not provided for by law; they, nevertheless, are of opinion, that it is one of those cases which will justify a departure from the strict rules of law and practice, and do, therefore, submit the following resolution:

Resolved, That the accounting officer at the Treasury be directed to pay Captain John Craig one thousand dollars.

11th CONGRESS.]

No. 222.

[3d SESSION.

CLAIMS OF A NAVAL OFFICER OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1811.

Mr. Root, from the Committee of Claims, to whom was referred the petition of Hopley Yeaton, made the following report:

That the petitioner "prays that provision may be made for his support for the few remaining days of his life," in consideration of his services in the revolution, and, since that time, in the command of a revenue cutter. His age and infirmities are urged in support of his claim. The committee can discover no right in Congress to grant as mere gratuities the money of the nation to any individual, however meritorious his conduct might have been. They, therefore, recommend that the petitioner have leave to withdraw his petition.

11th CONGRESS.]

No. 223.

[3d SESSION.

PROVISION FOR PAYING CERTAIN CLAIMS BARRED BY THE STATUTES OF LIMITATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1811.

Mr. Root, from the Committee of Claims, in obedience to a resolution of the House, instructing them to inquire into the expediency of repealing or suspending the operation of the several acts of limitation, so far as they now operate to bar the payment of the following description of claims against the United States, to wit:

1. Loan office certificates,
2. Indents for interest on the public debt,
3. Final settlement certificates,
4. Commissioners' certificates,
5. Army certificates,
6. Credits given in lieu of army certificates cancelled,
7. Credits for the pay of the army for which no certificates were issued,
8. Invalid pensions,

Made the following report:

That by the report of the Secretary of the Treasury, of the 12th of December last, made to the Senate, it appears the five first-mentioned classes of claims may be admitted without danger of fraud, and that sufficient guards against fraud may be interposed in the three last-mentioned classes. The committee concur with the Secretary in this opinion. They beg leave further to observe, that they can discover no difference in the equity of claims on lost certificates, and on those which have not been lost, but are barred: they therefore submit the following resolutions:

Resolved, That provision ought to be made by law for the payment of the five following classes of claims, to wit:

1. Loan office certificates.
2. Indents for interest on the public debt.
3. Final settlement certificates.
4. Commissioners' certificates.
5. Army certificates.

Resolved, That it is expedient to provide by law for the payment of the three following classes of claims, to wit:

1. Credits given in lieu of army certificates cancelled.
2. Credits for the pay of the army, for which no certificates were issued.
3. Invalid pensions.

Resolved, That it is expedient to provide for the renewal of lost or destroyed certificates.

11th CONGRESS.]

No. 224.

[3d SESSION.

CLAIMS OF BRIGADIER GENERAL WILKINSON, FOR DISBURSEMENTS.

COMMUNICATED TO THE SENATE, MARCH 2, 1811.

Mr. BRADLEY, from the committee to whom was referred the memorial of General James Wilkinson, praying to be remunerated for moneys disbursed in the service of the United States, begs leave to report:

That the said Wilkinson has exhibited to them claims against the United States, to the amount of eleven thousand eight hundred dollars and ninety-six cents. It appears to your committee, from the documents and proofs

produced by the petitioner to explain and support his claim against the public, that, of the above sum, \$6,719 73 are claimed for his disbursements and expenses incurred pending Burr's conspiracy; \$2,500 paid for a tract of land for the public service, now occupied by the troops on the Missouri river, near its mouth; \$450, the amount of his passage from Baltimore to Charleston, when ordered on extra duty by the President; and \$2,131 23 for losses of property sustained by his sudden transfer from St. Louis, where he was exercising the functions of a civil magistrate, to the Sabine, for the purpose of directing the arms of the nation against an invading force of the Spaniards.

Your committee have no hesitancy in saying that many of the charges appear to be legal and founded in justice, and may furnish a proper set-off against the balance opposed to him by the War Department, and that the residue are entitled to equitable consideration; but, from the shortness of the time, and the pressure of business before the expiration of the session, your committee cannot find leisure to form that deliberate and clear judgment on the merits of the several items which justice to the petitioner and to the public require; they, therefore, beg leave to offer the following resolution:

Resolved, That the further consideration of the petition of General James Wilkinson, together with the accompanying documents, be postponed to the next meeting of Congress.

Extract of a letter from General Wilkinson to the chairman of the committee of the Senate.

SIR: WASHINGTON, March 1, 1811.

I have now the honor to present to the honorable committee the claim which I set up against the United States, sustained by an account current, duly vouched and explained; and I could conscientiously add to this amount the following sums:

| | |
|--|------------|
| Lost on the forced sale of household goods and furniture, at New Orleans, May, 1807, | \$825 00 |
| Ditto ditto on my books, - - - - - | 120 00 |
| Ditto ditto on a carriage and pair of horses, - - - - - | 325 00 |
| | \$1,270 00 |

In consequence of a peremptory order to repair to Richmond, for the purpose of attending Burr's trial, I was obliged to send the preceding property to the vendue-master, where it was knocked off for what it would bring.

But the clamor raised against me for saving the nation from a civil war, and upholding the existing administration in office, by the most meritorious actions of my life, has been such that I have been heretofore restrained from asking for justice, much less seeking for liberality; and now, nothing but the penalty incurred in the public service, and my desire to vindicate my character against the official calumnies of my enemies, could induce me to make the present application. It is possible the item charged against D. W. Ellicott may have been adjusted by the military agent; but finding the voucher among my papers, I have included it.

Should a question be made why this application should have been so long postponed, my answer would be, that, amidst the whirlwind of passion and prejudice excited against me, I do verily believe, had I asked for bread, I should have been offered a stone.

The committee will perceive, from the confidential tenor of the documents relative to Colonel _____'s visit to the city of Mexico, that they should not be exposed, and therefore I hope they may be returned to me. It will be observed, that he tendered a free gift of his toils, hazards, and expenses in the public service; but, believing that the acceptance would be unworthy the nation, and that the proposition sprung out of a sense of delicacy, opposed to the idea that it should be said he had received money for doing that which might be called the duty of a spy, I insisted on his taking his bare expenses; and it was on the same ground of jealousy that he refused to give a receipt.

With great respect, I have the honor to be, sir, your most obedient servant,

JAS: WILKINSON.

The Hon. STEPHEN R. BRADLEY, *Senate of the United States.*

Remarks explanatory of the annexed account.

The money paid Job Ruth was for the purpose expressed, pending Burr's conspiracy; the distance being six hundred miles.

The amount paid D. W. Ellicott was for the transport of public property from Fort Adams to New Orleans, to get it out of the way of the conspirators.

When Bollman was seized, he complained that he was without a cent; and to prove that the Government, while it protected itself, could not deal hardly with him, I advanced this sum by the hands of Lieutenant William Wilson, now Captain Wilson, and stationed at Norfolk.

The money paid Ezra Haws needs no explanation.

The money paid Reibelt was for his services, and that of half a dozen others employed by him, to visit the taverns and suspected places in the city, to see and report what was passing.

The money paid Jirard was for services, past and prospective; he had been Colonel Burling's interpreter, on his route to Mexico; for these payments Simmons would give me no credit, although he holds the vouchers.

The payment to Mounet was for carrying advice to the attorney general at Richmond of my approach, and various other witnesses whom I was directed to bring with me from New Orleans.

The payment to Pain was for transport of a part of these witnesses.

The payment for Colonel Burling is explained by the confidential documents submitted to the committee.

The charge for extraordinary expenses is explained by the oath of Captain Hughes.

The charge for money lost on the purchase of lands is deemed a fit subject for legislative bounty, because my absence on a distant and important service to the country caused the misfortune; and the public has received from another person the legal price of the land.

The charge for land, purchased on the Missouri, will be explained by an application to the War Department, where a deed for the land has been lodged.

The amount of sundries deducted from Simmons's account may be thus explained:

The New Orleans boat, in which the general embarked, was loaded with shot and shells for St. Louis, and not New Orleans, in the year 1805, and not the year 1806, and descended as far as Massac, where the load was shifted into barges to ascend the Mississippi.

The paint and awning charged for said boat is absurd; as neither the one nor the other will apply in any way to such flats.

The transport for camp equipage, baggage, and stores, was charged, because it is according to usage immemorial in the American, and all other armies; and can be considered no emolument, because these articles include books, papers, tents, marquees, and provisions, the transport of which belongs to the quartermaster's department, and cannot be attended to, or provided for, by a general officer.

DR.

The United States to General James Wilkinson.

For sundry disbursements incurred pending Burr's conspiracy, and subsequent to that period, either unprovided for by law, rejected by the accounting officer, or improperly charged by him:

| | | |
|----------------|---|--------------------|
| 1806, Nov. 14, | To cash paid Job Ruth, for sending a despatch to Governor Claiborne, (V. No. 1,) | \$50 00 |
| " Nov. 18, | To cash paid for the transport of public property to New Orleans, to D. D. Elliott, (V. No. 2,) - - - - - | 231 00 |
| " Dec. 15, | To cash advanced to Erick Bollman, by the hands of Lieutenant William Wilson, when seized and sent from New Orleans to the United States, (V. No. 3,) | 200 00 |
| 1807, Jan. 16, | To cash paid Ezra Haws for the transport of prisoners and guard from New Orleans to Baltimore, (V. No. 4,) - - - - - | 550 00 |
| " May 18, | To cash paid M. R. Reibelt, for secret service, - - - - - | \$200 00 |
| | To cash paid M. Jirard, for secret service, as per A. D. Abraham's receipt, (V. No. 5,) and the note of William Simmons, per his printed account reported by the committee of Congress, February 22, 1809, - - - - - | 150 00 |
| | | <u>350 00</u> |
| " June 10, | To cash paid for an express sent from Hampton to Richmond, on public service, during Burr's trial, to Joseph Mounet, (V. No. 6,) - - - - - | 30 00 |
| " June 13, | To cash paid Richard Pain, for conveying witness from Hampton Roads to Richmond, during Burr's trial, (V. No. 7,) - - - - - | 80 00 |
| | To so much paid for the actual expenses of Walter Burling, Esq., on a visit to the city of Mexico, on public and secret service, during the autumn and winter of 1806-7, for which no receipt could be obtained, - - - - - | 1,750 00 |
| | To extraordinary expenses, over and above my daily pay, in New Orleans, pending the conspiracy of Burr, from the 25th November, 1806, to the 24th May, 1807, inclusive, 181 days, at \$10 50 per day, (see deposition of Captain Hughes, No. 9.) | 1,900 00 |
| | To so much lost on purchase of land from the public in the State of Ohio; the said land being forfeited pending my opposition to the Spaniards on the Sabine, and Burr's conspiracy; which land was afterwards sold for the legal price, as will appear from the Treasury books, (see certificate D,) - - - - - | 1,324 90 |
| | To interest on \$1,324 90, from the day of payment, - - - - - | 806 33 |
| | To so much paid for the tract of land now occupied by the cantonment of the troops on the Missouri river, as per deed transmitted the Secretary of War, February, 1809, agreed to be passed to my credit by the late President, - - - - - | 2,500 00 |
| | To the amount of sundry articles improperly charged to my account by William Simmons, accountant of the War Department, (V. No. 8,) - - - - - | 1,578 73 |
| | To the amount for passage from Baltimore to Charleston, February, 1809, when engaged on a public mission, under the orders of the President of the United States, to the Captain General of the Havana, - - - - - | 450 00 |
| | | <u>\$11,800 96</u> |

(Errors excepted:)

JAS: WILKINSON.

The charges of four hundred dollars should be credited by services rendered under the orders of the Secretary of War, as I performed the translations.

The articles under the head of the quartermaster's department are iniquitously charged, and in the face of the advice of the military agent, (see documents A, B, and C;) from which it would appear how anxiously Mr. Simmons searched for this charge; making it even a condition for the settlement of an account of many thousands of dollars. It will strike any one, that it was impossible the private horses of a single officer could have consumed such a quantity of forage, or that his fire would have required so much wood. The fact is this: a guard of fifty men helped to consume this fuel, and the horses of goers and comers, and a detachment of militia dragoons, were found out of the forage.

JAS: WILKINSON.

[12th CONGRESS.]

No. 225.

[1st SESSION.]

STATUTES OF LIMITATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1811.

Mr. GHOLSON, from the Committee of Claims, in obedience to a resolution of the House, instructing them to inquire into the expediency of repealing or suspending the operation of the several acts of limitation, so far as they now operate to bar the payment of the following description of claims against the United States, to wit: 1st. Loan-office certificates; 2d. Indents of interest on the public debt; 3d. Final settlement certificates; 4th. Commissioners' certificates; 5th. Army certificates; 6th. Credits given in lieu of army certificates cancelled; 7th. Credits for the pay of the army for which no certificates were issued; 8th. Invalid pensions; 9th. Lost or destroyed certificates; made the following report:

That they have bestowed on the resolution that full consideration to which it was entitled. They felt, on the one hand, sincere solicitude to devise some just and adequate method of satisfying the claims in question; whilst, on the other, they were forcibly struck with the unavoidable scenes of speculation and fraud which would ensue the repeal or suspension of any of the acts of limitation, whereby those claims are barred. If the old soldier, his widow, or his orphan were alone to be benefited by such suspension, your committee would not hesitate to recommend it. Past experience, however, hath evidently shown that similar legislative indulgences have enured almost exclusively to the advantage of the unprincipled speculator, and those who avail themselves of the ignorance and subsist upon the misfortunes of others. We have innumerable examples of the truth of this position in the consequences that resulted not only from the various suspensions of these acts which have hitherto taken place, but more especially from the adoption of the funding system. It is deemed unnecessary to enlarge upon the consequences; they are too well known.

Although a communication received from the Treasury at a former session holds out an opinion that there are in the possession of that Department sufficient checks and guards to protect the United States from imposition and fraud in the payment of a certain part of those claims, the committee are differently impressed. They have seen a transcript from the books of the Treasury, published to the world, exhibiting the names of a certain class of claimants;* and to suppose that a facility of this kind, thus offered to speculative artifice and management, would not be seized upon and used by the speculator to impose upon Government, is to suppose a thing contrary to all experience. The committee feel themselves by no means able to draw a line of distinction between a just claim *liquidated* and a just one *unliquidated*; and to attempt the invidious task of distinction in point of merit, where there can be no difference, and to open the statutes of limitation in order to relieve a part or a few favorite classes of claims, does not comport, in the view of your committee, with any principle of fairness, or with that equal system of distributive justness which ought to be dispensed towards all. When they take a retrospective view of the subject, and find that most of those statutes were first passed in the times and under the patriot counsels of the old Congress, and that the more general one which took effect in 1794 was passed under the administration of General Washington, who was himself the chief of soldiers as he was the chief of their patrons and friends in every station; but he was equally the friend of his country, and gave that act the sanction of his name, as founded, at least, in a policy of general justice and right, which the Government had been at length obliged to resort to and maintain in self-defence; that every Congress since has invariably adhered to the general policy of those laws; and after the lapse of so many years, when the difficulty of doing justice has increased with the increase of time, and when a partial repeal would but tend to increase the discontent and dissatisfaction of every class of claimants which should remain unprovided for, the committee cannot, from any view they have been able to take of the subject, recommend the repeal or suspension of any of those statutes. They would, therefore, beg leave to submit the following resolution:

Resolved, That it is not expedient to repeal or suspend any of the acts of limitation, whereby the aforesaid descriptions of claims are barred.

[12th CONGRESS.]

No. 226.

[1st SESSION.]

INVALID PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 31, 1812.

Mr. GHOLSON, from the Committee of Claims, to whom was referred the petition of Captain Selah Benton, made the following report:

That the petitioner claims a pension in consequence of bodily disabilities incurred during his service in the revolutionary war. The committee are of opinion that the petitioner is not strictly entitled to a pension according to the rigid provisions of the existing law upon this subject, inasmuch as he was not actually wounded in the war. They are, nevertheless, from an examination of all the testimony accompanying the petition, fully convinced that the present application is embraced by the spirit in which the statute providing for the invalid soldiers of the revolution was conceived, and that it ought to be allowed. The petitioner, who, it appears, served with honor and bravery in all the various offices of first sergeant, ensign, first and second lieutenants, and captain, from the commencement until almost the close of the war, when he became disabled, has established two positions entirely to the satisfaction of the committee: 1st. That his disability arose from disease contracted by exposure in the service of his country, and terminating in scorbutic ulcers; and 2dly. That his disability, thus sustained, has disqualified him from acquiring a maintenance by bodily labor. Your committee, therefore, beg leave to report a bill for the petitioner's relief.

* See No. 223.

[12th CONGRESS.]

No. 227.

[1st SESSION.]

CLAIM OF THE BEARER OF A FLAG OF TRUCE SENT BY GENERAL WAYNE TO THE HOSTILE INDIANS, IN 1794.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1812.

Mr. ORMSBY made the following report:

The committee to whom was referred the petition of Christopher Miller, beg leave to report to the House the following statement of facts, as they have appeared to them from the vouchers produced:

It appears to your committee that, in the year 1794, General Anthony Wayne, who then commanded the United States' army, determined to send a flag to the Indians in order that a peace might be effected without further warfare. That the said Wayne was unable to find any person in his army possessing the necessary qualifications, who would undertake the hazardous enterprise except the petitioner, who was intimately acquainted with their manners and their language; and on this account was the more solicitous that he should carry the flag to the Indians. That the petitioner, as an inducement to act in obedience to the wishes of General Wayne, was told by him that the Government would make him independent. The petitioner, at the evident hazard of his life, did proceed with the flag sent by the said Wayne, and commenced the negotiation, which terminated successfully.

Your committee are fully impressed with the belief that the death of General Wayne prevented him from making known to the Government the claim of the petitioner, and they are satisfied that his pretensions to a remuneration from the Government are much strengthened by the consideration of the great danger he encountered and the knowledge which he must have possessed of that danger previous to his departure; for General Hardin and Major Trueman, who had undertaken similar expeditions to the Indians, had been killed but a very short time before.

When your committee reflect on the advantages which flowed from the conduct of the petitioner, the dangerous nature of the enterprise, and the promise of General Wayne given to him, on the faith of a soldier, that he should be amply remunerated, they cannot hesitate to say that the Government ought to carry this promise into execution.

[12th CONGRESS.]

No. 228.

[1st SESSION.]

CLAIM OF AN ARMY CONTRACTOR FOR FURTHER ALLOWANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 14, 1812.

Mr. GHOLSON made the following report:

The Committee of Claims, to whom was referred the petition of Thomas Wilson, have, according to order, had the same under consideration, and respectfully report:

That the petitioner claims an *additional allowance* for rations furnished to the troops of the United States in Louisiana, pursuant to a contract with the Department of War, dated the 3d of August, 1803. When the demand of the petitioner for extra allowance was presented at the War Department, it appears his accounts had been transferred to the accounting officers of the Treasury; and the Secretary of War observes that, "having duly considered the claim before mentioned, with all the circumstances accompanying the same," he conceives he is "not authorized to make any further allowance;" but he recommended to the Comptroller a suspension of legal proceedings against Mr. Wilson, until he could make application to Congress for relief. Upon the face of the contract there is nothing to support the demand of the petitioner. His claim is founded on two letters from General Dearborn, late Secretary of War, which are exhibited as evidence of an understanding between the Secretary and the petitioner at the time of the contract. In one of these letters, General Dearborn says to Mr. Wilson, "that it was undoubtedly intended to make you reasonable allowances for any unforeseen and unavoidable expenses that might become necessary for carrying into effect such parts of your contract as related to new posts that might be established within the limits of your contract in Louisiana." This letter is dated the 26th of April, 1811. In the other letter General Dearborn informs Mr. Eustis "that each of the posts in Louisiana, including New Orleans, might be considered as *new posts*." Thus the petitioner claims extra compensation for the supplies furnished by him *at all the military posts* in Louisiana, upon the allegation that, in furnishing them, he encountered "unforeseen and unavoidable expenses."

To sustain this allegation, the petitioner hath adduced a variety of documents which satisfy the committee that, in executing his contract, he was subjected to inconveniences, and must have incurred expenses not foreseen at the date of the contract. Supplies, in advance, for a much longer period than that mentioned in the contract were required, and, as the petitioner asserts, without the stipulated notice. The petitioner, it appears, was consequently compelled to procure the supplies at high prices in the neighborhood of the places where they were wanted, whilst, in a regular course of supply, he would have had time to have got provisions from the Western country, where they were cheap. The sudden augmentations and diminutions of the detachments for Orleans Territory are moreover affirmed by the petitioner to have been causes of embarrassment and unforeseen expense.

Your committee, after a full examination of the subject, are of opinion that the petitioner is entitled to some additional compensation, to be adjusted by the accounting officers of the Department of War, upon such evidence as may be produced by the petitioner. They, therefore, ask leave to report a bill for his relief.

[12th CONGRESS.]

No. 229.

[1st SESSION.]

CLAIM OF A DISTRICT PAYMASTER FOR EXTRA RATIONS TO GENERAL WILKINSON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 14, 1812.

Mr. GHOLSON made the following report:

The Committee of Claims, to whom was referred the petition of Lieutenant Simeon Knight, have, according to order, had the same under consideration, and respectfully report:

That the petitioner claims a credit, in his account, as district paymaster to a detachment of the army of the United States, for the sum of \$1,454 40, paid by him to Brigadier General Wilkinson for additional rations, and which has been disallowed to the petitioner by the accounting officers of the War Department, on the ground that the payment was unauthorized by law. The authority to make an additional allowance for rations to the commanding officer of a separate post, (and such, it seems, was General Wilkinson,) is, by law, vested in the President of the United States. The authority, however, on which the petitioner made the payment to General Wilkinson was an extract of a letter from the Secretary of War to General Wilkinson, dated 4th January, 1809, by which it appeared that the additional allowance in question had been made to General Wilkinson, but it is not stated by the Secretary to have been made *by order of the President of the United States*. Had it been thus stated, it seems there would have been no difficulty on the subject; the amount would, of course, have passed to the credit of the petitioner.

The committee are of opinion that the mere omission of the Secretary to state that his letter was written by order of the President, (if, indeed, that fact would not be implied,) is a circumstance too trivial to subject the petitioner to so serious a loss as he would sustain by the decision of the accounting officers of the Department of War. They, therefore, ask leave to report a bill for his relief.

[12th CONGRESS.]

No. 230.

[1st SESSION.]

FINAL SETTLEMENT CERTIFICATE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 4, 1812.

Mr. GHOLSON, from the Committee of Claims, to whom was referred the petition of John Dixon, made the following report:

That, from documents exhibited by the petitioner, it appears he is the assignee of Lucy Dixon, his mother, of a certificate which was issued in her favor, by the commissioner for settling the accounts of the revolutionary war in the State of Virginia, for the sum of \$329 $\frac{3}{4}$, payable with six per cent. from the 1st day of January, 1781, and dated the 23d of December, 1786. The original certificate is produced, and, by an endorsement on it, it appears the interest was paid to the 1st of January, 1785; a certificate of the Register of the Treasury is likewise exhibited, showing that Lucy Dixon stands a creditor on the records of that Department for the said certificate, which "remains unliquidated by the United States."

As an apology (as it is presumed by the committee) for not presenting this claim at an earlier period, Lucy Dixon, in a petition formerly offered by herself, alleges that she, in the year 1793, left Virginia, and went to the State of Georgia, where she remained until 1799 or 1800; that on her return to her residence in Virginia, she, on looking over her papers, found the certificate in question, and likewise others that were supposed to have been entirely destroyed; that she was ignorant as well of the value of such certificates, as of the mode in which the law provided for their payment; that one of her sons took with him to the Mississippi Territory the said certificate, where he kept it until a few years ago, when he returned to her, and she shortly afterwards presented her petition for the amount of it.

From the foregoing statement, it would appear that there is no obstacle to the allowance of this claim but the statute of limitation. Your committee have recently, very respectfully, decided against the repeal of the law barring demands like the present. It is for the House to determine on the course they will pursue on this subject. The facts are faithfully detailed. Your committee, however, conforming to the rule by which it has been governed in similar cases, recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[12th CONGRESS.]

No. 231.

[1st SESSION.]

SEVEN YEARS' HALF-PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 30, 1812.

Mr. GHOLSON, from the Committee of Claims, to whom was referred the petition of Anna Young, daughter and sole heiress of Colonel John Durkee, deceased, made the following report:

That it appears the said Durkee commanded a regiment in the army of the United States, in the revolutionary war; that he was severely wounded, and that he died in the year 1782, in the military service. That, under the resolve of Congress, of the 24th of August, 1780, the widow of the said Durkee became entitled to the seven years' half-pay of a colonel, to which Durkee himself would have been entitled, had he lived and served to the end of the war. That the widow of the said Durkee is dead, and the petitioner is the sole claimant.

It seems that this claim was, at an early period, demanded of the Government; but that the allowance of it was withheld, in consequence of a balance of \$5,150 which appears, from the account of Col. Durkee, to be due by him to the United States. It is supposed at the Department of War that this balance, in paper emissions, was appropriated by Colonel Durkee to his own use, in July, 1777, when paper money had become much depreciated. This sum should therefore be reduced by a scale of depreciation applicable to that period.

The committee are of opinion that the petitioner, on account of the services of her father, is entitled to his seven years' half-pay as colonel, and interest thereon, after deducting therefrom the aforesaid balance, (reduced, as it should be, by the scale of depreciation,) which appears due by Colonel Durkee, in his account with the United States. The committee, therefore, ask leave to report a bill for the petitioner's relief.

[12th CONGRESS.]

No. 232.

[1st SESSION.]

CLAIM FOR RETAINED RATIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 7, 1812.

Mr. GHOLSON, from the Committee of Claims, to whom was referred the petition of Hezekiah Daggs, made the following report:

That the petitioner claims the value of a number of rations, the right to which is alleged to have been transferred, by some of the troops employed on the western expedition in the year 1794, to a certain Richard Halliday, and by Halliday to the petitioner.

The committee applied to the Department of War for information on this subject, and have been furnished with the annexed copy of a letter from the Accountant of the War Department to the Hon. Mr. McCoy, which the committee beg leave to make a part of this report.

The committee concur with the accounting officers of the War Department as to the inadmissibility of the petitioner's demand, and recommend the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and documents.

SIR:

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, December 14, 1811.

The claims for retained rations for militia, lodged by you, are defective in the following particulars:

In the first place, where claims are made on due bills, they are inadmissible. It can only be on accounts stated by the officer, under oath, for rations due him, that any claim can be received for adjustment. In the second place, where claims are made for rations due non-commissioned officers, they are inadmissible. The rations should have been drawn from the contractor or commissary, as the law does not authorize money to be paid in lieu of such rations. In the third place, where claims are made on statements made by officers, they should have been supported under oath of the officer claiming; this having been required in all similar cases; and a power of attorney should accompany the accounts in favor of the present claimant. As a general remark, it may be observed, that Colonel William Heth, late of the State of Virginia, was appointed agent for paying the Virginia troops on the western expedition, and was instructed to collect and adjust all just demands of claimants on that expedition. Those claims should have been presented to him many years since, when the subject could have been investigated, and compared with the other accounts of the troops of that State. That, at this late period, if the claims which might be deemed admissible were even supported by the vouchers required, much time and labor would be necessary to examine and compare them with the accounts of the paymasters, quartermasters, and contractors. They are returned herewith.

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

WILLIAM SIMMONS.

The Hon. WILLIAM MCCOY, in Congress.

12th CONGRESS.]

No. 233.

[1st Session.]

DEFALCATION OF THE PAYMASTER GENERAL AND GENERAL AGENT FOR THE TERRITORY SOUTHWEST OF THE OHIO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 9, 1812.

WAR DEPARTMENT, June 8, 1812.

The SECRETARY OF WAR, to whom was referred the memorial of David Henley, with the accompanying documents, by a resolution of the honorable the House of Representatives of the United States, of the 7th instant, has the honor to report:

That it appears by the documents above mentioned, that as early as the year 1792, the said David Henley was appointed by the Government of the United States to act in the capacity of paymaster general throughout the extensive district then known and designated by the appellation of "the Territory southwest of the Ohio:" that soon after he was invested with a more important and extensive authority in the same district, namely, that of *general agent* of the Government, which, at that time, comprised the duty of superintendent of Indian affairs, quartermaster general, commissary general of purchases, and paymaster general for both regular troops and militia, the latter being frequently called into service in small parties, at points distant from each other, and for short periods. In this station he continued his services during a series of *ten* years; in the whole of which period it appears that he never had any permanent assistant: the only *two appointments* in this agency made by the War Department (*both* in the paymaster's line) having been abrogated in consequence of the incapacity and unfitness of the individuals who were so employed; several temporary appointments of military officers, as his assistants, made in the Territory aforesaid, having also been rendered ineffectual by their early removal to other duties.

It further appears, that, for want of adequate assistance to perform these various and complicated duties, the said David Henley was obliged to use the most unremitting personal exertions, and frequently to absent himself from his *general office* in consequence of sudden and urgent calls on public service to distant points of the district confided to his superintendence; during which periods the public records and funds must have been exposed to injury and loss through the unfaithfulness or incapacity of individuals necessarily left in charge of them; the result leaving a presumption that such injury and losses did actually accrue, since on the adjustment of the public accounts of the said David Henley at the proper offices, a balance has been found against him of twelve thousand seven hundred and ninety dollars and thirty-nine cents, for the expenditure of which he has not presented legal vouchers.

It further appears, by evidence taken before the competent authorities in the *district aforesaid*, that divers abuses had been *there* practised upon the Government of the United States, which were detected by his vigilance, activity, and firmness, and which were corrected and discontinued, probably to an amount far exceeding the deficit in his public accounts.

It appears, also, that Colonel Henley performed much *extra* service for the United States, for which no adequate compensation appears to have been allowed; particularly that he was employed as the confidential agent of Government in detecting and counteracting the conspiracy of Governor William Blount, and that his conduct in the whole of the aforesaid agencies merited and received the approbation of Government, at whose instance he remained at the post assigned him many years, notwithstanding his reiterated solicitations for permission to resign in order to attend to very interesting personal concerns, as is proven by his correspondence with the principals of the War and Treasury Departments of that day.

It also appears, by documents and other testimony entitled to credence, that in consequence of thus remaining in the public service, he sustained losses in his private property which exceeded the amount of compensation allowed for his agency.

From the best view that the Secretary of War is enabled to take of the whole subject, and from the consideration that Colonel Henley has ever been distinguished for his frugality, zeal, and faithfulness in the public service, it appears reasonable and consistent with equity, that his account current with the United States should be finally settled by discharging him from the aforesaid balance standing against him.

All which is respectfully submitted.

W. EUSTIS.

12th CONGRESS.]

No. 234.

[1st Session.]

INDEMNITY FOR THE ILLEGAL CAPTURE, AND SUBSEQUENT LOSS OF A VESSEL AND CARGO, BY A NAVAL OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 12, 1812.

Mr. GHOLSON, from the Committee of Claims, to whom was recommitted the report heretofore made at the present session by the Committee of Claims, on the petition of Jared Shattuck, made the following report:

That upon a reconsideration of the merits of the claim of the petitioner, they concur in, and beg leave to refer the House to the report which was recommitted to the committee.* The committee take the liberty to incorporate in this report a letter from their chairman to the Attorney General on this subject, together with the answer of the latter.

* It affirms the justice of the claim.

SIR:

COMMITTEE ROOM, *March 16, 1812.*

I am instructed by the Committee of Claims to request the favor of you to examine the case of Jared Shattuck, the papers in which are herewith transmitted, and to have the goodness to state your opinion at large thereon. To what extent the United States should hold themselves, according to precedents, responsible in cases like this, is a point to which the committee solicit your particular attention. As at the time of the capture of Mr. Shattuck's vessel, America and Britain occupied in some measure similar relations towards both France and Denmark, the question how far a condemnation of the vessel by a British court can be considered as evidence of any sort in favor of the United States, is one which will doubtless attract your notice.

With the highest respect, I have the honor to be, sir, your most obedient servant,

THOMAS GHOLSON.

The Hon. WILLIAM PINKNEY, *Attorney General of the United States.*

SIR:

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES, *May 30, 1812.*

I had the honor to receive, a considerable time after its date, your letter of the 16th of last month, respecting the case of Jared Shattuck, which I have carefully examined.

I suppose it to be a general rule that a Government is answerable for wrongs done upon the seas under color of its commission or authority, to a foreign State, its citizens, or subjects; the ordinary judicial remedy having first been tried without effect, or being so manifestly incompetent as to make a resort to it an idle form.

The English practice has usually been in conformity with this rule. The 7th article of the treaty of 1794, between the United States and Great Britain, rested upon it; and the decisions of the commissioners who executed the article sanction the rule, and adopt it as a guide.

The practice of the United States, as far as it has gone, appears to have recognised and established the same principle; and the case of Shattuck is completely within it.

It has been determined by the Supreme Court of the United States that the capture of the Mercator and her cargo was done without probable cause, and altogether illegal. I concur entirely in that opinion.

It has been determined by the same tribunal that the sentence of condemnation at Jamaica did not affect the claimant in his suit against Malay, upon the question of property, and that the claim against that officer was sufficiently made out, notwithstanding that sentence. I think that opinion perfectly sound, and believe, of course, that the same sentence can be of no weight against the present application.

It is not certain whether the Mercator and her cargo were originally seized as *American*, with a view to the execution of a law of the United States, or as *French*, and therefore as prize. Nor is it of any importance: for the obligation to repair the wrong would, on each supposition, be the same.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

To the Hon. THOMAS GHOLSON, *Chairman of the Committee of Claims.*

Your committee ask leave to report a bill for the petitioner's relief.

[NOTE—See No. 175.]

12th CONGRESS.]

No. 235.

[2d SESSION.]

INDEMNITY FOR DEPREDATIONS COMMITTED IN INDIANA BY THE MOUNTED RIFLEMEN OF KENTUCKY, UNDER COMMAND OF MAJOR GENERAL HOPKINS, IN 1812.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 21, 1813.

Mr. JENNINGS, from the committee, to whom was referred the petition of sundry citizens of the county of Knox, in the Indiana Territory, on the 7th instant, praying remuneration for depredations committed on their property by the mounted riflemen of Kentucky, lately under the command of Major General Hopkins, made the following report:

That, upon examination of their petition and the accompanying documents, they find the facts stated in the said petition to be fully supported by the certificate of the commanding general, which is herewith reported; that the depredations committed, and the damages sustained in consequence thereof, have been examined and estimated by men acting under the solemnity of an oath, and appointed for that purpose by the acting quartermaster, pursuant to the orders of the Executive of the Territory aforesaid. The damages thus estimated amount, in the aggregate, to the sum of \$2,400.

The committee are aware that trespasses upon private property are generally redressed by the operation of municipal law; but in cases similar to the present, where an armed force, under the authority of the Government, were suffered to remain stationary contiguous to the property of individuals, and that force unrestrained by the orders of their commander, it is unreasonable to suppose that the citizen could protect every portion of his property from the lawless depredations of the soldiery, or discover the offending individuals when discharged and dispersed over an extensive country. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioners is reasonable, and ought to be granted.

[NOTE.—See Nos. 191, 195.]

[12th CONGRESS.]

No. 236.

[2d SESSION.]

CLAIM OF THE SECRETARY OF THE MICHIGAN TERRITORY FOR EXTRA SERVICES.

COMMUNICATED TO THE SENATE, JANUARY 28, 1813.

Mr. BIBB, from the committee to whom the petition of Reuben Attwater was referred, reported:

That the claim of the petitioner for additional compensation in consequence of his being called to discharge the duties of Governor of the Michigan Territory, in the absence of the Governor, is not reasonable, because such a requisition was provided for, and contemplated by the law establishing the office of Secretary and stating his salary.

That, by the law of the 3d of March, 1807, the Secretary of the said Territory was required to act as one of the commissioners to ascertain and decide certain claims to land under that act, and the sum of \$500 was allowed to the Secretary as a compensation for such extra services; that Stanley Griswold, then Secretary of said Territory, acted as a commissioner under that statute, until one hundred claims only were decided, but received the whole of that sum so appropriated.

That, by the law of April, 1808, the powers of the land commissioners in said Territory were continued, additional duties were imposed upon them, but no additional compensation was provided by law.

That the said petitioner was appointed Secretary of the said Territory in 1808, and acted as a land commissioner until six hundred and thirteen claims were decided, to wit, between May, 1808, and February, 1811.

That he has received no addition to his salary as Secretary, nor other compensation for his services as commissioner of claims to land.

Had the said petitioner received the allowance of five hundred dollars aforesaid, appropriated as a compensation to the Secretary of the said Territory for his services, required by the act of 1807, as a land commissioner, your committee might have recommended, for the extra services rendered under the act of 1808, a compensation of fifty cents for each claim decided upon by the commissioners, whilst the petitioner was present at the board, being the usual allowance to commissioners in other Territories for extra services. But, considering that the petitioner has been called to officiate as Governor without any addition to his emoluments, that he has received no part of the moneys appropriated to the commissioners of land claims in that Territory under the previous acts, and looking at the sums appropriated to compensate the commissioners in this Territory, by several acts continuing their powers and duties from time to time, as an established rule of compensation, your committee have thought proper to recommend an additional allowance of five hundred dollars as full compensation for all *ex officio* services, rendered by the petitioner.

[12th CONGRESS.]

No. 237.

[2d SESSION.]

APPLICATION OF THE SURETIES OF A COLLECTOR OF INTERNAL REVENUES IN TENNESSEE TO BE RELEASED FROM RESPONSIBILITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 6, 1813.

Mr. CHEVES, from the Committee of Ways and Means, to whom was referred the petition of Richard Mitchell, made the following report:

That the facts which are material to a decision on the prayer of the petitioner, are contained in a letter from the Secretary of the Treasury to the chairman of this committee, which accompanies this report. That, in the opinion of the committee, it is essential to the security of the interests of the United States, as a general rule, that sureties in cases like that of the petitioner should be held liable, according to the terms of their contract, for the negligent omissions, as well as the positive misconduct of their principals; and that the circumstances which characterize this case, do not, in their opinion, sufficiently distinguish it to justify a departure from the general rule in favor of the petitioner. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioner be not granted.

SIR:

TREASURY DEPARTMENT, *January 30, 1813.*

I had the honor to receive your letter of the 28th instant, together with Richard Mitchell's petition, and the accompanying documents.

Judgment has been obtained against Richard Mitchell and others, on two bonds given by Reuben Saunders, late collector of internal revenues in Tennessee, and others, as his sureties for the faithful performance of his duties as collector. The judgment will be discharged by the payment of \$5,531 24, and interest on \$3,377 32 until paid. Of this sum, \$3,501 have been paid by sales on execution of Mark Mitchell's and principally of Richard Mitchell's property. All the other parties are said to be insolvent, or to have absconded; and it is believed that the payment of the balance must fall exclusively on Richard Mitchell.

It appears that \$2,094 10, part of the sum recovered against Saunders, consisted of uncollected revenue; and it is from the payment of that sum that Richard Mitchell particularly prays to be exonerated. In support of that application, several depositions are adduced, tending to show that, in the opinion of the witnesses, and so far as came within their knowledge, Saunders used his endeavors to collect the revenue. But these depositions being of a general nature, could not have availed him. The amount uncollected, consisted of a number of sums previously ascertained to be respectively due by a number of individuals. He would have been entitled to receive credit for any of these, on producing proof that he had used due diligence to recover the same, and that the failure to collect

arose from causes not under his control, such as the insolvency or absconding of the parties, suits decided against the United States, or still pending, &c. No such proof was exhibited; Saunders himself appears, by an account filed in the clerk's office, to have acknowledged the amount to be justly due; and judgment has accordingly been obtained.

The only plea in favor of Richard Mitchell seems to be his being liable only as security; and his case is peculiarly hard, since he has already paid, by a forced sale of his property, nearly the whole of what had been collected by Saunders. He is now liable as security for the payment not of money received and appropriated to his own use by the collector, but of a balance which, for want of diligence, or perhaps of attention in making his return in time of cases where it was necessary to bring suits, Saunders has never collected; and it is stated that an execution for the amount of that balance will nearly ruin the petitioner. Under these circumstances, and believing that, provided sureties are compelled to pay the amount of actual delinquencies, the revenue of the United States cannot be injured by not requiring from them payment of what the principal has only neglected to collect, I am of opinion that Richard Mitchell might, without injury to the public, be exonerated from the payment of the balance abovementioned, (\$2,094 10;) so, however, as not to release the collector himself, if it ever should become practicable to recover that sum from him.

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

ALBERT GALLATIN.

Hon. LANGDON CHEVES, *Chairman of the Committee of Ways and Means.*

13th CONGRESS.]

No. 238.

[1st SESSION.]

ILLEGAL CONDEMNATION AND SALE OF A VESSEL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JUNE 16, 1813.

Mr. ARCHER, from the Committee of Claims, to whom was referred the petition of John Dillon, of Maryland, made the following report:

That it appears to your committee, from the evidence adduced to them, that the schooner *Rachael*, of which the petitioner was the owner, was seized in the port of New Orleans for a supposed violation of a law of the United States, entitled "An act to suspend the commercial intercourse between the United States and certain ports of the island of St. Domingo." By the judgment of the district court for the district of New Orleans, the said schooner was, on the 26th of February, 1808, condemned, and, together with her tackle, apparel, and furniture, ordered to be sold. From this decision of the district court, an appeal was made to the Supreme Court of the United States. Before, however, a decision was had in the court of the last resort, the decree of the court below was carried into effect; the schooner was sold, and the proceeds thereof distributed under the aforesaid act of Congress, the one moiety to the collector and other officers; and the other moiety was, by the collector of the port of New Orleans, transferred, in his account, to the credit of the United States. The moiety transferred to the credit of the Government amounted to the sum of three thousand five hundred dollars; and the day on which the said sum was entered to the credit of the United States, was the 30th of June, 1808. It further appears to your committee, that the Supreme Court never finally acted upon the petitioner's appeal until the year 1810, when, by its decree, the judgment of the court below was reversed, and a restitution of the property awarded. But, in consequence of the sale of the said schooner, and the distribution of the proceeds thereof, in conformity with the decree of the district court before the decision of the Supreme Court was had thereupon, the petitioner has been unable to receive any benefit whatever from the order of restitution awarded by the Supreme Court.

The committee are of opinion that the United States are responsible to the petitioner for the one moiety of the proceeds of the sale of said schooner, which was received by them, and that the amount thereof ought to be paid to the claimant; they, therefore, ask leave to report a bill for his relief.

13th CONGRESS.]

No. 239.

[1st SESSION.]

DEPRECIATION.

COMMUNICATED TO THE SENATE, JULY 6, 1813.

Mr. KING, from the committee to whom was referred the petition of Mr. James Jay, made the following report:

That during the war of the revolution, Mr. James Jay, upon his return from England, where he had been distinguished by his medical talents, became a creditor of the United States for a considerable sum of money; that owing to delays on the part of the Government, and the absence of Mr. Jay in attending upon General Washington, (to whom, as appears by the general's letter, he imparted a plan of secret correspondence, which proved to be of great importance in the course of the war,) the money due and afterwards paid to Mr. Jay was much depreciated. In consideration of these circumstances which distinguish the case of Mr. Jay, the committee submit to the consideration of the Senate, that leave be given to bring in a bill to authorize the officers of the Treasury to examine the claim of Mr. Jay, and to allow him such balance, together with interest, as may be equitably due to him.

13th CONGRESS.]

No. 240.

[1st SESSION.]

WAGONS AND TEAMS CAPTURED BY THE ENEMY AT DETROIT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JULY 16, 1813.

Mr. ARCHER made the following report:

The Committee of Claims, to whom was referred a bill from the Senate, authorizing the payment for wagons and teams captured or destroyed by the enemy at Detroit, having had the same under consideration, respectfully report:

That it appears from the documents submitted to them, that the property taken at Detroit by the enemy consisted principally of wagons and teams hired by the deputy quartermaster to the army, under the command of General Hull, for the purpose of transporting the army and the necessary baggage of that army to the place of its destination. By the estimation of the quartermaster, the private property taken and detained amounted in value to the sum of twenty-three thousand dollars and nine cents. It is, however, evident that this estimation is merely conjectural, because upwards of thirty wagons and teams which had been hired, and which were captured or destroyed, were never appraised: the owners of this property voluntarily entered into the public service, for an equivalent in money. Orders for the impressment of wagons and teams had been made out, but were never issued or executed in consequence of the owners of this property voluntarily entering it for hire into the public service. It is stated by the quartermaster, that intimations were given by him, as well as by other agents of the Government, to the proprietors of this property, that in the event of its being captured by the enemy, or destroyed in the service, they would be reimbursed; but no positive engagements to that effect were entered into.

It further appears to your committee, that Colonel James Findley, of the Ohio volunteers, and James Taylor, acting quartermaster general to the northwestern army, did protest against the detention of all the property, for the loss of which this bill offers a remuneration, inasmuch as it was private property, and under the articles of capitulation, signed at Detroit, on the 16th of August, 1812, was to be respected.

The foregoing statement of facts, as they are found to exist in this case, presents two questions for the consideration of the House.

1st. How far the circumstance of the owners of the property having entered it voluntarily, for hire, into the public service, exonerates the Government from the claim of the different individuals to remuneration?

2d. Whether it would be expedient for the United States to remunerate those whose property was destroyed, contrary to the articles of capitulation signed at Detroit?

With regard to the first question, your committee have only to observe, that they cannot distinguish the case of the present claimants from that of an individual who should hire any species of property to another for service, in a hazardous enterprise, and which should be lost or destroyed, without the fault or negligence of the individual to whom the property was hired. Both parties are aware of the danger to which the property will be exposed, and your committee would presume that in such a case responsibility could neither legally nor equitably exist. In the case before us, every individual must be supposed to know the danger to which his property would be exposed. The nature of the enterprise precludes the possibility of a contrary supposition. Indeed, the anxiety which the owners of this property evinced to know what would be the ultimate determination of the Government in the event of the loss, sanctions the existence of much apprehended danger on their part. Nor does it appear that the expression of an opinion favorable to the wishes of the claimants, by several of the agents of the Government, should have any operation in the establishment of the justice of their claims; because these agents evidently upon such a subject could give no assurance which could in justice be binding on the Government. If these individuals had entered their property into the public service by any compulsory process on the part of the officers of the United States, the committee would not hesitate to say that they ought to be remunerated to the extent of all consequential losses. But as they voluntarily hired their property, it cannot be discovered that their case differs in any one particular from the numerous class of contracts which daily take place in society.

In regard to the second consideration, it does not appear that the claimants are more entitled to the favorable interposition of Congress. This property, inasmuch as it belonged to private citizens, was, by the articles of capitulation, to be respected. It would doubtless be the duty of the United States to claim of the Government of Great Britain, remuneration to the full amount of property destroyed by its agents contrary to the articles of capitulation solemnly entered into. Such stipulations should ever be inviolably adhered to by the contracting parties. And the nation, whose citizens are injured by such a violation, has a fair claim against the party violating them. On this view of the subject, it appears that the bill is premature, inasmuch as from the present relations existing between the two nations, indemnification could not have been obtained by the United States. Great Britain has, in the present instance, violated an *express* obligation. By the wanton destruction and plunder of private property, in our villages on the seacoast, she has violated an *implied* obligation. The obligation in the latter case is as strong as in the former; for she is certainly impliedly bound to adhere to the mode of warfare practised by all civilized nations, as much as she could possibly be to preserve inviolate the provisions of any express stipulation. If this position be correct, and the present bill should pass, every individual in the nation who had sustained injury by the wanton plunder and destruction of private property by the enemy, would have an equally fair claim to an ample remuneration for all losses which they have sustained. Such an indemnification, granted to the full extent, would exhaust the resources of the nation, in a war protracted to any considerable length of time, against a nation who possesses so many powerful means of annoyance. The magnitude of the sum thus to be granted would, in itself, in a political point of view, manifest the impolicy of the grant. Indeed, it does not appear to your committee but that upon the same principle the United States would be bound to indemnify all her numerous citizens whose property had been captured under the unlawful edicts of the European Governments; because all Governments are under a moral obligation to respect the law of nations. Yet, it is presumed, that no one will attempt to show the responsibility of the United States in such cases, until on the part of their citizens they had obtained indemnification from the Governments thus violating their rights.

The committee, therefore, according to the best views which they are enabled to take of the subject, cannot forbear expressing the opinion that the bill above alluded to ought not to pass.

13th CONGRESS.]

No. 241.

[2d SESSION.]

CLAIM FOR INTEREST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1813.

Mr. ARCHER, from the Committee of Claims, to whom was referred the petition of John Thompson, made the following report:

That by an act of Congress passed on the 11th day of May, 1812, the accounting officers of the Treasury Department were required to settle the account of the petitioner, and to allow him the amount of any moneys which might appear to have been advanced by him for the public service, and which had not been reimbursed to him; and also to allow him any sums which might appear to be due him for personal services; that the accounting officers of the Department of the Treasury, in pursuance of the said act of Congress, did adjust and settle the accounts of the petitioner, and paid him the balance which, upon settlement, was found to be due; the interest, however, was withheld; and of this the petitioner complains, alleging that if the principal were justly due, the payment of interest, in a legal point of view, necessarily followed.

At the last session of Congress, the chairman of the Committee of Claims, at the instance of the petitioner, addressed a note to the Comptroller of the Treasury requesting to be informed upon what principle the interest had been withheld. In answer to which the following communication was received, detailing the reasons which operated on the mind of that officer, in his refusal to pay to the petitioner the interest which he demanded.

SIR: TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, June 4, 1813.

I had the honor to receive your note of this day, requesting to be informed why, in the settlement of the accounts of John Thompson, under the act of Congress of the 11th of May, 1812, I did not allow him interest.

The sole reason why I did not, was a doubt of my power. The act in question provides that there shall be allowed "to the said John Thompson the amount of any moneys which may appear to have been advanced by him for the public service, and which have not been reimbursed to him; and also to allow him any arrearages that may be due for personal services;" but it says not a word about interest. It might seem to follow that, on whatever sum was found due, interest, from the time of its being due, would, as matter of course, be awarded to him. But such has not been the construction or usage of the Government. I found, on careful inquiry, that in no similar case had interest been allowed in the settlement of a claim at the Treasury, and that special words were always deemed necessary to sanction such allowance. In confirmation of this usage, which appears, too, to have been coeval with the first formation of the Government, I further discovered, in examining various acts of Congress on the subject of these private claims, that in some, interest is by special words directed to be allowed, whilst in others, as in this of Thompson's, no such authority is given. This I took to afford some countenance to the distinction. As interest in its application to such cases as the present is to be considered in the light of a compensation for money unjustly withheld after it is due, perhaps Government may not, under this view, be held chargeable with it as a general rule, inasmuch as the presumption of law is, that the sovereign stands ready at all times to pay what is justly due from it, and that where payment has not been made, it must be taken to be owing to some good and justifiable causes, and not to any mere neglect or default in itself or its own officers. But waiving this suggestion, the refusal of the Government, in its ordinary practice, to pay interest, is at least sustained on equitable ground in so far as the rule is reciprocal. For if it refuse to pay interest, it is also true that it never charges any to its debtors. The case of revenue bonds, so provided by special law, the case of moneys in the hands of the bankers of the Government abroad, and judgments, are, as far as I am informed, the only exceptions to this rule. But in general, in all common open accounts, and on all contracts, unless otherwise specially provided, the Government gives an acquittance to its debtor on payment of the principal sum due, making no demand for interest, no matter for what length of time the principal may have been withheld; and, in pursuance of this doctrine, it is also a fact that no interest account, except in the cases above specified, is ever opened upon the books of the Treasury.

These are the reasons that operated with me to refuse interest on the final settlement at this office of the claim of John Thompson, among which I beg leave to class as the chief, an unwillingness which I felt to depart from a practice uniform at the Treasury, as far as I could gain information, for more than twenty years.

I have the honor to be, with great respect, sir, your obedient servant,

RICHARD RUSH.

The Hon. STEVENSON ARCHER, *Chairman of the Committee of Claims.*

The rule which appears from the above letter to be established at the Treasury, and which has been practised under for so long a period of time, your committee cannot feel themselves at liberty to violate, because they believe it to be salutary. That construction which the Comptroller states is given in the Treasury Department to acts of Congress in relation to private claims, undoubtedly coincides with the intention of the Legislature. Entertaining this belief, your committee are satisfied, that the principal alone, which was found to be due, was intended by Congress to be paid to John Thompson under the law above alluded to. We are bound to presume that the original claim of the petitioner underwent a thorough examination, and that it was determined according to its merits. All was granted which in justice was deemed to be due, and if the construction which has been adopted be correct, that was the *principal* alone; the *interest* was refused.

The committee consider the claim of the petitioner as completely satisfied by the act of Congress, and believe the adoption of that principle unsafe, which admits the power of re-examining claims that have been once settled by the competent authority. They therefore recommend the adoption of the following resolution:

Resolved, That the petition of John Thompson ought not to be granted.

13th CONGRESS.]

No. 242.

[2d SESSION.]

CLAIM OF COMMODORE DALE FOR SEA STORES WHILE IN COMMAND OF THE SHIP GANGES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1813.

Mr. ARCHER, from the Committee of Claims, to whom was referred the petition of Richard Dale, made the following report:

That the petitioner presented his claim to Congress in the year 1803, at which period it was referred to a Committee of Claims for examination. The Secretary of the Navy having been requested to give his opinion upon the merits of the claim, addressed a letter to the chairman of that committee. This communication, as it exhibits a detailed view of the nature and merits of the petitioner's pretensions, your committee ask leave to incorporate with their report, in the following words:

SIR:

NAVY DEPARTMENT, *February* 15, 1803.

I have the honor of acknowledging the receipt of your favor of the 11th inst., submitting to me the petition of Captain Dale, and requesting "such evidence respecting it as the Navy Department may furnish;" and also, "my opinion upon its merits."

The records of this Department show, that in the month of May, 1798, Captain Dale took the command of the ship Ganges; that stores to the amount of \$862 62 had been put on board of this ship by the agent of the United States; and that after the cruise, Captain Dale, in his accounts against the Government for his services, did not claim any allowance for rations; but I have not been able to find any positive evidence of an agreement that he should be at no expense for his sea stores.

The law of Congress allowed to an officer of the rank of Captain Dale 75 dollars per month, and 6 rations per day: and, excepting this case of the Ganges, Government has never put on board a public ship a captain's sea stores. Whence, then, has it happened that in this particular case Government did furnish the sea stores, and that Captain Dale did not claim an allowance for rations? Do not these two extraordinary circumstances induce a presumption that the agreement as stated in the petition was made, and that Captain Dale took the command of the Ganges under the persuasion of its fulfilment on the part of the Government?

If, however, this agreement were established by positive evidence, in the most satisfactory manner, I should not consider myself empowered to carry it into effect without the authority of a special act of Congress. The head of the Department was not competent to the making of such a contract. The pay and emoluments of every officer of the navy being precisely ascertained by law, the Secretary had no legitimate power to go beyond that allowance. But if the committee should believe, as I do, that Captain Dale did take the command of the Ganges under the assurance of the head of the Department that his sea stores should be furnished him by Government, as stated in the petition, they will determine whether such a stipulation ought not to be carried into effect.

It is proper to inform you that the rations, to which Captain Dale would have been legally entitled, would have amounted to the sum of \$309 10 and thus the real sum from which he prays to be released is \$553 52.

I have the honor to be, with great respect, sir, your most obedient servant,

R. SMITH.

Hon. J. C. SMITH, *Chairman of the Committee of Claims.*

The agreement on the part of the Government to furnish the captain's sea stores, as the condition upon which the command of the Ganges was accepted by Captain Dale, although not proven in positive terms, is satisfactorily established. The putting on board the cabin stores, (an act which in ordinary cases is never done,) and the relinquishment, on the part of Captain Dale, of the rations to which as an officer he was entitled, are circumstances which place the existence of such an agreement beyond all question. And although no power was invested in the Secretary of the Navy to augment or diminish the compensation of officers, yet when we consider the pressing solicitations which were made him; the high reputation and gallantry of that officer; the great confidence which was reposed in him by the public; and, more particularly, when we reflect that he was induced to enter the service from a conviction that the promise made to him by an agent of the Government would be performed with fidelity, the committee are satisfied that little hesitation can exist as to the propriety of releasing him from the sum with which he stands charged. The committee are well aware that some danger is to be apprehended from the precipitate confirmation of the unauthorized acts of the agents of the Government; yet, in the present instance, it is not perceived that mischievous consequences can possibly result from the allowance of this claim. Nor, indeed, do the committee conceive, that by granting it, the Government will abandon any claim to which it is legally entitled. For it is, to say nothing more, a subject of doubt whether the United States could recover the amount of these stores from Captain Dale, without a contract, either express or implied on his part, to be responsible for their value. That no such contract did ever exist, is apparent, because the *agreement* above alluded to expressly contradicts it. The ship was furnished with stores without his order, and he was importuned to take the command.

With this view of the subject, the committee are induced to ask leave of the House to report a bill for the petitioner's relief.

13th CONGRESS.]

No. 243.

[2d SESSION.]

CLAIMS FOR HORSES AND MULES LOST IN THE PUBLIC SERVICE, AND FOR WHISKEY AND GUNPOWDER DESTROYED AT CHICAGO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1813.

Mr. ARCHER, from the Committee of Claims, to whom was referred the petition of Kenzie and Forsythe, made the following report:

That the petitioners were traders at Chicago at the time of its evacuation by the American forces, and were in possession of a quantity of gunpowder and whiskey, which they had brought there for the purpose of selling.

As the longer possession of that post, daily surrounded with hostile Indians, became dangerous, the commanding officer resolved to evacuate the fort, and to destroy the public property; and, as the Indians were expected to take immediate possession of the place, Major Heald advised the petitioners to permit their property to be also destroyed, in order to prevent it from falling into the hands of the enemy; which was accordingly done. The fort was evacuated, and taken possession of by the Indians immediately. In order to assist the party to make their escape, a number of horses and mules were furnished by the petitioners, which were captured about two miles from the fort.

For the destruction of the whiskey and gunpowder, and for the loss of the horses and mules, the petitioners claim compensation.

The committee believe that the horses and mules should be paid for by the Government, inasmuch as they were in the service of the United States, and were captured by the enemy; and have reported to the House a bill, which, if passed, will extend relief to them. But they cannot conceive that the petitioners can have any claim for a compensation on account of the destruction of their property, because it had been brought by the petitioners, who were traders, to that place, for purposes of speculation. Nor do their pretensions to remuneration appear to receive any strength from the circumstance of the destruction of this property by an officer of the Government, because it would otherwise have fallen into the hands of the Indians, where it would have been lost to the claimants. They accordingly ask leave to propose the following resolution:

Resolved, That the petition of Kenzie and Forsythe, so far as it prays for compensation for their gunpowder and whiskey, destroyed as aforesaid, ought not to be granted.

13th CONGRESS.]

No. 244.

[2d SESSION.]

INDEMNITY FOR A HOUSE BURNT WHILE OCCUPIED AS THE WAR DEPARTMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 7, 1814.

Mr. ARCHER made the following report:

The Committee of Claims, to whom was referred the petition of Rebecca Hodgson, having, according to order, had the same under consideration, respectfully ask leave to report:

That by virtue of a lease dated on the 14th day of August, 1800, the house of a certain Joseph Hodgson, in the city of Washington, was let to Samuel Dexter, the then Secretary of War, for the term of eight months; in which lease the said Dexter covenanted, for himself and his successors, to keep the said premises in good and sufficient repair, ordinary decay and inevitable casualty excepted; and the same so kept in repair, at the expiration of the term to deliver up to the said Hodgson: That, in pursuance of the lease, Mr. Dexter took possession, in the name of the United States, of the building and premises, and occupied the same as a public office: That on the evening of the 8th day of November, 1800, a fire communicated itself to the House, by which it was destroyed: That after the expiration of the term for which the house had been leased, Joseph Hodgson instituted a suit against Samuel Dexter for an alleged breach of the covenant contained in the lease, in not delivering up the premises in good and sufficient repair. But the Supreme Court of the United States, at February term, 1803, gave judgment against the plaintiff, on the ground, that as Dexter was a public agent of the Government, he was not responsible in his personal and individual capacity. The court, however, in their decision in this case, gave no opinion on the liability of the United States.

The present petitioner is the legal representative of Joseph Hodgson, and claims of the Government damages equal to the value of the house, in consequence of its destruction by fire.

In determining on the legality of the petitioner's claim, it becomes necessary to examine the signification and true construction of the words *inevitable casualty*, and to ascertain whether the destruction of this house took place by such an inevitable casualty as exonerates the lessee from the operation of the covenant, for a breach of which damages to the lessor would necessarily result. The acts of God, which may be defined to be such occurrences as could not happen by the intervention of man, as storms, lightnings, earthquakes, and tempests, are very properly denominated inevitable casualties. But the expression cannot be confined to those accidents alone which human efforts cannot control; for it has been applied by eminent authority to those occurrences which may be checked or subdued by the exertion of man. Lord Mansfield, the uniform correctness of whose administration of civil jurisprudence has been often eulogized, considers a fire which originates without negligence or design, as an *inevitable accident*; and Sir William Jones, whose style is universally admired for its purity and precision, in different passages in his elementary treatise on bailment, calls a fire happening under the same circumstances of accident, an *inevitable misfortune*, an *inevitable accident*, and an *inevitable mischance*. By these two distinguished jurists, a fire happening without negligence or design, is considered as an inevitable casualty equally with storms, lightnings, or tempests. *The true definition, then, of the term "inevitable casualty" may be taken to be such an accident as cannot be avoided by ordinary care and diligence.*

The next inquiry which presents itself for consideration is, whether the fire by which the house of Hodgson was destroyed, took place by *negligence*, accident, or *design*. In making their determination upon this subject, your committee conceived themselves bound to examine, not only the evidence adduced by the petitioner, but other testimony, which, from an examination of the journal of the House, they found to be in existence, and to be applicable to the case. On the 10th of February, 1801, a committee was appointed to investigate the causes of the late fires in the War and Treasury Departments, who, on the 28th of the same month, reported to the House a variety of depositions which they had taken in relation to the subject of their inquiry. From all of which there results a strong probability that the fire in the War Department (Hodgson's house) was communicated from the fire-place of the adjoining building, and that there is no evidence whatever on which to found a suspicion of its having originated from negligence or design. If, then, the view which your committee have taken of that clause in the lease which bears upon the present claim, and the conclusion which is drawn from the testimony, be correct, it necessarily follows that the petitioner can have no claim against the United States for compensation or damages, until other evidence shall be adduced, which, by outweighing that already in existence, shall prove the destruction of the house to have been produced by negligence or design. Your committee, therefore, conclude with submitting the following resolution:

Resolved, That the petition of Rebecca Hodgson, administratrix of Joseph Hodgson, ought not to be granted.

[13th CONGRESS.]

No. 245.

[2d SESSION.]

APPLICATION OF THE LEGISLATURE OF KENTUCKY, THAT PROVISION BE MADE FOR HORSES LOST, FOR THE REPRESENTATIVES OF SOLDIERS KILLED, AND FOR EXTRAORDINARY SERVICES RENDERED BY THE MOUNTED VOLUNTEERS OF THAT STATE, UNDER GOVERNOR SHELBY, IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1814.

Mr. TROUP, from the Committee on Military Affairs, to whom was referred the memorial of the Legislature of Kentucky, praying that provision be made by Congress for horses lost, for the representatives of soldiers killed, and for compensation proportioned to extraordinary services rendered by the mounted volunteers, in the late expedition under Governor Shelby, made the following report:

That a bill has been reported, providing compensation for horses killed in battle, or lost in the service of the United States; that a bill is herewith reported, making provision for the representatives of militia killed, or who have died in the service of the United States; that, with respect to so much of the memorial as prays compensation proportioned to extraordinary services and sacrifices, your committee respectfully submit, that militia cavalry, or mounted volunteers, in the service of the United States, are entitled to the same pay, subsistence, and forage, as cavalry in the regular army, and are moreover entitled to 40 cents per day for the use and risk of horses, when furnished by themselves. The committee express no opinion of the reasonableness or adequacy of this compensation; they find for the compensation of militia service a general legal provision existing, and they are not instructed to inquire into the expediency of altering it. Your committee, however, do not hesitate to declare their conviction that the provision, whatever be the amount of it, ought to be general. Partial provisions adapted to the merits of particular cases, as they arise, would be inconsistent with military usage, with the practice of the Government of the United States, and would give rise to jealousy and discontent; the perfection of human wisdom and justice could not so apportion pecuniary reward to military service, as to prevent this evil. The committee, therefore, cannot recommend to the House to consider of the expediency of granting augmented compensation to particular corps, who may have performed distinguished services. Among those who, during the present war, stand pre-eminent in this respect, are the gallant volunteers of Kentucky. The alacrity with which they repaired to the standard of their country; the zeal and firmness with which they persevered through a toilsome service, no less than the glorious and successful issue of that service, give the volunteers a just title to the liberality and gratitude of Congress. Your committee, however, whilst they concede to those claims a compensation for property lost, and a provision for the widows and orphans of those who have been killed, or have died, in the service of the United States, cannot, consistently with their opinion of the public welfare, recommend an increased compensation, proportioned to extraordinary military services.

[13th CONGRESS.]

No. 246.

[2d SESSION.]

STATE CLAIMS FOR MILITIA SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 22d OF FEBRUARY, 1814.

Mr. TAYLOR, from the committee for revising the militia laws, to which was referred a letter from the Secretary of War, transmitting a statement of the claims exhibited by the State of Virginia, and which have been disallowed on a settlement made at the Accountant's Office on the 17th November, 1812, made the following report:

That the said claims amount to \$20,612 67; of this sum \$3,035 58 appears to be claimed for pay and forage for officers and privates of the militia who have been regularly paid and supplied by the United States; \$6,558 93 for advances made *on account* to certain officers, without specifying for what purpose made, and without any evidence that the same has been accounted for; \$1,969 20 for provisions, rum, whiskey, &c., for officers and privates who were either furnished by the contractor with rations, or who received an allowance in lieu thereof on the rolls through the paymaster; \$997 12 for surgical instruments, medicines, and groceries for militia, without any evidence that there was necessity for any of the articles, or that such of them as must have remained on hand at the close of the expedition were stored or kept for the United States; \$1,507 59 for blankets, mattresses, &c., for militia who received the regular allowance for clothing through the paymaster; \$2,574 27 for axes, pots, kettles, pans, canteens, and tents, without any evidence that at the close of the expedition the same were delivered over to the proper officer of the United States for their use; and the residue of the said sum is claimed for the services of officers not recognised by the laws of the United States at the time when the services were performed, and for forage furnished to them, for the services of expresses in carrying orders, for calling out the militia, and for mustering and inspecting the militia, which hitherto have been considered State expenses, and incurred accordingly, without expecting remuneration from the Treasury of the United States. The committee, therefore, submit the following resolution:

Resolved, That the said claims ought not to be allowed.

SIR:

WAR DEPARTMENT, *January 24, 1814.*

In obedience to a resolution of the House of Representatives of the 15th instant,* I have the honor to transmit the enclosed letter and account.

By the former, it appears that no claims (other than those of the State of Virginia) for moneys advanced by States or Territories, in calling into the service of the United States detachments of militia, are filed with the Accountant of the War Department; and by the latter, are shown the items in the accounts rendered by the State of Virginia, which have been adjusted under the authority of existing laws, and those also which require legislative provision.

I have the honor to be, sir, with great respect, your most obedient servant,

JOHN ARMSTRONG.

The Hon. Mr. CHEVES, *Speaker of the House of Representatives.*

SIR:

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, *January 22, 1814.*

In conformity to the resolution of the 15th instant, I enclose a copy of a letter from the Governor of Virginia, addressed to the Secretary of War, and by him referred to this office; and a copy of my letter in reply to the Governor, together with a copy of the list of disallowed charges on settlement at this office on the 17th November, 1812, as well as the amount of the moneys now standing to the debit of the State of Virginia on the books of this office. There are no other documents in this office touching the subject of the resolution of the House of Representatives, no accounts being filed here for moneys advanced by States or Territories in calling into service of the United States detachments of militia.

Respectfully, I am, sir, your most obedient servant,

WILLIAM SIMMONS.

The SECRETARY OF WAR.

SIR:

RICHMOND, *October 14, 1812.*

Enclosed I transmit an account of the commonwealth against the United States, and the vouchers in support thereof. I beg leave to suggest to you the indispensable necessity of a prompt attention to this subject, as the contingent fund upon which we have been compelled to draw for a great proportion of this account is entirely exhausted; and claims against the State which depend upon that fund for payment are suspended. If a difficulty should arise to any of the items, it may be a subject of future discussion. In the interim, it is important to us that so much of the account as is admitted should be forthwith discharged. If convenient, a draught on the bank here will be most acceptable.

With high respect, I am, your obedient servant,

JAMES BARBOUR.

The SECRETARY OF WAR, *Washington.*

SIR:

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, *November 17, 1812.*

The Secretary of War has referred to this office your letter to him of the 14th ultimo, together with the accounts accompanying it. These accounts, as well as those heretofore rendered by the State of Virginia, have been acted on, and such parts admitted as it is thought the military laws of the United States existing at the time the disbursements were made would authorize. A copy of the account current now enclosed will show you the items composing the sum of \$17,159 31, the amount admitted; and the accompanying statements embrace all the charges made by the State which have been disallowed, with the causes of such disallowance noted. Such of the rejected vouchers as are not on file in this office were returned to Mr. Henning, a list of which is added to statement No. 1, herewith. The balance in favor of the United States is \$2,114 10, as will appear from the enclosed account current.

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

WILLIAM SIMMONS.

His Excellency J. S. BARBOUR, *Governor of the State of Virginia, Richmond.*

Statement of claims exhibited by the State of Virginia, and which have been disallowed, on settlement made at the Accountant's Office, 17th November, 1812; showing, also, the balance now standing to the debit of the State, on the books of this office.

| Voucher. | Amount. |
|---|----------|
| 1 Amount deducted from the account of John Ambler, being an advance of ten dollars, made by him, to Jo West, quartermaster, and not accounted for on settlement with said West, (see Vr. 148;) an advance of four dollars to two privates of Richardson's company, and not accounted for on settlement with said company; a payment of one dollar and fifty cents for a battalion belt, that being an expense belonging to the officer who carried the colors; and a payment by Ambler, and sundry payments by M. Minns, as commissary for provisions, rum, &c. for the militia; which payments are inadmissible, as the men were either furnished by the contractor with rations, or received an allowance for them on the rolls, through the paymaster, - - | \$228 83 |
| 5 James Laughlin's bill for services as express, carrying orders for calling out the militia. Inadmissible, as the United States are not liable for the expenses incident to calling the militia into service, - - - - - | 4 16 |
| 12 Samuel Clark's bill for blankets for the militia. Inadmissible, the men having received an allowance on the rolls for clothing, and, consequently, were to furnish themselves with blankets, - | 309 75 |

* *Resolved*, That the Secretary of War be instructed to lay before this House a report on the claims of the several States and Territories for moneys advanced in calling into the service of the United States detachments of militia, distinguishing such items of the claims as, under the existing laws, can be settled; and distinguishing, also, such items as cannot be adjusted and settled without legislative provision.

| Voucher. | Amount. |
|---|---------|
| 15 John Anderson's charge as express, with orders for calling out the militia. Inadmissible, as the United States are not liable for the expenses incident to calling the militia into service, - | \$20 00 |
| 18 John Atkinson's charge as express, with orders for calling out the militia. Inadmissible, as the United States are not liable for the expenses incident to calling the militia into service, - | 54 12 |
| 19 James Laughlin's charge as express, with orders for calling out the militia. Inadmissible, as the United States are not liable for the expenses incident to calling the militia into service, - | 31 25 |
| 20 John Gunn's charge as express, with orders for calling out the militia. Inadmissible, as the United States are not liable for the expenses incident to calling the militia into service, - | 11 45 |
| 22 Part of Benjamin Wolfe's bill. Inadmissible, being for bacon for the militia, who either drew their rations from the contractor, or received an allowance for them on the rolls, - | 232 44 |
| 24 John Atkinson's bill for carrying orders to call out the militia. Inadmissible, the United States not being liable for the expenses incident to calling the militia into service, - | 27 12 |
| 25 An advance to sergeant Wheeler; no advances or payments on account. Inadmissible, and no evidence of this sum having been disbursed for public purposes, - | 50 00 |
| 27 Lownes & Pierce's bill for bacon for the militia. Inadmissible, they having received their rations from the contractor, or an allowance for them on the rolls, - | 260 00 |
| 29 James Laughlin's bill as express, with orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to calling the militia into service, - | 7 50 |
| 40 Part of N. McCoul's bill. Inadmissible, being for blankets, mattresses, and salt. The men have received an allowance on the rolls for blankets; mattresses are not allowed either to officers or soldiers in the army, and salt is a component part of the ration, and must have been furnished by the contractor, - | 1197 84 |
| 43 John Gunn's bill as express, with orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering out the militia, - | 20 41 |
| 51 Robert Gamble's bill for whiskey. Inadmissible, whiskey being a component part of the ration, was furnished the men by the contractor, or they must have received an allowance for it on the rolls, - | 285 33 |
| 55 John Atkinson, { Charge as expresses, with orders for calling out the militia. Inadmissible, the | 33 33 |
| 56 James Laughlin, { United States not being liable for expenses incident to ordering the militia | 17 20 |
| 60 John Gunn, { into service, | 4 16 |
| 63 G. W. Dixon, { | 4 89 |
| 62 Samuel Pointer's bill for bacon. Inadmissible, the militia having either drawn their rations from the contractor, or received an allowance for them on the rolls, - | 86 11 |
| 70 James Young, { Charges for bread, mutton and salt. Inadmissible, the militia having re- | 52 07 |
| 71 C. B. Harrison, { ceived their rations from the contractor, or an allowance for them on the | 13 00 |
| 75 John Leslie, { rolls, | 25 00 |
| 76 An advance to Major James Byrne. No advances or payments on account admissible, and no evidence of this sum having been accounted for, - | 238 93 |
| 80 Part of Benjamin Drew's account. Inadmissible, being for flour, bacon, and liquor, the militia having either received their rations of the contractor, or an allowance for them on the rolls, - | 184 69 |
| 82 An advance to Samuel J. Winston, as deputy adjutant general. Inadmissible, not being accounted for, and no such officer provided for by law at the time, - | 50 00 |
| 96 Elmore and Glazebrook's bill for services, carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering the militia into service, - | 48 00 |
| 97 P. R. Denouville's bill for provisions for the militia. Inadmissible, they having received their rations from the contractor, or an allowance for them on the rolls, - | 18 58 |
| 99 John Camp's bill for services as provost marshal. Inadmissible, there being no such officer provided for by the military laws of the United States, - | 9 00 |
| 101 Amount deducted from the pay of Ch. F. Adams, on the rolls of Captain Coke's company, he having been settled with, as quartermaster to the company; which is not allowed, and his pay and emoluments are reduced to those of a quartermaster sergeant, - | 14 01 |
| 102 Payment to John Murrally. Inadmissible, the object of the payment not being stated, - | 20 00 |
| 104 John Uzzel's bill for services carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering out the militia, - | 185 00 |
| 115 Payment to Captain William Bowden, for forage furnished his troop of militia cavalry. Inadmissible, they having received an allowance on the roll for forage and rations, - | 136 79 |
| 127 James Haggerty's bill for carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering the militia into service, - | 16 89 |
| 128 John Stith's bill for inspecting the Virginia militia, in January, 1808. Inadmissible, it being an expense belonging solely to the State of Virginia, - | 87 90 |
| 129 Hy. Lee's claim for reimbursement for expenses of his aid, executing orders under the requisition. Inadmissible, the United States not being liable for the expenses incident to calling out the militia, - | 10 00 |
| 130 Joseph Pollard's bill for services, carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering the militia into service, - | 40 00 |
| 131 Timothy Taylor's bill for mustering and inspecting the Virginia militia. Inadmissible, it being an expense belonging to the State, - | 26 90 |
| 132 S. J. Winston's bill for mustering and inspecting Virginia militia. Inadmissible, it being an expense belonging to the State, - | 96 40 |
| 133 G. Metcalf's bill for carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering out the militia, - | 40 90 |
| 137 A. Perkins's bill for mustering and inspecting Virginia militia. Inadmissible, this being an expense belonging to the State, - | 85 00 |
| 138 M. Tate's bill for carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering out the militia, - | 57 00 |
| 142 Joseph Martin's bill for carrying orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering out the militia, - | 24 00 |

| Voucher. | Amount. |
|---|----------|
| 11 Henry Tompkins' bill for surgical instruments, medicines, and groceries for the militia. Inadmissible, it not appearing that there was a necessity for any of the articles, and no evidence exhibited of such of them as must have remained on hand at the close of the expedition being stored, or kept for the use of the United States, - - - - - | \$78 42 |
| 31 Dunsmure & Turner's bill for surgical instruments, medicines, and groceries for the militia. Inadmissible, it not appearing that there was a necessity for any of the articles, and no evidence exhibited of such of them as must have remained on hand at the close of the expedition, being stored, or kept for the use of the United States, - - - - - | 82 60 |
| 41 William Wardlow's bill for surgical instruments, medicines, and groceries for the militia. Inadmissible, it not appearing that there was a necessity for any of the articles, and no evidence exhibited of such of them as must have remained on hand at the close of the expedition being stored, or kept for the use of the United States, - - - - - | 462 27 |
| 110 Amount claimed for the pay and emoluments of Capt. B. Sheppard and troop of militia cavalry. Deducted, the roll having been revised in the office of the paymaster of the army, and the correct amount by him placed in the hands of R. C. Jennings, paymaster, and by him handed over to the State of Virginia, which has been charged with the amount, and obtained a credit for the same, after deducting the amount of forage drawn by said troop in kind from the State, which forage the State gets a credit for, on the forage abstract, - | 1,240 47 |
| 111 Amount claimed for the pay and emoluments of Capt. Wm. Bowden and troop of militia cavalry. Deducted, the roll having been revised as the foregoing, and the same course pursued throughout, - - - - - | 1,624 50 |

Disallowed claims for Forage.

| To whom issued. | Rank. | Reasons for disallowing. | Pounds hay. | Gallons corn. |
|--------------------|----------------------------|--|-------------|---------------|
| William Sharp, - | Lieutenant colonel, | From July 4, to August 3, 1807; paid for his forage for same time by Mr. Jennings, | 682 | 186 |
| William Lindsay, - | Major, - | From July 9 to 31, 1807, paid for do. - | 253 | 69 |
| Samuel Marsh, - | Brigade inspector, | From July 4, to August 27, 1807; no such officer provided for by the then existing military laws of the United States, - | 1,210 | 330 |
| Dempsey Watts, - | Major, - | From July 4, to August 3, 1807; paid for his forage for same time by Mr. Jennings, | 660 | 180 |
| Alex. Whitehead, | Q. M. G. - | From July 4, to August 4, 1807; no officer of that grade provided for by the then existing military laws of the United States. - | 704 | 192 |
| R. H. Lee, - | Secretary to the general. | From July 4, to August 27, 1807; no such officer provided for by the then existing military laws of the United States, - | 506 | 138 |
| A. Jordan, - | Deputy Q. M. G. | From July 10, to August 27, 1807, do. - | 1,188 | 324 |
| Thomas Lawson, | Regimental paymaster. | From July 9, to August 10, 1807; the paymaster of the army having refused him pay as being unauthorized by the then existing military laws of the United States, - | 539 | 147 |
| Robert Maitland, | Deputy commissary. | From July 24, to August 27, 1807; no such officer provided for by the then existing military laws of the United States, - | 363 | 99 |
| Samuel B. Archer, | Judge advocate, - | From July 4, to August 27, 1807; no such officer provided for by the then existing military laws of the United States, - | 385 | 105 |
| Lee Hall, | Regimental surgeon, | From July 4, to August 3, 1807; the paymaster of the army having refused him pay as being unauthorized by the then existing military laws of the United States, - | 594 | 162 |
| J. L. Willoughby, | Regimental surgeon's mate. | From July 4, to August 3, 1807; the paymaster of the army having refused him pay, as being unauthorized by the then existing laws of the United States, - | 660 | 180 |
| Thomas Mathews, | Brigadier general, | From July 4, to August 27, 1807; paid at the rate of \$225 per month, by Mr. Jennings, which is in full of all allowance, | 330 | 90 |
| William Cammack, | Commis'ry of forage, | From July 4, to August 27, 1807; no such officer provided for by the then existing laws of the United States, - | 2,420 | 660 |
| Anthony Lawson, | Surgeon's mate, - | From July 4, to August 27, 1807; deducted, he having been settled with by the State for pay and rations from July 3, to November 9, 1807, and disallowed; there being no evidence of his having acted as such for the time charged, and no authority produced for paying it to the person who receipts for it, - - - - - | 1,210 | 330 |
| | | | 605 | 165 |
| | | | 12,309 | 3,357 |

12,309 pounds hay, at \$1 per hundred, - - - - - \$123 09
 419½ bushels corn, at 85 cents per bushel, - - - - - 356 68
 Commission disallowed, - - - - - \$479 77
 173 26

| | Amount. |
|--|----------|
| Amount disallowed on the roll of Sheppard's troop, being the amount of forage furnished them in kind and credited the State of Virginia in the abstract of forage, - - - - - | \$340 58 |
| Amount disallowed on the roll of Bowden's troop, being for forage as above, in the case of Sheppard's, | 453 61 |

Claims exhibited by the State of Virginia, Oct. 14, 1812, and disallowed.

Voucher.

| | | |
|----|--|--------|
| 1 | Part of L. Cornick's account inadmissible, being for provisions, &c. furnished Capt. Bowden's troop of militia cavalry, they having been made upon the roll for an allowance for rations and forage, and the amount advanced the State of Virginia by R. C. Jennings, to be paid to the individuals composing the troop, - - - - - | 138 00 |
| 2 | Amount overcharged as the pay and emoluments of Capt. Murdaugh's troop of militia cavalry, the necessary deductions for rations and forage, drawn in kind by said troop not having been made from the amount of the roll, - - - - - | 302 71 |
| 3 | George Finch's account for tents and marquee. Disallowed, orders having been given by the Secretary of War, at the close of the expedition, to deliver them to Capt. John Saunders, the commanding officer of the United States' forces in the harbor of Norfolk, which does not appear to have been done, - - - - - | 955 00 |
| 4 | Anthony Lawson's account for pay and rations as surgeon's mate, from July 3, to Nov 9, 1807. Suspended, there being no evidence of his having acted for the time charged; and no authority produced for paying it to G. Newton, who receipts for it, - - - - - | 179 00 |
| 5 | John Camp's account for services as provost-marshal. Disallowed, being a duplicate of Vr. 99 of the accounts first exhibited and there rejected; there being no provision for such an officer by the military laws of the United States, - - - - - | 9 00 |
| 7 | John F. Henley's bill for services as express with orders for calling out the militia. Inadmissible, the United States not being liable for the expenses incident to ordering the militia into service, - - - - - | 50 00 |
| 8 | P. Hopper's | 50 00 |
| 9 | Robert Lord's | 13 08 |
| 10 | P. Hopper's | 33 75 |
| 11 | John F. Henly's | 40 10 |
| 12 | Michael Tate's | 67 02 |
| 13 | Arch'd Perkins's account for mustering and inspecting the Virginia militia. Inadmissible; it being an expense belonging to the State, - - - - - | 60 70 |
| 15 | A. B. Sneed, | 8 80 |
| 16 | Jas. Brown, | 24 00 |
| 17 | Thomas Metcalf, | 77 60 |
| 18 | Th. B. Mullin, | 20 00 |
| 19 | P. Hopper, | 20 00 |
| 20 | Alexander Walker, | 114 20 |
| 21 | Alexander Walker's account for provisions furnished Capt. Macklin's company of militia. Inadmissible; they being on their march to Norfolk, and entitled to a day's pay and rations for every 15 miles from their homes to the place of rendezvous, will no doubt be made up on the pay-roll for every allowance to which they have a claim, - - - - - | 31 00 |
| 22 | R. Lord's bill, as express, with orders for calling out the militia. Inadmissible; the United States not being liable for the expenses of calling the militia into service, - - - - - | 31 31 |
| 23 | John Campbell's bill for carrying orders in relation to the Virginia militia to be called into service. Inadmissible; the United States not being liable for the expenses incident to ordering out the militia, - - - - - | 45 00 |
| 24 | P. Hopper's bill for carrying orders in relation to the Virginia militia to be called into service. Inadmissible; the United States not being liable for the expenses incident to ordering out the militia, - - - - - | 14 00 |
| 25 | Capt. Mark Anthony's account for provisions furnished his company. Inadmissible; as the men must be made up on the rolls for their allowance of subsistence while marching to their place of rendezvous, and afterwards be furnished with rations by the contractor, - - - - - | 95 87 |
| 26 | Capt. Anthony's account for axes, pots, corn, &c., for his company. Inadmissible; the law of the 10th April, 1812, under which these militia were called into service, requires the States to arm and equip their militia themselves, - - - - - | 10 50 |
| 27 | Leftwich & Co.'s bill for axes, pots, &c., for Capt. Anthony's company. Inadmissible; the law under which said company was called out requiring the State to equip her own militia, - - - - - | 17 52 |
| 28 | W. Wardlow's bill for medicine delivered the director of medical and hospital stores to the Virginia militia. Inadmissible; there being no such officer known to the laws of the United States, and the law of the 10th April, 1812, requiring the State to equip her militia herself, - - - - - | 40 89 |
| 29 | Ch. Johnston's account for bacon, &c., furnished Capt. Anthony's company. Inadmissible. See remarks made on a similar charge in voucher 25, above, - - - - - | 67 08 |
| 30 | James Jones's account for services as director general of the hospital. Inadmissible; no such officer provided for by the laws of the United States, - - - - - | 75 00 |
| 31 | J. Prior's bill for pans, pots, canteens, kettles, oats, corn, &c., for Capt. Anthony's company. Inadmissible; the law requiring the State to equip her militia, - - - - - | 57 58 |
| 32 | Mary Bird's account for forage of Capt. Anthony's company, on their march to their rendezvous. Inadmissible; it being the impression that the United States are not liable for the expenses of marching the militia to their places of rendezvous, - - - - - | 11 67 |
| 33 | Simon Black's bill for materials for making tents. Inadmissible; the law under which the militia for which the tents were intended were called into service requiring the States to equip their own militia, - - - - - | 737 77 |
| 34 | P. Hopper, { | 25 00 |
| 35 | R. Lord, { Claims for carrying orders for calling out militia. Inadmissible, the United | 30 00 |
| 36 | Jno. Gunn, { States not being liable for such expenses, } | 30 00 |
| 37 | J. & G. Marx's bill for ticklenburg, presumed to be for tents. Inadmissible; the law requiring the State to equip her militia herself, - - - - - | 795 90 |

| Voucher. | Amount. |
|--|--------------------|
| 38 J. Mayo's bill for bridge toll of Capt. Anthony's company, on their march to their rendezvous. Inadmissible. See remarks made on a similar charge in voucher 32, above, - | \$4 75 |
| 39 An advance to David L. Lewis, wagonmaster general. No advances or payments <i>on account</i> . Admissible, - | 1,200 00 |
| 40 An advance to J. Prior, superintendent, &c. No advances or payments <i>on account</i> . Admissible, - | 2,000 00 |
| 41 W. Wardlow's account for surgical instruments, medicines, &c., for the militia. Inadmissible; the law requiring the States to equip their own militia, - | 317 19 |
| 42 Advance to John Prior, superintendent, &c. No advances or payments <i>on account</i> . Admissible, - | 500 00 |
| 43 John Chevie's bill for services as express, carrying rolls of the militia to the adjutant general of militia at Richmond. Inadmissible; being an expense belonging to the State, - | 14 00 |
| 44 Thomas Purdie's account for roll of the 4th regiment of Virginia militia, on their march to their place of rendezvous. Inadmissible. See remarks made on similar charge in voucher 32, above, - | 30 00 |
| 45 Allen Temple's bill for supporting militia on their march to their place of rendezvous; and Wm. Baird, for hire of his wagon, with a detachment of militia from Prince George to Fort Norfolk. Inadmissible; as the militia ought to be made up on the rolls for their allowance of subsistence while travelling to their place of rendezvous; and as to the second charge, the impression is that the United States are not liable for the expense of marching the militia to the place of rendezvous, - | 86 22 |
| 46 R. Lord's bill for services, carrying orders for calling the militia into service. Inadmissible; the United States not liable for the expenses of ordering out the militia, - | 56 09 |
| 47 James Creely's bill for carrying orders for calling the militia into service. Inadmissible; the United States not being liable for expenses of ordering out the militia, - | 73 50 |
| 48 John L. Merton's bill for provisions furnished Capts. Macklin's and Pritchett's companies of militia on their march to their place of rendezvous. Inadmissible; the men must be made up on the rolls for their allowance of subsistence while travelling to the place of rendezvous, - | 45 99 |
| 49 P. Hopper's bill for carrying orders for calling out the militia. Inadmissible; the United States not being liable for the expense of calling the militia into service, - | 70 50 |
| 50 W. Wardlow's bill for surgeons' instruments, medicine, &c., for the militia. Inadmissible; the law requiring the State to equip her own militia, - | 15 75 |
| 51 Avery & Blank's account for provisions, fodder, and axes, and for wagon hire for the 4th regiment of Virginia militia. Inadmissible; the men must be made up on the rolls for their allowance of subsistence while going to their place of rendezvous; the State must equip her own militia; and the impression is, that the United States are not liable for the expenses of marching the militia to their place of rendezvous, - | 118 20 |
| 52 Advance to John Prior, superintendent, &c. No advances or payments <i>on account</i> . Admissible, - | 2,500 00 |
| Amount of disallowed charges, - - - | <u>\$20,612 67</u> |

In addition to the foregoing, the State of Virginia has been charged with the amount of rations issued to the following officers of militia of Virginia, in July and August, 1807, and which were disallowed on settlement of the contractor's account of 4th November, 1812, now admitted to his credit, and charged to the State of Virginia, in conformity to the decision of the accounting officers of the Treasury, to wit:

| | |
|---|--------------------|
| 1,296 complete rations to Brigadier General Matthews, | - |
| 216 complete rations to R. H. Lee, secretary to do., | - |
| 108 complete rations to Samuel B. Archer, judge advocate, | - |
| 62 complete rations to adjutant of 7th regiment, | - |
| 50 complete rations to the quartermaster, | - |
| 162 complete rations to L. Mansfield, quartermaster, | - |
| 99 complete rations to J. G. Marsden, quartermaster, | - |
| 98 complete rations to A. Jordan, deputy quartermaster, | - |
| 287 complete rations to S. J. Winston, deputy adjutant general, | - |
| 330 complete rations to S. March, brigade inspector, | - |
| 99 complete rations to T. Lawson, paymaster, | - |
| 2,807 complete rations, at 16 $\frac{3}{4}$ cents, - - - - - | 470 17 |
| | <u>\$21,082 84</u> |

Balance due United States on settlement with the State of Virginia, November, 1812, as per letter to the Governor, dated 17th November, 1812, - - - \$2,114 10
 To which add the above sum, subsequently brought to the debit of the State as above stated, - - - - - 470 17

Amount now standing to the debit of the State of Virginia on books of this office, \$2,584 27

DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, January 22d, 1814.

W. SIMMONS, *Acc't, Department of War.*

13th CONGRESS.]

No. 247.

[2d SESSION.]

INDEMNITY FOR A MONOPOLY IN LOUISIANA, GRANTED BY THE SPANISH GOVERNMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 7, 1814.

Mr. ARCHER, from the Committee of Claims, to whom was referred the petition of Gregoria Sarpy, made the following report:

The petitioner states that at the time of the cession of Louisiana to the United States, he enjoyed, under a grant from the Spanish Government, the right to trade exclusively with the Osage Indians; that after the cession, by the laws of the United States, the trade was thrown open to every individual, by reason of which the benefits accruing to him from his aforesaid grant were entirely destroyed; that by the treaty of cession, the United States were bound to guard and protect the rights and property of the citizens of Louisiana. He prays compensation equal in value to the damages he has sustained in consequence of the permission granted by the Government to others to trade with the Osages. These damages are estimated at about the sum of \$8,000 annually.

The committee find that the exclusive privilege to trade with the Osage Indians was, in the year 1802, granted to four individuals, on the performance of certain conditions; the individuals to whom this grant was made were the petitioner, Manuel Lisa, Charles Sanguinet, and Francis M. Beniot. Subsequently, in the year 1803, this grant appears to have been revoked, at the instance of the petitioner, and a new grant made to himself individually. Your committee doubt the regularity of the revocation of the original grant. No testimony is adduced to show that any of the original grantees had notice of the application of the petitioner to obtain a new grant for himself alone. If they had no notice, the petitioner could have in justice no claim to this exclusive privilege, notwithstanding the grant which he obtained in the year 1803; and if he had no claim to this privilege, his petition cannot be allowed.

Your committee recommend the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

13th CONGRESS.]

No. 248.

[2d SESSION.]

INDEMNITY FOR LOSSES SUSTAINED BY THE PURCHASE OF AN INTEREST IN A VESSEL ILLEGALLY SOLD FOR THE BENEFIT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 7, 1814.

Mr. ARCHER, from the Committee of Claims, to whom was referred the petition of Thomas Cutts, made the following report:

That the facts set forth in the petition of said Cutts are proven by the documents which have been submitted. The committee ask leave to insert in their report the petition which has been referred to their consideration, and which will bring fully before the House the facts which exist in the case.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled: Thomas Cutts, of Biddeford, in the county of York, and State of Massachusetts, respectfully shows:

That on the 19th of January, 1808, three undivided eighth parts of the schooner Catharine were at a marshal's sale struck off to your petitioner by Ichabod Jordan, deputy marshal, to satisfy an execution in favor of the United States against Tristram Hooper, Moses Lowell, and Benjamin Chandler; and that a bill of sale was accordingly made to your petitioner by said deputy marshal, he having paid the sum of four hundred and twenty-five dollars to said deputy marshal for the use of the United States, that being the sum for which the said three eighth parts were struck off; and your petitioner further shows, that afterwards, at a supreme judicial court for the State of Massachusetts, begun and held at York, on the third Tuesday of June, 1812, in an action then pending between your petitioner and Asa Stevens, commenced after the sale aforesaid by Stevens for the three eighth parts, he, the said Stevens, therein claiming to be the lawful owner of the same, it was judicially decided by said court that all that part of said schooner which the said Lowell and Chandler owned previous to the sale had before the sale aforesaid been legally transferred to said Stevens, and so continued to be the property of said Stevens, the sale of the deputy marshal aforesaid to the contrary notwithstanding; which said part was then and there ascertained to be three-fourths of said three eighth parts; and said court then and there further ordered your petitioner to account to said Stevens for the earnings and profits thereof; and judgment was afterwards, on the third Tuesday of May, 1813, accordingly entered, that your petitioner pay the earnings and profits then ascertained, with costs of suit, taxed at \$126 15, which he has accordingly paid.

Your petitioner, therefore, begs leave to state that no title whatever vested in him to the said three-fourths of three undivided eighth parts of the schooner Catharine by the sale aforesaid of the deputy marshal; that a large bill of costs has been recovered against him in consequence thereof; that he has been put to much trouble and great expense in order to maintain his supposed title derived as aforesaid; and, finally, to make his title good, has been obliged to pay to the said Stevens the value of said three-fourths of three-eighths, with interest therefor from the time of the sale of the deputy marshal aforesaid. Wherefore your petitioner prays that Congress would allow him

such sum as will indemnify him for the losses, trouble, and expense which he has sustained by reason of the premises. And, as in duty bound, will ever pray.

THOMAS CUTTS, JUN.

BIDDEFORD, MASSACHUSETTS, *November 22, 1813.*

As the claim on the part of Cutts to indemnification from the United States involved a question of legal consideration, your committee have obtained the opinion of the Attorney General, which they beg may be considered as a part of their report.

SIR:

WASHINGTON, *March 5, 1814.*

I have had the honor to receive your letter of the 2d of this month, written on behalf of the Committee of Claims, accompanied by the petition of Thomas Cutts, with a request that I would investigate his claim, and furnish the committee with my opinion upon its legality.

The rule of law I take to be, that regularly at a sheriff's or marshal's sale nothing passes to the purchaser but the interest which the defendant or debtor himself had in the thing sold. It is with the purchaser to be upon his guard, and look to the title before he buys. Hence it appears to me that it would not be safe to consider the said Thomas Cutts in this instance as having established any legal right to demand of the United States indemnification for his alleged loss. Whatever of equity the circumstances of his case may be thought to possess, it will rest with the committee or Congress to decide upon.

I return the petition and accompanying documents;

And have the honor to be, with great respect, sir, your obedient servant,

RICHARD RUSH.

The Hon. STEVENSON ARCHER, *Chairman of the Committee of Claims.*

Your committee concur in opinion with the Attorney General, and accordingly recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[NOTE.—See No. 252.]

13th CONGRESS.]

No. 249.

[2d SESSION.

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 15, 1814.

Mr. LOWNDES, from the committee to whom was referred the memorial of J. A. Chevallie, (attorney to the heiress of the late Caron de Beaumarchais,) made the following report:

That the circumstances under which shipments of goods and advances of money to the United States were made by Mr. de Beaumarchais, during our revolution, were such as necessarily produced much difficulty in the settlement of his accounts. There was no contract by which the obligations and rights of the two parties were defined; and it appears from many letters of Dr. Franklin, and of Arthur Lee, that both those gentlemen considered Mr. de Beaumarchais as supplied with funds by the French Government, to encourage the resistance of America, and to give to this political transaction the appearance of a mercantile speculation. Mr. Lee represents Mr. de Beaumarchais, when first introduced to him, as declaring that he was authorized by the French Government to offer two hundred thousand louis for the use of the revolted colonies. In a letter signed by B. Franklin, Arthur Lee, and Silas Deane, they express the wish that Mr. de Beaumarchais' accounts might be left to them for settlement, "as there was a mixture of public and private concerns, which Congress could not so well develop." Letters from Mr. Girard, a former minister from France to the United States, written in support of the claim of Mr. de Beaumarchais, states, "that only military stores were advanced to him by the French Government, for the use of the United States, which he was to return to the royal arsenals;" and Mr. de Vergennes says, that "for the payment of the military stores the Government" of this country "should not be pressed." In these letters, indeed, (as in those of Mr. Turreau since,) all connexion on the part of the French Government with Mr. de Beaumarchais' speculations is denied, and the transaction represented as a mere commercial adventure. Yet it could not have been meant that the Government of France did not furnish a part of the cargoes; for this is proved by the statement of Dr. Franklin, of Mr. Girard, and of Mr. de Vergennes himself. It could not have been meant, that the Government of France had not some power over the debt, which the delivery of these stores produced; for Mr. de Vergennes himself promises that for this our Government should not be pressed. It could have been intended only to say that the French Government was to have no profit from the transaction; and this may readily be admitted.

The committee have adverted to this apparent "mixture of public and private concerns," in the subjects of Mr. de Beaumarchais' accounts, for the purpose of explaining that delay in their liquidation, which could not otherwise be reconciled to the habitual fidelity of this Government to all its engagements. The principles on which those accounts were finally settled at the Comptroller's office, in 1805, are fully explained and supported by the report of the Committee of Claims of the 10th March, 1806, which the committee to which the same business is now referred beg to be allowed to adopt as a part of this report.* The balance which under that settlement appeared due to the estate of Beaumarchais was paid to the memorialist in 1806. This committee have not minutely examined the charges brought by Mr. de Beaumarchais against the United States, because they have been settled at the Treasury, on principles which the memorialist does not indeed represent himself as approving, but to which

* For this report see No. 168.

he seems disposed to acquiesce. The only question relating to the account, which it appears necessary to bring distinctly to the view of the House, refers to a million of livres, which at the Treasury have been considered as paid in 1776, by the French Government, to Mr. de Beaumarchais, for the service of the United States, and for which credit has been accordingly taken. This question is so fully explained, and in the opinion of the committee so justly decided, in the letter of the former Secretary of the Treasury, (Mr. Gallatin,) included in the report before referred to, that they will add a very few observations to the perspicuous statement which it contains. If the opinion expressed in that letter be correct, the just claim of the heiress of Caron de Beaumarchais has been fully satisfied.

With respect to the claim of the United States to this credit of a million, (which is denied by the memorialist,) the committee submit to the House that it must be supposed either—

1st. That this million was paid to Mr. de Beaumarchais, for the use of the United States, to which he was bound to account for its expenditure; or,

2d. That this million was not paid to Mr. de Beaumarchais, for the use of the United States; or,

3d. That if it were paid for the use of the United States, it was expended on "objects of secret political service," connected with the interests of the United States, but different from the supplies which are charged in Mr. Beaumarchais' accounts; that it was satisfactorily accounted for to the French Government; and that it was to that Government only that he was bound to account.

1st. On the first supposition, there can exist no claim, on the part of the estate of Mr. de Beaumarchais, against the United States, and it is therefore only necessary to examine the others. It may be supposed—

2d. That this million was not paid to Mr. de Beaumarchais for the use of the United States. This supposition is contradicted by the evidence of facts, and by the declaration of the French Government in 1794, as is shown in the letter of Mr. Gallatin before referred to. But if it be admitted, the obligation of the United States to pay this million now will not be implied. It will be recollected that by the contract of February 25, 1783, three millions of livres advanced by France before the treaty of 1778, as well as six millions afterwards granted, were declared to be a gratuitous assistance. If there were not a million paid to Mr. de Beaumarchais for the use of the United States, the million advanced in 1777, by the farmers general, (which was entered in our foreign account under the title of "subsidies,") must be considered as having been a gratuitous aid, and should have been deducted from the amount which France claimed to be due by America. In a letter from the Comptroller of the Treasury to Mr. Bournonville, dated February 8, 1794, he refuses to admit to the credit of France the balance due to the farmers general, until it should be shown that the million received from them formed no part of the gratuitous aid specified in the contract of 1783. The French Government, by the receipt of Mr. de Beaumarchais, and by the opinion which it expressed, satisfied the Comptroller that the deduction of the million was to be made from Mr. de Beaumarchais' account, and not from its own. If the French Government were mistaken in this opinion, it follows that we overpaid it in 1794, by an amount equal to that which by its mistake was withheld from Mr. de Beaumarchais. But the evidence which should ascertain the real creditor could only have been obtained from France. The acknowledged debtors as we at that time were of the French Government, as well as of Mr. de Beaumarchais, we had no interest in making this deduction rather from the one debit than the other; and if France, in deciding a question, in which her Government and one of its subjects were alone interested, and of the evidence of which her Government was the only depository, has erroneously decided, it is not against the Government of the United States that complaints can properly be directed. It may be supposed—

3d. That if the million in question were paid to Mr. de Beaumarchais for the use of the United States, it was expended on objects of a political nature, connected, indeed, with the interests of the American Government, but different from the supplies which are charged in Mr. de Beaumarchais' accounts; that it was satisfactorily accounted for to the French Government; and that to it only was he bound to account. It appears to the committee, that these suppositions cannot be admitted. The French Government advanced money to Mr. de Beaumarchais, to be employed for our service. Mr. de Beaumarchais purchased articles most essential to our service, and sent them to this country; shall we *presume* that this advance has been invested in these articles, or been used in some other way for our benefit, of which no evidence appears? A receipt is indeed produced, showing that the French minister was satisfied with the application of a million "to an object of secret political service;" but this by no means contradicts the opinion, that it may have been employed for the purchase of the articles which Mr. de Beaumarchais sent to America, and that therefore it ought to be deducted from his account.

But, besides other difficulties, are we to presume that Dr. Franklin, who negotiated this contract of 1783, would not have been informed that the gratuitous aid which he was called upon formally to acknowledge, was made so mysteriously, that neither he nor his Government was to know the objects to which it was applied, nor the services which it accomplished.

The objection, however, to a reversal of the judgment of the Comptroller of the Treasury, appears to the committee not to result alone from an examination of the case which he has decided. The Government of the United States, in constituting a department by which all claims upon it are to be impartially examined, and in consigning the direction of this department to men of judgment and integrity, has adopted the only method of securing justice to its creditors which the institutions of any society can provide. Mr. de Beaumarchais was himself anxious that the question in which he was interested should be decided by arbitration. Mr. Chevallie (the attorney of his heiress) would wish that it should be referred to judicial decision. But neither arbitrators nor judges could be more impartial than the officers of the Government, who have no interest to induce a wrong decision, and whose reputation in some degree must depend on their making a right one. If the rules of a court of law be different, they cannot be supposed to be more liberal, or in general more satisfactory to a foreign claimant, than those adopted by the Treasury, in the settlement of their accounts. But, if the officers of the Treasury have erred in their decision, shall not Congress correct the error? The committee believe that in this case they have not erred; and the voluminous documents which the reference of this question has obliged them to examine were not necessary to convince them that want of time must of itself disqualify the Legislature for the task of rejudging the sentences of its officers of finance.

The committee submit the following resolution:

Resolved, That the memorialist have leave to withdraw his memorial.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,

WASHINGTON, February 28, 1812.

SIR:

I have considered the subject of the letter which you did me the honor to address to me on the 9th of last month, in the case of the representatives of Monsieur de Beaumarchais, and am of opinion that the documents do not, in point of law, maintain the discount of a million of livres to which your letter alludes.

The demand of Monsieur de Beaumarchais appears to be admitted; upon what principles, (whether of strict law, or of liberal equity, whether upon reasonable probability, or upon regular proof,) I do not know, and have not been called upon to inquire.

If the demand has been admitted without rigorous proof, it is for Congress to determine how far it may be proper to measure a discount, claimed by the Government, by a standard purely legal. But viewing the question referred to me, as I have been desired to view it, as a mere matter of law, I am compelled to say, that the title to the deduction insisted upon must be shown by the United States, and that the evidence would not be sufficient to establish it in a court of justice.

If the reasons of this opinion should be thought necessary, I shall take great pleasure in stating them to the committee.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WM. PINKNEY.

To the honorable the CHAIRMAN of the Committee of Claims.

[NOTE.—See Nos. 168, 174, 179, 181, 183.]

13th CONGRESS.]

No. 250.

[2d SESSION.

INDEMNITY FOR LOSSES SUSTAINED AT ALGIERS, IN 1812.

COMMUNICATED TO THE SENATE, MARCH 22, 1814.

DEPARTMENT OF STATE, *March 16, 1814.*

The SECRETARY OF STATE, to whom was referred, by a resolution of the Senate of the 7th instant, the memorial of Jonathan S. Smith, of Philadelphia, praying compensation for the loss of a quantity of coffee in Algiers, has the honor to report:

That the said Jonathan S. Smith appears to have been engaged in commerce with the town of Algiers in the year 1812, when the Dey, without any just cause, and in violation of the existing treaty between the United States and the Regency, declared war against the United States; that, by an article of the treaty, it is stipulated "that should war break out between the two nations, the consul of the United States and all citizens of the said States shall have leave to embark themselves and property unmolested on board of what vessel or vessels they should think proper." That the injunction imposed by the Dey on the Consul General of the United States and other American citizens, to leave Algiers before the petitioner could dispose of his coffee, or to provide the means of carrying it elsewhere, gave him a claim on the Regency for an indemnity whenever a peace shall be made, which it is the duty of the United States to endeavor to obtain for him; that the violation of a treaty by one Power, to the injury of another, does not make the latter responsible to its own citizens or to others for the losses which they may thereby sustain; that neither party to a treaty can be considered a guarantee for the faithful performance of its conditions by the other; that the only claim which the citizens of either have in such case on their own Government is, for its good offices in doing all that it can, consistently with the general interests of the community, to obtain for them an indemnity.

JAMES MONROE.

The VICE PRESIDENT of the United States, &c.

13th CONGRESS.]

No. 251.

[2d SESSION.

INDEMNITY FOR THE LOSS OF THE SHIP ALLEGANY IN THE PUBLIC SERVICE.

COMMUNICATED TO THE SENATE, APRIL 8, 1814.

Mr. GOLDSBOROUGH, from the committee to whom was referred the memorial of Bowie & Kurtz and others, reported:

That on the twentieth of January, in the year eighteen hundred and twelve, Richard Forrest, as agent on the part of the United States, chartered the ship Allegany, (Captain Ebenezer Evelith,) of the house of Bowie & Kurtz and others, of Georgetown, in the District of Columbia, for the purpose of conveying a cargo of naval and military stores to the Dey of Algiers, in pursuance of an existing treaty between that Regency and the United States of America. That the port of departure, the place of destination, and the time allowed for loading and unloading, were all specified and agreed to, as will more fully appear by reference to the charter-party. That in consequence of terms more favorable to the Government than those first stipulated by the contracting parties for the freight, the owners, Bowie & Kurtz and others, were permitted, by the President of the United States, to put on board of the ship Allegany a small adventure of their own, adapted to the markets in the Mediterranean, con-

sisting of coffee, spices, &c. That the cargo contracted to be delivered at Algiers to the agent of the United States arrived in good time, order, and condition, conformably to contract. That the Dey of Algiers, being displeased at some part of the assortment of the cargo, refused to receive it; in consequence of which refusal, Captain Evelith was prevented from unloading and delivering the cargo. That this fact took place in the view and with the knowledge of Colonel Tobias Lear, Consul General of the United States at Algiers, and consignee of the Allegany's cargo. That Colonel Lear conversed with Captain Evelith on the subject, the next day after the occurrence, and at the same time informed him (Captain Evelith) of the order of the Dey, that he, the Consul General and family, together with all the American citizens at Algiers, and the ship Allegany, cargo and crew, should depart and leave the port of Algiers in three days, under penalty of slavery to the persons, and confiscation of the ship and cargo. That, in consequence of this order, Colonel Lear, having no other alternative, directed Captain Evelith to have his ship ready to receive the passengers on board, and to sail by the limited time. That in this state of coercion, Captain Evelith could not hesitate to obey the directions of Colonel Lear, regarding him as the Consul General and agent for the Government of the United States, placed in a most critical and disastrous situation, and accordingly replied to Colonel Lear that he must obey his orders; declaring to him, at the same time, that he should consider the vessel as abandoned to the service of the United States, and himself under the commands of Colonel Lear. That, upon the departure of the Allegany from Algiers, Colonel Lear, influenced as he very properly was by a sense of duty to the interests of the United States, and by general important commercial considerations, ordered the ship to Gibraltar. The Allegany arrived at Gibraltar on the 4th of August, and, remaining there until the 8th following, the ship and cargo were then seized, in consequence of the arrival of intelligence of the declaration of war by the United States against Great Britain; and on the 30th of December next after they were condemned, and the crew imprisoned.

Upon this undisputed statement of facts, the committee are of opinion that the contract was completely and satisfactorily fulfilled on the part of the owners of the ship Allegany, but that the United States failed to perform theirs; from which the owners sustained the entire loss of their contemplated voyage up the Mediterranean. That Colonel Lear, in the orders given to Captain Evelith to hold his ship ready to receive his family and the American citizens under his protection on board, and to sail at a given time, must be considered as the agent of the United States, acting in their behalf. That the abandonment of the ship Allegany, with her owners' adventure, by Captain Evelith to the United States, was proper and discreet; because the ship was to be totally diverted from her destined course, in violation of express orders, and to the damage of her owners; to which violation no other consideration could have induced Captain Evelith to agree, but that of the extreme necessity of the case, to save the Consul General and his family, together with a number of American citizens, from the horrors of Algerine slavery, and to rescue property of the United States, to a considerable amount, from certain loss. That, from the statement of Colonel Lear himself, as well as from that of Captain Evelith, there was substantially a perfect understanding between them, that the ship and adventure were abandoned by Captain Evelith to the United States, at the time that he submitted himself to the direction of Colonel Lear; and the destination of the Allegany to Gibraltar, under the direction of Colonel Lear, was exclusively for objects of great national interest.

1. Gibraltar was considered the best place to dispose of the cargo of the United States to most advantage.

2. Gibraltar was supposed by the Consul General to be the best station from which to give the earliest and most effective intelligence of the recent rupture with Algiers, for the protection of American commerce on those seas; and,

3. It was highly necessary for Colonel Lear to go to Gibraltar, as the United States' cargo on board was his only dependence to meet the bills he had drawn on Gibraltar for the money he had obtained from Jacob Cón Baci of Algiers, to pay off the balance of the annuities claimed by the Dey.

It appears to the committee, that the equity of the claim is strengthened by the consideration, that from the date of the charter-party, (20th January, 1812,) it is evident that the owners had no reason at that time to apprehend a war; in consequence of which, the freight contracted for was at a peace value. But before the Allegany sailed, an embargo had been laid, on the 4th of April, in contemplation of war; and on the 27th following, a special act was passed to permit the departure of vessels chartered by the United States. With this prospect of war, the owners were bound by their contract; in consequence of which, express orders were given, in case of war, to sell the ship Allegany at all events, rather than incur the risk of returning. The intended destination of the Allegany was such as to have enabled the captain to have availed himself of these orders, but the change made in his route by the events at Algiers, and the commands of the agent of the United States, prevented it, and threw the ship into the immediate power of the enemy, by going into an enemy's port.

Under this view of the subject, the committee do not hesitate to recommend the claim of the memorialists to the prompt indemnity of Congress, as they consider it clearly and unequivocally founded upon the soundest principles of justice and propriety.

They therefore beg leave to present the following bill.

13th CONGRESS.]

No. 252.

[3d Session.

INDEMNITY FOR LOSSES SUSTAINED BY THE PURCHASE OF AN INTEREST IN A VESSEL ILLEGALLY SOLD FOR THE BENEFIT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 4, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Thomas Cutts, of Biddeford, in the State of Massachusetts, made the following report:

That Tristram Hooper, Moses Lowell, and Benjamin Chandler, were indebted to the United States by a judgment recovered against them on a revenue bond; an execution issued against their property, and was levied by the marshal of the district on three eighth parts of the schooner Catharine. At the sale of the schooner, the petitioner, Thomas Cutts, became the purchaser at the price of four hundred and twenty-five dollars. A claim to the three-quarters of the three-eighths of this vessel was afterwards set up by Asa Stevens; and, in action against the petitioner, it appears

he recovered for damages, interest, and costs, the sum of \$904 35; which sum the petitioner prays to be remunerated, together with the sum of \$455, which he alleges had been paid to counsel and witnesses in the suit, and expended by himself in attendance, and for which it is stated his vouchers are lost.

The committee are of opinion the petitioner is not entitled to relief; they view this as a common case of sale, under an execution in which the plaintiff cannot be considered the warrantor of the property. The purchaser buys at his own risk; and it is for him to judge whether the title of the defendant in the execution is good or bad. They, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[NOTE—See No. 248.]

13th CONGRESS.]

No. 253.

[3d SESSION.]

CLAIM FOR TIMBER TAKEN FOR THE PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 4, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Edwin Lewis, of the Mississippi Territory, made the following report:

That the petitioner states, that in the years 1804, 1805, and 1806, a Captain Thomas Swain, of the United States' army, cut and used for the public service a large quantity of timber belonging to the petitioner; that the petitioner sued him for it, and recovered judgment, and that the said Captain Swain has since died insolvent, without making compensation for the timber. The petition is not supported by any evidence of the facts; the committee are of opinion, however, that, taking the facts as true, the petitioner is not entitled to relief. They, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

13th CONGRESS.]

No. 254.

[3d SESSION.]

CLAIM OF A MARINE OFFICER FOR LOSSES SUSTAINED IN THE PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 17, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Captain Alexander Sevier, made the following report:

That the petitioner is a lieutenant of marines in the service of the United States. On the 16th October, 1812, he was ordered to go from Washington City to the encampment near St. Augustine in East Florida; and on his way to that place, near Occoquan, his trunk was cut off the carriage in which he was, and robbed, as he states, of \$200 in bank notes, and a check drawn in favor of the petitioner on the bank of Petersburg for \$200, and all his military clothes. It is stated in the petition that nearly one-half of the money belonged to the United States, having been advanced to him for public service. The petitioner asks to be remunerated for the money lost, and compensated for the apparel.

The petition was before the Committee of Claims at the last session of Congress; the committee were then of opinion that the petitioner was not entitled to relief; the present Committee of Claims accord with that opinion. In this case there is no satisfactory evidence of the loss of the property; in all cases the kind of evidence of that fact should be clear, positive, and uninterested. The committee, however, are of opinion that, taking the claim in its greatest latitude as related in the petition, sound policy requires that it should be rejected. When a public agent or officer receives money of the Government, he should keep it *safe*. There are but few cases in which he should be exonerated of his accountability; it is not believed this is a case of that description. They therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

13th CONGRESS.]

No. 255.

[3d SESSION.]

INDEMNITY FOR THE LOSS OF THE SCHOONER WILLIAM YEATON, IN THE PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 21, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, of the city of Washington, made the following report:

That in the month of May, 1812, the petitioner, by his agent, chartered to the United States his schooner, called the William Yeaton, to take a cargo of provisions from New York to the port of Laguira, in South America. The contract, according to the covenants of the charter-party, was, that the petitioner should keep the vessel sound, tight, and strong; to be well fitted and provided with the necessary and convenient things for such a schooner; to find the necessary men for the voyage; to employ and pay the officers and men for the same; and to defray all other expenses attending the voyage; to load the said schooner by the 26th of May, 1812, and then to proceed to Laguira with all convenient and practicable expedition, where he was to discharge the cargo with *convenient despatch*. In consideration of such service, the United States covenanted with the petitioner to pay him for the cargo at the rate of one dollar and fifty cents for every barrel of flour, seventy-five cents for every half barrel of flour, and forty cents for every bushel of corn, as *the full freight and compensation for the voyage*. The schooner arrived at the port of Laguira on the first day of July, 1812; gave notice to the agent of the United States of her arrival; and, between the 14th of that month and the 1st of August following, about two-thirds of the cargo was received. On that day a Spanish force entered Laguira, and seized the vessel with about one-third of the cargo on board; that part, however, was then received and deposited by the agent of the United States; but the schooner was forcibly taken from the officer and crew, carried by her captors into Porto Cabello, and condemned by the Spanish authorities, upon the ground that the cargo was intended by the Government of the United States to furnish the inhabitants of Venezuela with provisions at a time when they were in a state of insurrection. It appears also to the committee, by a letter from the petitioner, addressed to a former chairman of the Committee of Claims, that the vessel remained in possession of the captors until about the 1st of October, when, by the interposition and friendship of Don Onis, she was restored to her captain and crew; she was then sold by the captain at auction, to defray the expenses of seizure, delay, and condemnation. The petitioner asks of Congress compensation for the loss of the vessel and such damages as he has sustained.

This case presents some features of hardship to the owner, but it is believed no legal obligation on the United States. If the owner has sustained damages by a breach of the contract on the part of the United States or its agent at Laguira, then it is conceded he is entitled to a compensation equivalent to the injury; but if the damages which have accrued to him were the consequence of an abuse of power in the Spanish authorities, or an illegal and hostile act of that Government, it is believed the United States are not responsible to the owner.

The committee know of no rule by which more justice can be done to the parties than that afforded by the terms of the contract. They are of opinion that, from the foregoing facts, these terms create no legal obligation on the United States to pay for the vessel. They, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

WASHINGTON, June 16, 1813.

In conformity to the request which, as chairman of the Committee of Commerce and Manufactures, you did me the honor to express to me this morning, relative to the vessels sent out with the donation voted by act of Congress in May, 1812, for the relief of the inhabitants of Venezuela, I take the liberty to state that the said vessels, in number six, say two from the respective ports of New York, Philadelphia, and Baltimore, arrived in the port of Laguira in the month of June, 1812. Of these vessels, addressed to me as consul for the United States, one only, the Independence of Baltimore, brought with her a regular charter-party; their freights being paid in advance before their departure from America, and no time, except in this one instance, being stipulated as to the discharge of the vessels. The Independence arrived on the 9th June, was immediately unloaded and reloaded for account of various merchants of Baltimore. She was cleared by the custom-house for Baltimore on the 17th July, 1812, but detained by a general embargo, laid by order of Miranda, then at the head of the revolutionary Government. The arrival of the other vessels was delayed until the 27th and 28th of June. Every exertion was used for their prompt unloading, but, owing to the scarcity of lighters, the deranged state of the town from the misfortune of the 26th March, and finally the impress of nearly all the laborers for the war service, the discharging of all the vessels could not be completed before the country came again under the Spanish yoke, in the beginning of August, inasmuch that the Active Trader and Cumberland of Philadelphia, and Mary of New York, had part of their outward cargoes on board at this period. The ship Mary and Eliza of Baltimore, and William Yeaton from New York, were nearly loaded with return cargoes on freight for this country.

I beg leave, therefore, to repel the charge made against me, as agent for the United States, of want of due diligence on my part; it being *impossible for any human activity*, under similar circumstances, to do more for the prompt unloading of the vessels in question than was done by me.

For the subsequent events relative to the vessels, their libelling and condemnation by the Spanish authority at Puerto Cabello, and their final restitution on appeal to Caraccas, I beg leave to refer you to the protests made in due form before me in Laguira, and which, no doubt, will accompany the documents on which the claimants found their demand for compensation from the Congress of the United States.

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

ROBERT K. LOWRY.

— NEWTON, Esq., *Chairman of the Committee of Commerce and Manufactures.*

PHILADELPHIA, February 14, 1814.

I consider it a general principle of maritime law, that, as the owner of a vessel who receives goods on freight is bound to use due diligence to convey them to the port of destination, and deliver them to order, so the consignee is bound to use due diligence in receiving those goods, and facilitating the vessel's discharge.

Each party is answerable to the other for any injury that may arise from neglect or delay, unless satisfactory reasons for delay can be assigned. When a vessel is to deliver an outward, and take in a return cargo, it is customary to have a charter-party executed, in which the number of lay-days, &c., are stipulated; but when the contract is simply to deliver an outward cargo, such charter-parties are not necessary, and I believe not usual.

The general rules of law are then to be resorted to.

I took the liberty of stating in my letter to Mr. Eppes, that if the agreement for carrying provisions to Lagaira had been made between Mr. Clement and an individual, and the same circumstances of delay in regard to receiving the goods which are imputed to Mr. Lowry had taken place on the part of the agent of the freighter, Mr. Clement could have obtained judicial relief.

The foregoing remarks explain the principles on which this opinion is founded.

One of Mr. Clement's vessels arrived at Lagaira on the 27th, and the other on the 30th of June. Three or four days would have been sufficient for the discharge of the whole of the cargoes—allow a week; on the 7th of July they ought to have been discharged; but neither of them was discharged till the 8th or 9th of August.

Whatever damage happened after the expiration of a reasonable time, and which, in its nature, was fairly imputable to delay, would be recoverable at law of the freighter, who would be left to his remedy against his agent.

Mr. Lowry, it is understood, denies the charge against him. It is a fact to be inquired into, but it is difficult to conceive why the captains, whose duties and whose habits are to lose no time in discharging their outward cargoes and returning, should have trifled with their owners' interests in the extraordinary manner they must have done, by consuming four or five weeks in doing what might, as they themselves acknowledge, have been accomplished in one.

But Mr. Clement's right to compensation does not, I think, rest on this ground only.

His vessels were in the service of the nation; he sailed in a single degree under the protection of the United States; he, therefore, was bound to presume that the papers he received from them were competent to protect him.

It was not for him to cast about for other pass ports or documents of any kind than what they furnished him with; and, under these circumstances, the United States must be considered as guarantying his admission and his safety in the Spanish ports.

It must also be considered as an engagement, on the part of the United States, that his mission should not, from its nature, expose him to any extraordinary damage. If this had been apprehended, he would of course have claimed, and been considered entitled to, a larger compensation for the risk than the usual amount of freight.

Now the seizure and condemnation which, after the first detentions, produced the additional delay and eventual loss are founded on the nature of his errand and the alleged defect of the proper papers.

Mr. Clement's conduct throughout appears, and is admitted by the agents for the United States, both here and at Lagaira, to have been unblamable.

His vessels took in their respective cargoes here with unexceeded promptness, and delivered them at Lagaira in perfect order. Nothing was done by him or his captains that could in any manner produce any injury or disadvantage to the voyage.

I cannot but think his claim on the justice of his country a very strong one.

W. RAWLE.

13th CONGRESS.]

No. 256.

[3d SESSION.]

INDEMNITY FOR THE LOSS OF A HORSE, WHILE THE OWNER WAS UNDER MILITARY ARREST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 29, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Moses Ally, of the State of New York, made the following report:

That at the declaration of war against Great Britain, and for some time previous thereto, the petitioner was an inhabitant of Upper Canada; in the summer or autumn of the year 1812, he came to the United States, and reported himself to Gen. Dearborn, who then commanded on the northern frontier. Being considered of suspicious character, he was arrested by military authority, and sent to Greenbush, in New York, for examination; at the time of his arrest, he had in his possession a sorrel stud-horse, which was, by directions of the officer who arrested him, placed in the possession of a Mr. Benjamin Van Vleek, for safe-keeping, at the expense of the United States, until he should receive further orders how to dispose of him. He kept the horse until the 16th of April, 1813, when, having had his house and property consumed by fire, he delivered the horse over for safe-keeping to a Mr. Norton, of Lewis county. He kept him until September, 1813, when he sold him, at the price of twenty dollars, to pay for his keeping. It does not appear to the committee who was the purchaser; but from the manner in which the account for keeping the horse is credited, it is presumed that Norton himself was the purchaser. It appears, also, to the committee, from the certificate of Gens. Wilkinson and Dearborn, that the charge against the petitioner was not well founded. He then received an order from Gen. Wilkinson for his horse, to be delivered to him clear of the expense of keeping; but, upon application, found that he had been sold to pay that expense. The petitioner asks of Congress the value of the horse.

The committee are of opinion that the United States are under no legal obligation to pay for the horse; if the petitioner had a good title to the property, it is presumed he would be entitled to recover his value of the man in whose possession he was placed by the officer. Having been put in his possession upon conditions, and with instructions to keep him at public expense, it is believed he was not liable to be sold for that expense; they, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

13th CONGRESS.]

No. 257.

[3d SESSION-

INDEMNITY FOR A HOUSE BURNT WHILE OCCUPIED AS THE WAR DEPARTMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, OCTOBER 31, 1814.

Mr. YANCEY made the following report:

The Committee of Claims, to whom was referred the petition of Rebecca Hodgson, administratrix of Joseph Hodgson, deceased, late of the city of Washington, have, according to order, had the same under consideration, and beg leave respectfully to report:

That on the 14th day of August, 1800, Joseph Hodgson, then of the city of Washington, leased by deed, for the term of eight months, to Samuel Dexter, as Secretary of War, a tenement in the said city, to be occupied for the term aforesaid, as the War Office. In consideration of which *occupation and use*, he was to give the sum of four hundred dollars, which has been paid and satisfied to the intestate of the petitioner. In the lease, Mr. Dexter covenants for himself and his successors in office, "that he or they shall and will, at all times during the said term, keep, or cause to be kept, in good and sufficient repair the said demised premises, *inevitable casualties and ordinary decay excepted*, and the same so well and sufficiently kept in repair, shall and will, at the end of the said term, yield and surrender up to him, the said Joseph Hodgson." Mr. Dexter immediately took possession of the tenement, under the contract, and occupied the same as the War Office, until the 8th of November following, when, in the evening of that day, it was consumed by fire. The petitioner is the legal representative of Joseph Hodgson, and prays of Congress such compensation as the circumstances of her case merit.

In the investigation of the merits of this claim, the first question that presented itself to the committee was, in what *manner* was the fire communicated to the house? Was it by *negligence or inattention* to duty on the part of the officer or his servants; or was it from some *other cause* not within his or their control? It would seem, from the evidence of the petitioner, that she alleges the fire was communicated by *design*, with a *criminal intention* to destroy the house and the public papers contained in it, by some person employed by the War Department.

It is also alleged, that the fire was communicated from an adjoining building, belonging to, and then in possession of, a Mr. Jackson. It is not pretended by the petitioner that the house was burnt by any negligence or inattention on the part of the lessor, or his servants or clerks; indeed, the evidence is clear and satisfactory, that the room in which it is alleged by the petitioner the fire originated, had not been used, nor fire made in it, for several weeks previous to the destruction.

Your committee have diligently examined the circumstances offered in evidence, and are of opinion the fire was communicated from the fire-place of Jackson's house, and in this they concur in opinion with a committee appointed by the House of Representatives, in February, 1801, to investigate the causes of the destruction of the War Office, and also with the committee to whom this petition was referred at the last session of Congress.

Assuming, then, as an established fact, that the fire was communicated from Jackson's house to the War Office, the question arises, was the destruction such as would exonerate the lessor from his undertaking to surrender the premises at the end of the term, according to the conditions of the contract? This question involves the meaning of the term "*inevitable casualties*." It is believed that writers upon law define it to be *those accidents which happen by the act of God; such as destruction by lightning, tempest, or floods; or such as are produced by a public enemy; or such as happen without any design or negligence, and such as human foresight and prudence could not prevent or control*. A fire which produces the destruction of a house, under circumstances like the present case, is said, by the distinguished author upon the law of bailments, to be an *inevitable misfortune, an inevitable accident*. It is therefore believed, that if the fact be considered as established, that the fire proceeded from the house of Jackson, the United States are not liable to the petitioner under the covenant.

It is not believed, however, by the committee, that the United States are liable, considering the claim of the petitioner upon the principle she places it. It is attempted to be shown by her that the fire originated by *design*, with a criminal intention to destroy the house and the public papers, either by some person employed in the office, or some *other incendiary*. If it was destroyed by the former, the Government cannot be considered liable; the *principal* who employs the *agent* is liable for injuries sustained by his *negligence or omission of duty*, but not for *the commission of his crimes*.

If an officer or agent of the Government, in his *official capacity*, does an injury to an individual, by neglecting to do that which a man ordinarily attentive to his own business would have done, it is believed the Government ought perhaps to be liable; but if one who happens to be in public employment commits acts *felonious* in themselves, in consequence of which an injury accrues to third persons, it is not believed the Government is liable. If the fire was communicated by the *latter*, the act itself would be highly criminal in the individual, and for which he might be punished by the criminal law of the country. But it is believed that the *civil injury* would be merged in the felony; and it is considered doubtful, *at least*, whether *he*, if discovered, would be liable for the civil injury; but there can be no doubt, that the Government would not.

Upon the whole, the committee are of opinion, that if an individual stood in the place of the Government in this case, the petitioner, from her own showing, would be without any remedy against him; and they conceive that the rule applicable to the case of individuals is the best to adopt between the Government and individuals; they are of opinion that sound principles of policy and justice require that the prayer of the petitioner be disallowed; they, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[NOTE.—See Nos. 172, 244.]

13th CONGRESS.]

No. 258.

[3d SESSION.

INDEMNITY FOR LOSSES SUSTAINED BY THE BURNING OF ROPE-WALKS AT BALTIMORE, IN 1814, BY A MILITARY ORDER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 7, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of John Chalmers, Jun., made the following report:

That, on the 29th of March, 1814, the petitioner and the Secretary of the Navy entered into a contract for the manufacture of cordage for the United States' frigate Java, upon the following terms: the Navy Department was to furnish him at Baltimore with Russia hemp and Kentucky yarn in such quantities as might be found convenient, and he should require which was to be manufactured in good navy cordage, sufficient for the complete equipment of the frigate. For every pound of hemp and yarn delivered to the petitioner he was to return a pound of cordage to the navy agent, free from expense to the United States; so that his profit and compensation for his labor and art in manufacturing consisted in the difference in the weight of the hemp and yarns, increased by the quantity of tar used in the manufacture. It was also understood by the Secretary of the Navy and Mr. Chalmers, that the raw material, thus delivered, was to be at the risk of the United States, in the event of loss by fire.

The petitioner commenced manufacturing the cordage, and had prepared and delivered to the navy agent at Baltimore upwards of nine tons, and had a considerable quantity ready to deliver, when, on the approach of the enemy towards Baltimore, in the month of September last, the rope-walks in which the cordage was manufacturing and then deposited, was set on fire by order of General Forman, who then commanded the Maryland militia at that place; in consequence of which the rope-walks were destroyed, and, with them, about thirty tons of Russia hemp, belonging to the Government, and all the labor and profit of the petitioner, except that part of the hemp which had been delivered. He asks of Congress to reimburse him to the amount of his actual expenditures, in the purchase of tar, and the money which he has paid to persons employed in the manufacture of the cordage.

The committee are not in possession of facts which would authorize them to determine whether the destruction of this property was necessary: if it was not, however much they might regret and deprecate that work, yet they are of opinion that, under the circumstances of this case, the individual who sustained the loss should at least be reimbursed by the Government to the amount of his claim. They therefore report by bill, and submit to the House the following resolution:

Resolved, That the prayer of the petition, is reasonable, and ought to be allowed.

13th CONGRESS.]

No. 259.

[3d SESSION.

RENEWAL OF A LOAN OFFICE CERTIFICATE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 11TH OF NOVEMBER, 1814.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of William Arnold, of East Greenwich, in the State of Rhode Island, made the following report:

That, the petitioner states, that he was possessed of a loan office certificate, issued from the loan office in Massachusetts, payable to Christopher Clark, or bearer, for \$600, and dated the 25th October, 1777. That on the 27th December, 1787, his house was burnt, and, with it, this certificate &c. He prays that another certificate of like value may be issued to him.

From the papers submitted to the committee, it appears that the house of the petitioner was destroyed by fire, as is stated in the petition; that the said certificate had been in the possession of the petitioner; that the fact of its destruction was made known to two witnesses soon after it happened; and that notice of said destruction was given in one of the public papers of Boston, and also in the Newport Herald. These advertisements were not inserted, however, until October, 1790, nearly three years after the destruction.

In December, 1790, the petitioner notified the commissioner of loans at Boston of the fact, and deposited with him the evidence thereof. That in November, 1791, he petitioned Congress on the subject, which was referred to the Secretary of the Treasury, who made his report in April, 1792. This report was referred to the committee who reported thereon, but the report was not further acted on.

From the above facts it appears that the petitioner has complied with the requisites of the resolve of Congress of the 10th of May, 1780, in every particular except as to the time in which notice should have been given of the destruction.

It also appears, by a letter received from the Auditor of the Treasury, that this claim was presented, and registered in his office on the 29th of May, 1795, which is within the time prescribed by the act of the 21st April, 1794; and that the reason why it was not recognised and settled was, that the advertisement of the destruction of the certificate was too late to entitle the claimant to relief.

From the foregoing facts, the committee feel satisfied that the claim is a just one; and they find no legal objection to its being allowed, except that the provision of the resolve of 1780, relative to the notice of the destruction of the certificate has not been complied with. They do not think this objection sufficient to bar the claim. It may not be proper, on slight occasions, to forego the provisions of a law founded in wisdom, and thereby give precedents to sanction claims supported neither by law nor equity; but when to obtain justice it is necessary to do so, the committee feel not only willing, but bound to do it. They, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought to be granted.

SIR:

TREASURY DEPARTMENT, AUDITOR'S OFFICE, *October 28, 1814.*

In answer to your letter of the 27th instant, I have the honor to state, that the claim of William Arnold for the renewal of a loan office certificate of the *nominal* value of 600 dollars, under the act of the 21st April, 1794, was presented and registered at this office, on the 29th May, 1795; and that the papers in relation thereto (believed to be the same now offered in support of his petition) remained in my possession until the 5th of March, 1814, when they were withdrawn by Mr. Potter, of the House of Representatives. The objection to the admission of this claim at the Treasury, as noted on a general statement furnished the chairman of the Committee of Claims, on the 8th of March, 1802, were in the following words: "The destruction appears to have taken place on the 27th December, 1787, but was not advertised until the month of October, 1790, which was too *late* to entitle the claimant to the benefit of the act." The petition and documents are herewith returned.

I have the honor to be, with great respect, sir, your obedient humble servant,

R. HARRISON.

The Hon. JOHN J. CHAPPELL,

Chairman of the Committee on Pensions and Revolutionary Claims.

[13th CONGRESS.]

No. 260.

[3d SESSION.]

INDEMNITY FOR PROPERTY LOST BY THE IMPRESSMENT INTO THE PUBLIC SERVICE
OF THE MEANS OF ITS REMOVAL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 19, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Daniel Renner and Nathaniel H. Heath, of the District of Columbia, made the following report:

That the petitioners were owners of rope-walks in the city of Washington, in which was contained a large quantity of spun yarns and navy cordage, all of which was destroyed by the enemy in his late incursion into this city. On or about the 20th of July last, one of the petitioners, Mr. Heath, applied to Mr. Southerlan, the owner of some long boats then lying in the Potomac, and engaged of him five of them to transport his cordage and yarns up the river, if the enemy should invade the city. On the 18th or 19th of August it was deemed expedient, by Gen. Winder, to impress the boats of Mr. Southerlan, for the purpose of transporting the troops across the Potomac, which were kept in the employment of the Government until after the invasion of the city. On the 20th of August the petitioners applied for the boats, according to contract, for the purpose of removing their property, when they were informed that they were impressed. It also appears to the committee, that on the 22d of August the petitioners employed a wagon and nine or ten carts, for the purpose of removing the property, but the wagon and two or three of the carts were impressed by the officers of the departments, to remove the public papers and property; and that seven of the carts employed, after taking loads from the rope-walks out of the city, refused to return to haul any more for the petitioners, apprehending, if they did, they would be impressed into the employment of the Government. It is also stated, and believed, that, after that day, and before the enemy entered the city, carriages were not to be had in the city to remove the property. The loss of the petitioners, exclusive of the price of the rope-walks, is estimated at about \$34,800; they ask of Congress to be reimbursed to the amount of their loss.

The committee are of opinion the Government is under no obligation to pay for the property. The destruction of private property by the enemy, in the progress of the war, is much to be regretted and highly deprecated; but when it does happen, it is to be considered, between the Government and its citizens, as one of the calamities of war. It may be presumed, that the circumstance of the boats, wagon, and carts being impressed by the Government to perform services valuable to it, may create some equitable considerations in favor of the petitioners. It is, however, believed by the committee, not to be sufficient to authorize them to allow the claim; they, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

[13th CONGRESS.]

No. 261.

[3d SESSION.]

APPLICATION OF A PRINCIPAL ASSESSOR OF DIRECT TAXES FOR ADDITIONAL
COMPENSATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 1, 1814.

SIR:

TREASURY DEPARTMENT, *November 28, 1814.*

I have the honor to transmit herewith a report, prepared in obedience to the resolution of the House of Representatives of the 28th day of October last.

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

A. J. DALLAS.

The Honorable LANGDON CHEVES, *Speaker of the House of Representatives.*

TREASURY DEPARTMENT, *November 28, 1828.*

In obedience to the order of the House of Representatives, dated the 28th of October, 1814, referring the petition of John Appleton to the Secretary of the Treasury, the Secretary respectfully reports:

That the act of Congress for the assessment and collection of direct taxes and internal duties fixes the compensation of the principal assessor by the number of days employed in hearing appeals and making out lists, allowing, in that respect, two dollars each day; and by the number of taxable persons contained in the tax lists as delivered by the principal assessors to the collectors, allowing, in that respect, four dollars for every hundred taxable persons. But the act requires the principal assessors to perform various other important services, in the division of assessment districts, in the appointment and direction of the assistant assessors, in the preparation for holding appeals, and, generally, in carrying the instructions of the Secretary of the Treasury into effect, without providing any compensation for those services independent of the general provision, which has been stated, and which, it is seen, graduates the compensation, by reference only to services performed in the later stages of official duty.

That, on the 27th of November, 1813, the petitioner, John Appleton, was duly appointed by the President of the United States, in the recess of the Senate, to be principal assessor for the tenth Massachusetts district; and that the petitioner (as it is understood and believed at this Department) entered upon his official duties, and performed all the services required by the act of Congress, until the Senate rejected his nomination, at their next session, and until the rejection was made known to him, as well as the appointment of Samuel Hoar to be his successor, by a letter from the Secretary of the Treasury, dated the 26th of March, 1814. That at this period, however, the valuation and assessment of the direct tax had not been matured; no appeals had been heard, and no lists of taxable persons had been delivered to the collector; but the petitioner promptly and fairly delivered his official books and papers to his successor, reserving his right of compensation for the subsequent consideration of the proper department.

That the petitioner is entitled to some compensation for services rendered during a period of four months cannot be denied, consistently with the principles of justice; but it seems to have been the opinion of the late Secretary of the Treasury that the compensation prescribed by law could not be exceeded; that the whole was payable to the principal assessor in office, at the time of holding the appeals and delivering the tax lists to the collector; and that any apportionment of the compensation was a matter of private arrangement and agreement between the old and the new officer. The latter, however, has claimed the whole amount, upon the terms of the act of Congress; and his account has been stated and settled, accordingly, by the Auditor and Comptroller; but the warrant for payment has not yet been issued.

That, under these circumstances, the order of the House of Representatives has made it the duty of the Secretary of the Treasury to review the subject; and, with every proper deference for the judgment of his predecessor, he has been led to a result differing, in some measure, from the opinion expressed by that respectable gentleman.

He considers the designation of a principal assessor as the designation of an officer, and not of a person; and that the whole compensation is given for the performance of the whole of the duty of the office. Whether a change of the officer is produced by death, resignation, or removal, the office itself and the duties of the office equally remain entire and unchanged.

He considers the opposite construction of the words of the act as hostile to its spirit, leading to a contingent charge upon the public, which the Legislature did not contemplate, or to the oppression of an individual, which justice will not permit.

He considers the apportionment of the compensation, in this case, between the first and the second principal assessors, to be regularly within the province of the accounting officers of the Treasury; and that the materials for making it (if the parties should not prefer an amicable adjustment) may readily be obtained.

All which is respectfully submitted:

A. J. DALLAS.

13th CONGRESS.]

No. 262.

[3d SESSION.]

CLAIMS FOR HORSES LOST IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 5, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the resolutions of the House of Representatives of the 14th and 25th November last, directing them to inquire into the expediency of paying for the horses lost by the mounted volunteers who served under Governor Shelby in the expedition against Canada in the fall of 1813, and of the horses lost or destroyed in the campaign against the hostile Creek Indians, under command of Major General Andrew Jackson, made the following report:

That, from statements made to the committee, the correctness of which they cannot doubt, it appears that at the time the American troops crossed over Lake Erie, just before the battle of the Thames, the mounted volunteers were ordered by the commanding general to leave their horses at Portage river, on the lake, with a guard and other persons sufficient to take care of them. The horses were put in a large wood, enclosed, for the purpose of keeping them safe; and it was intended and expected that they should live by grazing until the return of the troops. The troops were absent about five weeks, and upon their return the horses were found to be reduced in order, many of them injured, and some dead. It does not satisfactorily appear whether they died for the want of forage or from accident, or the peculiar difficulty and hardship of the service. If their loss is to be ascribed to the former, then the committee have heretofore reported to the House a bill which it is believed will include this case. If the horses died, or were lost or destroyed by accident or labor, then it is conceived that the United States are not liable.

By an act of Congress passed the 2d day of January, 1795, it is enacted, "that, in addition to the monthly pay, there shall be allowed to each officer, non-commissioned officer, musician, and private of the cavalry, for the

use of his horse, arms, and accoutrements, and *for the risk thereof*, except of horses killed in action, forty cents per day; and to each non-commissioned officer, musician, and private, twenty-five cents per day, in lieu of rations and forage, when they shall provide the same."

Mounted volunteers, it is believed, are entitled to and receive the same pay as the cavalry. By the above section of the act of Congress, they receive, "*for the use of the horse, arms, and accoutrements, and for the risk thereof, except of horses killed in battle, forty cents;*" which the committee are of opinion was intended and is a full compensation. They are, therefore, of opinion that for the loss or destruction of horses, except in battle, the United States are not liable. They, however, think that where horses have died while in the public service for want of forage, when it was the duty of the Government to furnish it, the owners ought to be paid their value; and they have accordingly reported a bill to the House for that purpose.

With respect to the horses lost or destroyed by the troops under Major General Jackson, it is stated to the committee that they were lost by accident or surprise while in the several battles with the Creek Indians. The committee entertain the same opinion of these claims that they do of the others. They, therefore, recommend to the House the following resolution:

Resolved, That it is inexpedient to authorize payment for the horses aforesaid, otherwise than according to the provisions of a bill already reported to the House for that purpose.

13th CONGRESS.]

No. 263.

[3d Session.]

INDEMNITY FOR ROPE-WALKS BURNT BY A MILITARY ORDER IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 5, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petitions of Jacob Shinnick, and Schoultz and Vageler, of Acsah Calef, administratrix of John Calef, and Christian Chapman, all of the city of Baltimore and its vicinity, made the following report:

That the petitioners were owners of rope-walks, near Baltimore, which contained a quantity of cordage and raw material, together with the necessary implements for the manufacture of the same, all of which were consumed by fire, on the approach of the enemy on Baltimore, on the 12th of September last, by order of Brigadier General Forman, of the Maryland militia.

The circumstances under which the property was destroyed, as well as the *necessity* of such destruction, will appear by the following certificates, which the committee offer as part of their report:

CAMP, HAMPSTEAD HILL, *September 19, 1814.*

I hereby certify, that in consequence of discretionary power invested in me by Maj. Gen. Samuel Smith, commanding officer at Baltimore, I ordered the rope-walks near my lines, in the possession of Jacob Shinnick, to be set on fire and consumed on the evening of the 12th instant. The rope-walks at the time contained the tools of the trade, some hemp, and some yarns. I also, at the same time, and under the same circumstances, directed a common frame stable in pasture of Mr. Shinnick to be set on fire and consumed.

T. M. FORMAN, *B. G. Md. Ma.*

Two other certificates from the same officer, stating the fact of destruction, under similar circumstances, of the rope-walks of Chapman and Calef, were also before the committee.

BALTIMORE, *November 16th, 1814.*

Although it was decidedly evident that the three rope-walks in front of my lines must be destroyed the moment the enemy appeared before them, yet I did not obtain Maj. Gen. Smith's permission to burn them until Monday evening, the 12th September. It was then impossible to remove any thing, and notice to the owners would have been useless. Indeed, from my knowledge of the demand for wagons and carts to remove the inhabitants after the enemy had landed at North Point, I do not think that teams could have been procured to remove bulky articles.

T. M. FORMAN, *B. G. Md. Ma.*WASHINGTON, *November 22d, 1814.*

I do certify, that the rope-walk owned or occupied by Jacob Shinnick, was situated directly in front of the lines, and under a battery within the command assigned to Brigadier General Forman; that rope-walk and two others were so close to the works, that, had they remained, and an attack been made by the enemy, they would have afforded such a cover as would have enabled him to have approached close to the works undiscovered. It became necessary to destroy them; nor did I give the discretionary power to Gen. Forman until the attack of the enemy appeared certain. Their destruction was postponed as long as prudence permitted, nor were they destroyed until it became absolutely and indispensably necessary.

S. SMITH, *Late Maj. Gen. commanding at Baltimore.*

The committee are of opinion, from the foregoing facts, that the destruction of the rope-walks was deemed by the commanding officer prudent and necessary, in the defence of the city of Baltimore, then threatened to be invaded by a merciless and vindictive enemy; they are, therefore, of opinion, that the public good, in his opinion, requiring their destruction, the owners of the property should be compensated to the amount of its value, and recommend to the House the following resolution, and report by bill:

Resolved, That the prayer of the petitioners is reasonable, and ought to be granted.

13th CONGRESS.]

No. 264.

[3d SESSION.

INDEMNITY FOR THE LOSS OF A TRACT OF LAND, PURCHASED FOR DIRECT TAXES
DUE TO THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 13, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of James Linsey, made the following report:

That, in the year 1802, Joseph Scott, the marshal of Virginia, sold, for the direct tax due thereon, a tract of land estimated at about eight thousand acres, supposed to be the property of Levi Judson, and lying in the county of Harrison and State of Virginia. William Scott, of Trenton, in New Jersey, became the purchaser at the sale of the marshal, and has since sold the land in question to the petitioner. It is stated by the petitioner, that, since the purchase of the land from William Scott, he has discovered that the land did not belong to Judson, and was therefore improperly sold as his property. He complains of having sustained damages in consequence of the contract, and asks of Congress such relief as may be just and equitable.

Your committee are of opinion he is not entitled to relief from the United States:

1st. Because it does not appear the land did not belong to Judson; no judicial decision having been made thereon.

2dly. Because William Scott, who was the purchaser at the marshal's sale, sold to the petitioner, and who must be liable to him, if any person is.

3dly. Because, under these circumstances, the United States cannot be considered the warrantor of the property sold.

The committee, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

13th CONGRESS.]

No. 265.

[3d SESSION.

INDEMNITY FOR INDIAN DEPREDATIONS COMMITTED IN 1781.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1814.

Mr. FARROW, from the select committee to whom was referred the petition of John Motlow, of South Carolina, made the following report:

It is represented that, in the month of October, 1781, the petitioner, with a number of others, were in a fort called Jamersons, in the State aforesaid; that a party of Indians and Tories took the fort by force, put to death a great number of those so garrisoned, and made prisoners of the balance, (among the slain were the father of the petitioner;) and carried off three negroes, the property of the petitioner and his intestate father, whose legal representative the petitioner is. It is further represented that repeated endeavors have been made by the petitioner, at very great expense, to recover the said negroes, but without success.

And it further appears, that the ninth article of the treaty of 1798, concluded with the Cherokees, by obliterating all prior aggressions, plunderings, and thefts, to that date, has finally changed the right of property, and made a legal and complete transfer of the same from the petitioner over to the said nation.

The following is a copy of the said article: "It is mutually agreed between the parties, that horses stolen, and not returned within ninety days, shall be paid for at the rate of sixty dollars each; if stolen by a white man, citizen of the United States, the Indian proprietor shall be paid in cash; and if stolen by an Indian from a citizen, to be deducted, as expressed in the fourth article of the treaty of Philadelphia. This article shall have retrospect to the commencement of the first conferences at this place in the present year, and no further; and all animosities, aggressions, thefts, and plunderings prior to this day, shall cease, and be no longer remembered or demanded on either side."

And it further appears, by the fourth article of the said treaty, that the United States received a large cession of territory from the said nation for considerations therein expressed.

From an attentive consideration of the facts of this case and the principles that govern the same, the committee are of opinion that the prayer of the petition is equitable and just, and submit the following resolution to the House:

Resolved, That the request of the petitioner ought to be granted.

13th CONGRESS.]

No. 266.

[3d SESSION.]

INDEMNITY FOR A HOUSE DESTROYED BY A MILITARY ORDER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 19, 1814.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of William Henry Washington, made the following report:

That the petitioner owned a small house, situated in Alexandria county, near the western end of the Potomac bridge; that, on the 24th of August last, a quantity of public stores was removed from Greenleaf's Point, by order of Colonel Wadsworth, and deposited in the house for safe keeping: a corporal and five men were stationed at the house to protect the public stores, and to prevent them from falling into the possession of the enemy. The command of the stores was given to Lieutenant Baden, who directed the corporal, in case of attack by the enemy, to blow up the stores and retire from the place.

It appears from the affidavit of the corporal, hereto attached, that he apprehended an attack by the enemy, and, under that impression, blew up the stores and destroyed the house. The petitioner claims the value of his house.

Whether the destruction of the house was necessary to prevent the public stores from falling into the hands of the enemy, is a matter of opinion, to be formed by the facts submitted to the House. The committee are of opinion that, inasmuch as the officer to whose care the public stores were committed thought it prudent and proper to destroy the house and stores, to prevent the latter coming to the possession of the enemy, the petitioner should be paid the value of his house. They therefore report by bill.

WASHINGTON COUNTY, *District of Columbia.*

Be it remembered, that on this third day of December, in the year of our Lord one thousand eight hundred and fourteen, before me, the subscriber, a justice of the peace for the county and district aforesaid, personally appeared Philip Boilia, corporal in the United States' army, and, being sworn in due form, deposed and said: that, on the 24th August, he was stationed with five privates over a quantity of public stores which had been deposited in a frame house, said to belong to Mr. William H. Washington, at the foot of the Potomac bridge, in Alexandria county; that he was ordered to take care of the said stores by Lieutenant Baden, and to blow up the said stores, if the deponent was attacked by the enemy; that, on the 25th August, about three o'clock, P. M., as soon as the storm that day had ceased, the deponent saw a British officer, who came to the draw in the bridge, on the Virginia side, and soon after returned; that a number of British soldiers were, at the same time, at the toll-house on this side of the river; that the draws on the bridge had been raised the night before, and kept up, but were blown down during the storm, and the chains that raised them were broken; that, soon after the officer on the bridge returned, a cannon shot was fired at him, the deponent, from the Point; and this deponent thinking that the enemy intended an attack, and not having the means to prevent the enemy passing, as the draw was broken, blew up the stores with powder, and retired with the men to a hill near the place; that the explosion destroyed the house entirely, there being a quantity of ammunition and powder in the house.

his
PHILIP + BOILIA.
mark.

Subscribed and sworn to before me, this 3d day of December, 1814.

DANIEL RAPINE.

13th CONGRESS.]

No. 267.

[3d SESSION.]

LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1815.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Farrington Barcalow, administrator of Mary Rappelya, made the following report:

That the petitioner states that the said Mary Rappelya was possessed of two loan office certificates; that her house was consumed by fire, and with it the said certificates. He prays that they may be renewed, or some other compensation made for them.

It appears that there were issued to the said Mary Rappelya two certificates from the loan office of New Jersey; one, No. 1,564, dated June 8, 1778, for \$600; the other, No. 294, dated the same day, for \$500; and that the said certificates are still outstanding and unpaid. It also appears that she made known the fact of the destruction of the said certificates shortly after it happened, which was in March, 1787, but did not advertise it in the papers until February, 1792, near five years afterwards, which she has sworn was occasioned by her ignorance of its necessity. She petitioned Congress for redress in the case, in February, 1795, and a favorable report was made thereon, but it was not finally acted on. She died in the year 1807, and in 1811 the administration of her effects was committed to the petitioner.

From the foregoing facts it appears that the claim is a just one; but it is barred by the statute of limitation, it not appearing that the claim was presented at the Treasury on or before the 1st of June, 1795, which is required

by law. It also appears that the requisites of the resolve of 1780 have not been complied with, so far as to advertise the destruction *immediately* after it happened. The committee feel satisfied, however, that as the destruction was advertised, and as a petition was presented to Congress, and not to the Treasury, before the limited time had expired, there has been a compliance with the *spirit*, although not with the letter of the laws. They are, therefore, of opinion that relief ought to be granted, and report a bill for that purpose.

13th CONGRESS.]

No. 268.

[3d SESSION.

APPLICATION OF THE WIDOW OF A DECEASED PRIZE-MASTER IN THE PRIVATE ARMED SERVICE FOR AN INCREASE OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 14, 1815.

Mr. PLEASANTS made the following report:

The Committee on Naval Affairs, to whom was referred the memorial of Anne Hodgkinson, widow and relict of Peter K. Hodgkinson, late of the city of New York, have, according to order, had the said memorial under consideration, and thereupon report:

That the memorialist represents that, after the declaration of war, her late husband entered on board a private armed vessel, the York of Baltimore, and was killed in an engagement with the enemy; that after his death she applied to the Secretary of the Navy to be placed on the pension list; her request was complied with, but only as much allowed her as is allowed the widows of common seamen in such cases. She prays that Congress would grant to her a further allowance, as her husband acted as prize-master on board the York; and states, that, according to the constant usage of the privateer service, prize-masters rank with and receive the emoluments of first lieutenants. It appears that the late Secretary of the Navy gave as a reason for not allowing more to the widow, that prize-masters are unknown to the laws of the United States, and that he was not authorized to grant any thing additional in consequence of that appointment. The committee are of opinion that the Secretary was correct; that the office of prize-master is generally conferred upon an experienced seaman, in whom confidence is placed, and is matter of private arrangement as to pay and emolument between the captain and such prize-master. The committee see no sufficient reason for Congress interfering in this particular case, and recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

13th CONGRESS.]

No. 269.

[3d SESSION.

INDEMNITY FOR BRITISH CRUELTY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1815.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Joshua Penny, of Easthampton, in the State of New York, made the following report:

That the petitioner states, that, on the night of the 22d of August, 1813, a party of armed men, from the ship *Ramilies*, commanded by Commodore Hardy, forcibly entered his house, took him from his bed, and carried him by force, and entirely destitute of clothing, with the exception of his shirt, to that ship, then lying off Gardiner's bay, where he was immediately put in irons and close confinement; that he was then sent to Halifax, where he was imprisoned and badly treated till the 20th of May, 1814; that he was at that time liberated from prison, and sent to Salem, in Massachusetts, in a cartel. It is also stated by the petitioner, that while he was confined on board the ship, he received nothing for subsistence but bread and water, and that his treatment was wanton and cruel. The only cause assigned for all his punishment was, that he had once been in the employment of Commodore Decatur, as a pilot to a torpedo. The petition is not accompanied with any documents to establish the facts; but the committee have no reason to disbelieve their correctness. The petitioner asks of Congress "some compensation on account of his great and uncommon sufferings."

In common with every friend of humanity, the committee sympathize with the petitioner, while they deprecate and abhor the conduct of the enemy in such cruel and unheard-of treatment towards a citizen, not in the military or naval employment of the Government; they cannot, however, adopt the principle, that for every such violation of the usages of civilized warfare, on the part of the enemy, the Government is bound to make compensation for the injury. They view the present as one of the multiplied examples, on the part of the enemy, during the present war, of outrage known only in the history of British aggression and British warfare. The principle upon which this opinion is founded has been established in a variety of cases during the present and last session of Congress. They recommend to the House the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

13th CONGRESS.]

No. 270.

[3d Session.]

INDIAN DEPREDATIONS IN THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE SENATE, JANUARY 21, 1815.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of the Legislative Council and House of Representatives of the Mississippi Territory in general assembly convened, respectfully sheweth: That the eastern part of this Territory has been visited by the calamities of war waged by an enemy unrestrained by any principles which govern warfare among civilized nations; that public and private property has been taken off by the desolating hand of the savage; and a settlement hitherto prosperous, and possessing the advantages of wealth, has been reduced by the same unrelenting enemy, if not to indigence, yet to a situation much less comfortable than that in which Providence and industry had placed them. Your memorialists conceive that, in a war between two civilized nations, if either should depart from the known rules of warfare, and commit lawless depredations upon the other, at a treaty of peace, the nation which had thus departed from the usage of nations would be bound to make reparation for its unwarrantable injuries. This rule applies with equal force to the Creek nation of Indians, who have overcome and much injured our eastern settlements; reparation, it is thought, is due for the property which they have wantonly destroyed. But it is to the General Government we look for a redress of our grievances. They have the power of concluding a peace and prescribing the terms. Your memorialists believe that a treaty has been made with the Creek Indians, and that a large tract of valuable land has been ceded by them to the United States. Believing that indemnification for losses sustained ought to be made out of the ceded property, and that a law of Congress guaranties to individuals reparation for injuries sustained from Indians, it is prayed that Congress will take the subject into their most serious consideration, and devise some method by which justice may be done to the sufferers of our country, who, in addition to the misfortunes already mentioned, have had the life of the citizen converted nearly into that of the soldier, without the indemnification arising from pay or bounty to those regularly in the service. It is, therefore, represented that those losses could be conveniently ascertained by a board of commissioners, and be by them reported to Congress.

Wherefore it is respectfully prayed that a board may be constituted for the purposes aforesaid, or such other relief granted as Congress in their wisdom may deem expedient.

DANIEL BURNET, *Speaker of the House of Representatives.*
THOMAS BARNES, *President of the Legislative Council.*

REPRESENTATIVE CHAMBER, *December 23, 1814.*

L. P. JANUARY, *Clerk.*

COUNCIL CHAMBER, *December 23, 1814.*

FELIX HUGHES, *Secretary.*

[NOTE.—See report No. 276.]

13th CONGRESS.]

No. 271.

[3d Session.]

INDIAN DEPREDATIONS IN 1776.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 26, 1815.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of George Hite, made the following report:

That the petitioner asks Congress to remunerate him for a number of negroes, horses, and cattle, which, he alleges, were the property of his father; and which were taken by the Cherokee Indians in the year 1776, from his father's residence, after having first killed the whole family, except himself; some of which negroes, he states, are now in the possession of the said Indians. The petitioner is so defective in his testimony that he does not make out such a claim as can be granted. He neither shows himself to be the heir of the person, whose property is said to have been taken, nor does he show, satisfactorily, the value of the property taken, or that any was taken. But, if all these points were established, the committee still think he has no claim upon Congress. He bottoms his claim on the treaties made by the United States with these Indians in 1785 and 1795; by the first of which the Indians were bound to deliver up and restore all the property belonging to the citizens of the United States which they had taken; and by the latter they were allowed to retain all such property as still remained in their possession. There is no satisfactory evidence that any proper efforts were ever made to recover this property between the dates of these two treaties. The neglect of the petitioner to do this certainly cannot create an obligation on the Government to remunerate him. Every person who had lost a horse or a cow, by the depredations of these Indians, has an equal claim on the Government with the petitioner, and, by obtaining the remuneration asked for, would find in the Government a convenient warrantor for all their losses. This, it is believed, would not be considered good policy at this day. If there ever were an obligation created, on the part of the Government, by the neglect of the petitioner it has been destroyed; therefore,

Resolved, That the prayer of the petitioner ought not to be granted.

13th CONGRESS.]

No. 272.

[3d Session.

SURETIES OF A DEFAULTING COLLECTOR OF THE REVENUE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1815.

Mr. EPPES, from the Committee of Ways and Means, to whom were referred the petitions of Solomon Frazer and Mary Eccleston, of Dorchester county, in the State of Maryland, made the following report:

That the following is the statement of facts which must govern the opinion of the House in this case:

James Frazer was appointed collector of the port of Vienna, in Maryland, about the 1st day of April, 1795; and Solomon Frazer and Charles Eccleston (the latter now deceased, of whom the petitioner, Mary Eccleston, is the personal representative,) became his sureties in a bond to the United States in the penal sum of \$2,000. At the end of the year 1795 James Frazer was in arrear, on rendering his accounts to the Government, in the sum of \$350 82; which balance against him continued to increase from year to year, until the month of June, 1805, about which time James Frazer went out of office, when the sum due from him to the United States was \$3,924 86. No measures were taken by the United States to enforce the payment of the arrears due from James Frazer until June, 1805, (after he was out of office,) when a suit was commenced against him and his sureties. The writ against James Frazer was returned, served at September term, 1807, and judgment was obtained against him at September term, 1808, for the balance of his account. Execution was taken out on this judgment, on the 29th day of June, 1810, by virtue of which James Frazer was imprisoned; and on the 3d day of July thereafter was discharged from his imprisonment, by an order of the Secretary of the Treasury, on the ground of his insolvency. This order of the Secretary was irregular, being granted by him under a mistaken supposition that James Frazer was imprisoned on a judgment obtained on a revenue bond; the law empowering the Secretary to discharge from imprisonment in certain cases not extending to the case of collectors.

It does not appear when the insolvency of James Frazer took place; but it appears that, in February, 1804, he sustained a considerable loss by fire; and that he had property to the amount of two or three thousand dollars about the end of the year 1808.

It also appears that a judgment was obtained against Solomon Frazer for the sum of \$2,000, (the penalty of the bond,) before the year 1808, which is still in force. It does not appear that any judgment has been obtained against Charles Eccleston or his personal representative.

On this statement of facts the committee are of opinion that the petitioners are entitled to the relief they ask for; and, therefore, submit the following resolution:

Resolved, That the prayer of the petitions of Solomon Frazer and Mary Eccleston is reasonable and ought to be granted.

13th CONGRESS.]

No. 273.

[3d Session.

MONEY LOST BY A PAYMASTER OF MILITIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 10, 1815.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of John Palmer Cox, of the State of New York, made the following report:

That the petitioner is a paymaster to a regiment of New York militia, commanded by Colonel Anthony D. Lameter, and which, in the month of August last, was stationed at Harlem Heights, in the city of New York; that he had received of the United States several thousand dollars, to pay off the militia, which he had deposited in a small trunk about eighteen inches in length, and which he usually kept locked up in a closet in his bed-chamber, until, by indisposition, he was confined to his bed, when he had the same brought and placed on the floor of the room, near the side of his bed; that, on the evening of the 31st of October last, the petitioner, and some other officers who lived in the room with him, went to a neighboring house to take tea, leaving the trunk in the room; and, when they returned, it was gone.

It appears from the depositions of Maria and Sophia Grenzeback, which were referred to the committee, that, on the 24th of December last they saw the trunk lying in the bushes, some distance from their father's house on Harlem Heights; and that, *as soon as they saw it, they knew it at a distance to be the trunk of the petitioner.*

They gave information to their father, who carried the trunk to his house, and sent for a Mr. Henry Post to come and open it, and view its contents. He opened the trunk, and found it contained \$137 37½, and many papers belonging to the petitioner.

The petitioner states that he had in the trunk, at the time it was stolen, \$2,587. One deponent swears *that he verily believes* that sum was in the trunk when it was taken; and another states that, on the evening the trunk was stolen, he saw the petitioner count the money, and, from the appearance of *the bundles of the bills*, he believes there was that amount. The petitioner asks relief of Congress.

The committee are of opinion that to the prayer of the petitioner there are several objections:

1. That the loss of the money, and the amount thereof, are not clearly and satisfactorily shown.
2. That the loss, if it actually did take place, was under such circumstances as would constitute negligence on the part of the petitioner.

3. That if the money actually was stolen from the petitioner, without any negligence on his part, the United States would not be liable for it. It is believed they should not be considered the insurers of money in cases of this description; the same principle has often been established at the present and last session of Congress. They therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be allowed.

13th CONGRESS.]

No. 274.

[3d SESSION.]

INDEMNITY TO A COLLECTOR OF THE REVENUE FOR CERTAIN JUDICIAL EXPENSES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1815.

Mr. EPPES, from the Committee of Ways and Means, to whom was referred the petition of Jeremiah Hill, made the following report:

That the said Hill was indebted to the United States when he left the office of collector at Biddeford. He had officially obtained a judgment against certain persons, for breaches of the act of Congress laying an embargo, and claimed one moiety of the amount, as collector. Before any money had been received on the judgment, he insisted on a right of set-off, and refused to pay the balance due from him into the Treasury. The Comptroller directed a suit to be instituted against him. It appears that the marshal had previously levied a part of the amount of the judgment claimed as an off-set by Hill; and that, pending the suit against him, lands were sold by the marshal to satisfy the residue. When the whole amount was received at the Treasury, Mr. Hill was allowed credit for his portion of the judgment, and the Comptroller directed a discontinuance of the suit against him, on the payment of costs. The petitioner claims—

1. The costs incurred in prosecuting the suit against the persons who committed the breach of the embargo law.
2. Reimbursement in the costs of the suit against himself.
3. Compensation for his trouble and expenses in attending to the two suits.

The defendants in the suit brought for the breach of the embargo law were liable for the legal costs of that suit; the petitioner was liable for the costs of the suit brought against himself, the United States not being bound to wait for the receipt of the amount of the judgment which he had obtained against others, before they instituted suit against him for money received as collector; and it appears to the committee that the personal services of the petitioner were amply remunerated by his moiety of the penalty incurred. The following resolution is therefore submitted:

Resolved, That the prayer of the petition ought not to be granted.

13th CONGRESS.]

No. 275.

[3d SESSION.]

INDEMNITY FOR THE ILLEGAL SEIZURE AND DETENTION OF THE SHIP AMERICAN EAGLE, AT NEW YORK, IN 1810.

COMMUNICATED TO THE SENATE, FEBRUARY 17, 1815.

The SECRETARY OF THE TREASURY, to whom the petition of Gould Hoyt was referred by a resolution of the Senate, passed the 9th of February, 1815, having considered the same, in obedience to that resolution, has the honor to report:

That the petition contains various allegations which are not supported by any evidence that is either produced by the petitioner, or possessed by the Treasury Department: and that it contains various complaints, which are either founded upon such imperfections of the judicial institutions of the United States as cannot constitute the peculiar grievance of the petitioner, or upon such conduct in the public officers of the district of New York as would, it is believed, receive from them a satisfactory explanation, were an opportunity afforded for that purpose.

That, under these circumstances, the Secretary of the Treasury presumes that he shall best discharge his duty to the Senate by stating the facts of the case referred to him, according to the evidence which is in his own possession, without dwelling upon the allegations of the petition.

That, in the year 1809, the United States and France were at peace. The island of St. Domingo, a colony of France, had declared itself independent; and, after successive changes in its form of government, two rival chiefs, Christophe and Petion, claimed the sovereignty. But France, in constant and decisive terms, asserted her parent right to the colony; and the American Government, so far from recognising the independence of St. Domingo, had passed two laws prohibiting all intercourse with such parts of the island as were in possession of the revolted subjects of France. The violation of those laws, on several occasions, had been the cause of great inconvenience to the United States.

That it was the policy of the American Government to avoid all participation in the conflict between France and her colony, as well as in the conflict between the native competitors for the sovereignty of St. Domingo; and, therefore, whatever might be the indulgence shown to a mere commercial intercourse with that island, after the expiration of the acts of Congress, which expressly prohibited it, the Government never ceased to watch with particular attention any equipments in the ports of the United States, which were apparently destined to increase the military means of either of the parties to the insular war, or which might be directed by the Government of the island against the Government of France. The United States being at peace with all the world in the year 1809, there could hardly be a pretext for such equipments, with a view to the protection of American commerce; and the armament of the American merchant vessels had not been authorized by law.

That the ship American Eagle, which furnishes the subject of the petition under consideration, appears to have been a large frigate built ship, formerly called the Marquis of Lansdowne, captured by the French from the British, and sold by the captors to American citizens. On the 18th of November, 1809, information was officially given

to the Treasury Department, that "this ship had been for some time repairing at New York, and was then nearly completed in the very best manner, and pierced for thirty-six guns; that conjectures were various; that the object in view could not be discovered; but that some illicit, some forced trade was no doubt in view." On the _____ day of December, 1809, further information was officially given to the Treasury Department, that "a vessel had lately arrived at Norfolk with a cargo of coffee, under Swedish colors, which was said to belong to _____, of New York; that the vessel was the schooner *Gustavus*, Captain _____, or _____, master, (for there were said to be two captains on board;) that she went in under a plea of distress, but was supposed to have only sought an opportunity of waiting for orders from the owners or consignees; that the cargo was said to be the property of the Government of Port-au-Prince, and designed to form the funds, in part, for the payment of the American *Eagle*, a large ship understood to be fitting out at New York for that Government, and nearly ready for sea."

That, on receiving these communications, (which were corroborated by publications in the newspapers,) a letter was addressed from this Department to the collector of New York, dated the 12th of December, 1809, stating the information "that the ship *American Eagle* was fitting out for *Petion*, who had purchased her," and observing "that if that be the fact, the President directed her departure to be stopped, as embraced by the act of the 5th of June, 1794," prohibiting armaments within the United States, in violation of their neutrality. But it does not appear that any act was done, in pursuance of this authority, conditionally given to the collector of New York.

That, on the 11th of April, 1810, further information was officially given to the Treasury Department, that "since the letter of the 12th of December, 1809, the ship *American Eagle* had very little done until then, when twenty or thirty men were employed, and there was every appearance of soon getting the ship ready for sea." And the answer to this information was given on the 27th of April, 1810, "that if any satisfactory evidence could be obtained of the ship's being intended to commit hostilities against a friendly Power, or for any other illegal purpose, she ought to be detained; but, if no such proof can be had, the vessel must then be watched, and not suffered to arm, or carry any military stores in her hold."

That to these official communications, and the public notices of the gazettes, it appears the minister of France, in June, 1810, added "his remonstrances respecting the armament of the *American Eagle*, which he stated to be destined for one of the black chiefs of *St Domingo*; and that the agent who superintended the armament was an ancient secretary of a general of brigade, named *La Plume*, formerly commanding officer at *Aux Cayes*." On the 26th of June, this information was communicated to the collector of New York; and that officer replied, that "he would omit no legal step, in conformity to the instructions of the Treasury Department." But, in a letter from this Department, dated the 29th of June, 1810, a more particular direction was given, and the collector was required critically to investigate every circumstance relative to the ship, to consult with the district attorney, and, if it could be legally done, to prevent her departure; for her equipment, and the information given by both the collector of *Baltimore* and the French minister, created a strong presumption that she was intended for one of the *St. Domingo* black chiefs—a destination not only contrary to the interests of the United States, but directly contravening the laws of nations, and forbidden by the third and fifth sections of the act of the 5th of June, 1794." It was added, that "the safest way, if the district attorney concurred, would be to libel the ship under the third section of the act; and that the President of the United States expressly recommended that every exertion be used to detect and prevent such gross violation of their laws and neutrality."

That, on the 30th of June, 1810, the surveyor of the port of New York, having, with the inspectors of the customs, examined the ship *American Eagle*, in pursuance of orders from the collector, reported, "that there was on board a person who said his name was *John Howard*, at present master of the vessel, and had been in that capacity at least six months last past; that, upon interrogating *Captain Howard*, he stated that the ship was owned by *James Gillespie*, merchant of New York, by whom he was employed as master, to superintend repairing the ship, which he had done till January last, at which time she was nearly finished, when *Gillespie* sold her to *Hoyt & Tom*, under whose orders he now acted, and has acted since they became owners. He did not know how or where the ship was to be employed; the only persons belonging to the ship were himself, *Mr. Mooney*, mate, and two or three seamen; that the surveyor proceeded to search the ship throughout, when (as near as could be ascertained) she had on board about one hundred and thirty barrels of salted provisions, twenty hogsheads of ship bread, and one hundred hogsheads of water, with a complete set of stone ballast; neither guns, small arms, ammunition, nor other implements of war, were found on board; she had a thorough repair from her keel up, with new copper, new masts, rigging, and sails; the latter all upon the yards; that the ship was calculated to carry twenty-four guns on her main deck, and fourteen on her upper deck; that her repairs and outfits, all together, were in a man-of-war style; and that nothing was wanting to send the ship to sea (if she went without guns) but a complement of seamen."

That, under all these circumstances, the collector of New York was informed, by a letter from this Department, dated the 6th of July, 1810, that "in the opinion of the President, the ship *American Eagle* ought to be immediately seized and libelled, as being fitted out for illegal purposes, unless the owner should give satisfactory proof of the contrary." But neither at the time of the survey; nor at any antecedent or subsequent time, nor in the petition under immediate consideration, has it appeared (so far as the evidence is possessed by this Department) for what voyage the ship *American Eagle* was actually equipped and provided in the manner which the survey describes, if the intention were not to prosecute the voyage to *St. Domingo*, for the purpose of delivering her to *Petion*, the asserted owner.

That, in pursuance of the instructions which have been stated, the ship *American Eagle* was seized on the 10th day of July, 1810, and was libelled in the district court. The indisposition of the district judge appears to have suspended all the business of that court for a considerable period; and owing entirely, it is believed, to that cause, the case of the *American Eagle* was not tried and decided until the 24th of August, 1812. The court acquitted the vessel, ordered her to be restored to *Gould Hoyt*, the claimant, and also refused to certify that there was reasonable cause for the seizure. The vessel remained in the custody of the marshal from the time of the seizure until the decision. *Mr. Hoyt* has since brought an action against the seizing officers, in the supreme court of the State of New York, for the damages sustained by the seizure and detention, which action is still depending. It is thought to be irregular and improper, under these circumstances, to state the opinion of the district attorney as to the probable issue of the action.

That repeated overtures have been made to this Department by *Mr. Hoyt* for a settlement or compromise of his claim for damages against the officers who seized the ship *American Eagle*, upon the presumption that they are eventually to be indemnified by the Government. But there was no power in the Department to adopt either the mode proposed for ascertaining the amount of the damages, or the mode proposed for liquidating that amount when ascertained.

That, upon the same presumption of an eventual responsibility on the part of the Government, *Mr. Hoyt* has presented the petition under consideration to Congress; in which he states, that "he would be well satisfied to obtain for the vessel the money that she has actually cost him, (computed at one hundred thousand dollars,) with

charges and interest, in full satisfaction for any claims he may have on account of the seizure." He concludes, however, with praying "that the proper officers of the Government may be authorized to purchase the said ship upon such terms as to Congress may seem proper; or that he may have such relief in the premises as in the wisdom of Congress shall seem meet."

Upon this general view of the case, the following considerations arise:

1. Whether any, and what, damages will probably be recovered in the suit against the seizing officers?
2. Whether the seizing officers are to be eventually indemnified by the Government?
3. Whether the damages, if the payment shall be now assumed by Congress, ought to be assessed by a jury, by arbitrators, or by the accounting officers of the Treasury?

All which is respectfully submitted,

A. J. DALLAS.

[13th CONGRESS.]

No. 276.

[3d SESSION.]

INDIAN DEPREDATIONS IN THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1815.

Mr. LATTIMORE, from the committee to whom was referred on the 21st ult. a memorial of the Legislative Council and House of Representatives of the Mississippi Territory, relating to the destruction of property by hostile savages in said Territory, made the following report:

The memorialists state, that, in the eastern part of the above-mentioned Territory, great losses have been sustained from the wanton and unwarranted depredations of the Creeks; for which they conceive reparation is due to the sufferers out of the lands which have been ceded by the treaty lately concluded with that nation of Indians to the United States, and pray that a board of commissioners may be instituted for the purpose of ascertaining such losses, and with a view to such reparation.

Your committee have no doubt that the losses sustained by the inhabitants of this section of the country are great, and that their sufferings have been severe; but, conceiving that other cases may furnish claims to reparation, they are of opinion that any proceeding on the subject should not be partial in its object or effect. Abstaining from all remarks as to the important and extensive principle which this subject involves, your committee believe that it would be proper to ascertain, without unnecessary delay, all such losses, whether from English or Indian depredations, as may hereafter claim the attention of Congress, when the general question of indemnity may come before them; and in this view of the subject, and also with due regard to the particular case presented by the memorialists, they offer the following resolution to the consideration of the House:

Resolved, That the President of the United States be requested to take such measures as may be convenient for the purpose of obtaining satisfactory evidence of all losses of property which have been sustained in consequence of the depredations of the British or Indians, or of the troops of the United States, during the late war; and that the memorial above considered be transmitted to him for his information on the subject to which it relates.

[NOTE.—See No. 270.]

[13th CONGRESS.]

No. 277.

[3d SESSION.]

CLAIM FOR PURSUING AND APPREHENDING COUNTERFEITERS.

COMMUNICATED TO THE SENATE, FEBRUARY 27, 1815.

Mr. ROBERTS, from the committee to whom was referred the bill from the House, entitled "An act for the relief of James Doyle," made the following report:

That, by the evidence submitted to them, it appears that James Doyle, in the year 1805, undertook to apprehend and bring to trial certain persons charged with counterfeiting the notes of the late Bank of the United States; that he was engaged about one hundred days in traversing the western country in that pursuit; that he paid seventy-eight dollars for assistance; and finally succeeded in apprehending and bringing to trial one of the persons charged as aforesaid. The committee also infer, from a letter written by the Attorney of the United States for the district of North Carolina, (where the person apprehended was tried,) that he believed the services rendered by James Doyle as aforesaid ought to be compensated by the United States. But it does not appear in evidence that James Doyle was employed to render these services, either by the said district attorney, or any person having competent authority under the United States.

In this statement of facts the committee do not see any foundation of a claim upon the justice of Congress, nor do they believe that sound policy will permit Congress to remunerate services of this description, unless rendered at the request and under the direction of some officer of the United States invested with competent authority.

The committee, therefore, report the said bill without amendment, and recommend a disagreement thereto.

14th CONGRESS.]

No. 278.

[1st SESSION.

CLAIM FOR A SLAVE AND CLOTHING LOST IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 29, 1815.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Andrew Montgomery, of the Mississippi Territory, reported:

That the petitioner was first lieutenant of riflemen, attached to the regiment of twelve months volunteers of the Mississippi Territory; that, at the fall of Fort Mimms, he lost a negro boy and his military clothes. It appears to the committee that the negro boy belonged to the petitioner, and was with his master in the capacity of waiter. It does not appear whether the boy was killed at the fort, or that he ran off at the time of the massacre at that place. It is stated by the commanding officer that he was supposed to be taken by the Indians, and carried to the Creek nation.

The committee are of opinion that the petitioner is not entitled to relief. It is believed that no case has occurred where compensation has been made for the loss of military clothes, under like circumstances; nor is it believed that a correct policy would dictate it upon this occasion.

As to the claim for the value of the negro boy, the committee are of opinion that the United States are under no obligations to pay for him. Officers of the army are by law entitled to servants as waiters, and, for the purpose of procuring them, an adequate sum is allowed; but if an officer of the army prefers taking his own slave in the capacity of waiter, drawing from the United States the sum allowed for waiters as a compensation for the hire of his servant, it is conceived the United States ought not to be liable for the value of the slave if he should be killed, or by any other accident lost to the owner.

If compensation were to be made for the value of the slave, the claim of the officer in selecting his own servant would have the effect of compelling the United States to become the warrantor of the value of the servant, instead of making a reasonable allowance for the hire of a waiter, as was contemplated by the act of Congress.

The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 279.

[1st SESSION.

MONEY LOST BY A PURSER IN THE NAVY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 3, 1816.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of William S. Rodgers, reported:

That the petitioner was purser of the United States ship Adams, which was destroyed at Penobscot to prevent her falling into the hands of the enemy; that the petitioner states that he was directed by the captain of the Adams, about the 20th August, 1814, to obtain from the navy agent at Portland money to pay the crew, which he did to the amount of about \$1,800; that, before he had an opportunity of paying the same over to the crew, the enemy appeared in great force on the river, and that he deemed it prudent and safe to deposite the money for safe-keeping with General Crosby, who was then acting as agent of the ship.

It appears to the committee, from the affidavit of General Crosby, that the petitioner, at the time of the attack on the Adams, handed to him a check on the Portland Bank for \$800, and a bundle of paper money, which General Crosby did not count, but which the petitioner has since stated to him contained \$1,000; that the check and bundle of money which were given to him were deposited in a small trunk; and that, on the near approach of the enemy, the general directed his little son to carry the trunk into the adjacent woods, and that he, being alarmed by the firing, dropped it and fled. The trunk was afterwards found, and was plundered, and one of the persons suspected of the plunder pursued and detected with the check and \$400 in his possession. The petitioner states that he has been able to get only \$200 of that and the check. He prays of Congress that an act may be passed, giving him a credit in his account with the United States of \$800.

The committee are of opinion, from a full consideration of all the circumstances of this case, that the petitioner is not entitled to relief, and therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be allowed.

14th CONGRESS.]

No. 280.

[1st Session.]

BY WHOM PENSIONERS ARE PAID IN THE STATES IN WHICH NO LOAN OFFICE IS ESTABLISHED, THE NUMBER OF PENSIONERS, AND THE ANNUAL PAYMENTS TO INVALID PENSIONERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1816.

SIR:

WAR DEPARTMENT, *December 30, 1815.*

In answer to your communication of the 28th instant, enclosing a resolution of the honorable the House of Representatives of the United States, inquiring whether any, and what, measures have been adopted for the pay of pensioners in those States where there has been no loan office established, I have the honor to state that there is no loan office in the States of Vermont, Ohio, Kentucky, Tennessee, and Louisiana. In the State of Vermont, the marshal of the district was appointed in the year 1811 to discharge this trust. In the other States above enumerated, no measure has been adopted for the payment of invalid pensions in their respective States; the pensioners of which, and of the Territories, have hitherto been paid at the seat of Government. The authority given by existing laws to appoint agents in those States for the payment of invalid pensioners where no loan office has been established is believed to be sufficient, and it is contemplated by the Department to provide for those cases by the appointment of the marshals of the respective districts, or of some other fit person where the marshals shall decline acting. The pensioners of the several Territories will be paid as heretofore, unless provision shall be made by law for payment in a different manner.

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

WM. H. CRAWFORD.

HON. JOHN J. CHAPPELL, *Chairman, &c.*

SIR:

WAR DEPARTMENT, *January 4, 1816.*

In answer to the several queries contained in your communication of the 2d instant, I have the honor to state—

1st. That the whole number of pensioners at present paid by the United States is two thousand two hundred—two hundred and thirty-seven officers, and one thousand nine hundred and sixty-three non-commissioned officers and privates.

2d. That, of this number, one hundred and eighty-five appear to be officers, and one thousand five hundred and seventy-two non-commissioned officers and soldiers of the revolutionary army.

3d. That it is impossible to state with any accuracy, from the few documents yet produced at this Department, the probable number of invalid pensioners who may be entitled to be placed on the list, in consequence of wounds received during the late war. I state, however, for your information, that one hundred and forty-one certificates of pension have issued to officers, non-commissioned officers, and privates of the late army since the 17th of November, 1815; and,

4th. That the annual payments to invalid pensioners of the United States amount to the sum of one hundred and nineteen thousand six hundred and twenty-four dollars and four cents.

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

WM. H. CRAWFORD.

HON. J. J. CHAPPELL, *Chairman, &c.*

14th CONGRESS.]

No. 281.

[1st Session.]

CLAIM FOR A VESSEL LOST IN THE FLOTILLA SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 5, 1816.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of William O'Neal and Robert Taylor, reported:

That the petitioners are owners of the schooner *Islet*, which, in the month of June, 1814, then lying in the river Patuxent, they chartered to the United States as a store-ship to the flotilla commanded by Commodore Barney, upon the following terms: The petitioners were to find a sufficient number of seamen to navigate the vessel, the captain of the vessel to be under the orders of the commander of the flotilla, to carry such quantity of naval stores as was agreed on, and her safety, in every respect, to be at the *risk* of the owners; for which services and *risk* the United States agreed to give to the petitioners the sum of ten dollars per day; that, on the approach of the enemy, in August, 1814, it was deemed prudent by the commanding officer of the flotilla to blow it up, to prevent its falling into the hands of the enemy, but the schooner *Islet*, which was left to the care and management of Captain Taylor, one of the petitioners, was run up the river and sunk by him, to prevent the vessel and stores from falling into the hands of the enemy: the vessel has not since been raised. The petitioners pray of Congress a compensation equal to the value of the vessel, and such further relief as may be just.

The committee are of opinion that the petitioners, having undertaken in their contract to be at all *risks* of the vessel, and the vessel having been sunk by its commander, who is one of the petitioners, are entitled to no relief. They therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

[14th CONGRESS.]

No. 282.

[1st SESSION.]

APPLICATION OF KENTUCKY FOR THE PAYMENT OF THE CLAIMS OF HER CITIZENS
FOR HORSES LOST IN THE SERVICE OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, JANUARY 9, 1816.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of the Legislature of the State of Kentucky would respectfully call the attention of Congress to a subject of considerable importance to many of their citizens, who unfortunately lost their horses during the various campaigns carried on from this State, in the late war with the British and their savage allies, particularly on the northwestern frontier, where the losses sustained were peculiarly severe, owing to many circumstances which we will detail, and which at the time demanded every sacrifice.

The extensive wilderness bordering upon our northwestern frontier, every part of which was infested by a cruel and savage enemy, made it necessary that large bodies of mounted riflemen should be employed in order to meet the various attacks of an insidious foe, and to comply with which the people of the western country never hesitated, or inquired what compensation was to be made them. They relied upon the justice of their country, which, they believed, would never be withheld from the soldier who had risked his life in defence of his country's rights.

The Legislature are aware of the provision made by act of Congress for the use and risk of horses lost by mounted men previous to the declaration of war; and they have no doubt there are some cases which have not as great claims upon the Government as others. Yet, when the situation of the State of Kentucky is taken into consideration, it will be found that the claims of her citizens to compensation for horses lost during the war will be found not inferior to any other section of the Union. Placed at a considerable distance from the scene of military operations, the calls for men by the Government were generally made at a time when the greatest despatch and energy were required.

In the summer of 1812, the surrender of General Hull, the fall of Detroit, Mackinac, and Chicago, and the consequent siege of Forts Wayne and Harrison, called aloud for all the patriotism of the State of Kentucky.

The emergency could only be met by mounted men, who, in a few days, were found filling up the ranks of Generals Harrison and Hopkins; the remaining forts were saved, the frontiers protected, a savage enemy checked in his bloody career, and destruction and retribution carried back into his own country; and the various tribes of hostile Indians, flushed with their recent success, were driven to seek refuge under the cannon of their British friends.

In aid of which important services, the regiment of dragoons under the command of Colonel Simrall, the volunteer company of Captain Smith, and the twelve months volunteers with Captain Garrard, contributed their full portion of zeal and patriotism at the battle of Mississinewa in the midst of winter, besides many other important services, which lost to them many horses, besides those killed in battle. These are cases which richly deserve the notice of a grateful country.

Early in the year 1813, a regiment of mounted riflemen, under the command of Colonel Richard M. Johnson, was hurried into service to relieve Fort Meigs and protect the frontiers of the State of Ohio. This regiment was usefully employed, and it is believed fully answered the expectation of their country. Previous to the second investiture of Fort Meigs, they penetrated far into the enemy's country, and by forced marches reached that important post at a critical period, and were employed by the commanding general to procure intelligence of the enemy's movements near Malden; by which means General Harrison was enabled to carry on his operations in security. These, and subsequent marches of unusual celerity, had a tendency to break down and destroy many of the best horses belonging to that corps.

Again, when it was found, late in the month of July, 1813, that the contemplated force of regular troops could not be collected, the commanding general of the northwestern army was compelled to call upon the Governor of Kentucky for an additional militia force.

The lateness of the season, the necessity of the times, the importance of the service required, as well as the critical period which had arrived, in which the hopes of a desponding country were to be realized or again blasted—all combined to point out to the Executive of this State that mounted men could alone meet the approaching crisis, and render that service so loudly called for by every friend to his country. With these views, it is well known that between three and four thousand mounted men rallied round the standard of their country, which had been erected by the venerable Shelby, many of whom had to travel between two and three hundred miles before they reached the point of rendezvous. With these troops, without delaying a single day unnecessarily, the Governor of Kentucky moved on to the head-quarters of the northwestern army, where his arrival was as critical as it was important, and absolutely necessary to meet the views of General Harrison. Forced marches were required and performed; our citizens did not linger on the road, or suffer their spirits to be depressed; for many, after losing their horses by fatigue, would keep up with the army on foot, to the astonishment as well as pride of their country and fellow-soldiers.

We cannot avoid further stating to your honorable body that, in order to take advantage of Commodore Perry's success upon Lake Erie, and carry the war into the enemy's country, it was necessary to leave the horses of the troops enclosed in the peninsula formed by the Sandusky bay and Portage river, where they subsisted in the forest upwards of one month, which much reduced them, and consequently produced many serious and unavoidable losses on the homeward march, as a sufficiency of forage could not be procured at that place. An important victory was gained, and the most sanguine anticipations of the Government realized. And will the nation now, on the return of peace, refuse to remunerate our citizens, many of whom are poor, and some of whom have lost their only horse? We trust not; and therefore earnestly solicit the attention of Congress to this subject, which, though of small moment to the nation at large, yet is important to individuals.

We would also include the cases of horses lost during the fall of 1814, under Major P. Dudley, who served with General McArthur, in Upper Canada, who, we believe, rendered important services to our country in cutting off the supplies of the enemy, and which would have been most severely felt by them in case another campaign had opened in that quarter.

Nor can her citizens have less claim on the justice of their country to remunerate them for lost property, who, during an inclement season, and through a country peopled by savage enemies only, encountered every danger and difficulty in the wagon department, transporting provisions, forage, and camp equipage for the army and garrisons

of the northwest; many of whom were induced to embark in that dangerous employ more from a desire to serve their country than from the prospect of gain. Nor were the services rendered their country by the detachment of Kentucky troops under the command of Colonel William Russell, on the Wabash river, less meritorious, nor the losses sustained by them less just to remunerate.

We therefore most seriously request that the cases of lost horses alluded to in this memorial be attended to, and that our citizens be fully compensated, as far as the justice of their several cases may require; and, for the purpose of bringing this subject before Congress, be it

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Governor of this State be requested to transmit a copy of the foregoing memorial to each of our Senators and Representatives in Congress, with a request that they immediately lay the same before that body, and that they use their best influence to have the same complied with as soon as the nature of the case will admit.

JOHN J. CRITTENDEN,
Speaker of the House of Representatives.
R. HICKMAN,
Speaker of the Senate.

Approved: December 21, 1815.

ISAAC SHELBY.

SECRETARY'S OFFICE, FRANKFORT, *December 25, 1815.*

I hereby certify that the foregoing is a true copy of the enrolled memorial and resolution filed in this office.
M. D. HARDIN, *Secretary.*

14th CONGRESS.]

No. 283.

[1st SESSION.

CLAIM OF A REVOLUTIONARY OFFICER FOR HALF-PAY FOR LIFE AFTER IT HAD
BEEN COMMUTED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1816.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Colonel A. McLane, reported:

That the petitioner was a highly meritorious officer of the revolutionary army, attached to Colonel Harry Lee's legionary corps, and served until November, 1782, when, by the permission of General Washington, he retired on half-pay for life. He states that, some time after he left the army, he applied at the office of the auditor of accounts for his half-pay, when he was informed that Colonel Lee had commuted it, and that, consequently, he was not entitled to it, and that he must take a certificate of five years' full pay in lieu thereof. He denied Colonel Lee's authority to commute for him, and alleges that he never did commute. He, however, admits that, being indebted and hard pressed for money, and finding that he could not obtain a settlement of his account for half-pay, he did, under these circumstances of necessity, accept a certificate for five years' full pay, protesting, at the same time, against its legality. He also admits that he received from Congress a warrant for three hundred acres of land, and states that he was compelled to part with both his certificate and warrant for very small sums. He prays that Congress will now allow him his half-pay for life, deducting therefrom the amount of the certificate which he received.

The committee would be gratified if they could, consistently with duty, recommend the relief prayed for; but they feel that it would be both contrary to law and to policy. The case is barred by the statute of limitations, even if it had never been settled; it is also, according to legal construction, barred by the act of the petitioner himself. The acceptance of the certificate for five years' full pay discharged the obligation of the Government to him. He, however, appeals to the magnanimity and liberality of Congress, and urges that the payments, which were made in depreciated paper, ought not to be considered as a fulfilment of the promise made by the old Congress in their resolve of the 22d March, 1783; but in this the committee are of a different opinion. The certificate was such as Congress had promised; it was such as the other public creditors received; it was all the Government could give; and, however much it is to be regretted that the public securities of that time suffered a depreciation, yet the petitioner is not more entitled to indemnity for that depreciation than the number of other persons who received Government securities. His case is not different from theirs, and, therefore, proves the impolicy of any measure which shall, at this late period, attempt such indemnity.

He alludes to the acts of some of the States, by which the depreciation of their pay was made up to the officers and soldiers, and grants of land given them, and, therefore, thinks his claim on Congress is strengthened. These the committee suppose were acts of justice or generosity on the part of such States, and are certainly highly honorable to them; but neither the generosity nor justice of any State can impose an obligation on Congress. Congress has fulfilled its promises to the petitioner; and if he has any claim, it is not here, but on that Government which, from past experience, will be ready to reward his merits. They, therefore, feel bound to decide against his claim, but, wishing not to prejudice it, recommend the adoption of the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

14th CONGRESS.]No. 284.[1st SESSION.

INDEMNITY TO THE REFUGEES FROM CANADA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 24, 1816.

Mr. THROOP, from the committee to whom was referred the memorial of Abraham Markle and Gideon Frisbee, reported:

That, on due consideration of the memorial, and of the evidence of the facts therein contained, they are satisfied that the memorialists and their associates were residents in Upper Canada at the commencement of the late war between the United States and Great Britain, to which they had migrated from the United States; that, unwilling to take up arms against their native country, being attached to the principles and forms of its government, and encouraged by the hopes of success and protection held out to them by the commanders of the several American armies which appeared on their frontier and invaded their province, they abandoned their families and their fortunes, and joined the American standard; that these acts incurred a forfeiture of their estates to the British Government, which were seized to the use of that Government by its officers, in pursuance of laws passed for that purpose. It further appeared to your committee that the memorialists and their associates joined the American army at a period when their services were much wanted, and that they were with the army in all its important actions and operations on the Niagara, during the campaign of 1814, under General Brown, and contributed much to its success by their bravery, their acquaintance with the inhabitants of the Canadas, and the knowledge they imparted of the local situation of the country; that, in consequence of their adherence to the American cause, some of them were reduced from opulence, and all of them to want.

Your committee are therefore of opinion that the case of the memorialists and their associates presents a strong claim on the equity of this Government, and have instructed their chairman to present a bill for their relief.

14th CONGRESS.]No. 285.[1st SESSION.

PENSION GRANTED TO THE WIDOW OF A CAPTAIN IN THE ARMY WHO DIED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 26, 1816.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Elizabeth Morgan, widow of Zaquille Morgan, in behalf of herself and children, reported:

That the petitioner states that her husband was a captain in the army, and was engaged with his company in the defence of the city of Washington in August, 1814; that, by reason of the excessive heat of the weather, and the forced marches which he made to join the American forces before the battle at Bladensburg, and the exertions which he used to keep his company in order after the retreat of that day was ordered, he became completely exhausted, and fell dead in the road. She states that Captain Morgan left six small children, and prays that Congress will place her and her children on the same footing with the widows and orphans of those officers who died of wounds received in battle.

The material facts stated in the petition are supported by the testimony submitted, and show that although Captain Morgan did not die as gloriously as some other officers of our army, yet he died in the service of his country, and, consequently, that this case is within the spirit of those provisions which have heretofore been made. Whether these provisions be viewed as mere inducements to tempt the citizen to engage in the service of his country, or as the charity of a grateful Government extended to the bereaved widow and orphan, or as both, they are no less applicable to this than the cases provided for. They think the relief prayed for should be granted, and for that purpose report a bill.

14th CONGRESS.]No. 286.[1st SESSION.

INDEMNITY TO MILITIAMEN FOR MONEY LOST BY THEIR AGENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Daniel Gold and others, of the 20th brigade of Virginia militia, reported:

That, in the year 1814, the petitioners served a tour of duty in the military service of the United States at and near Norfolk, and, after having faithfully served out their time, obtained an honorable discharge for the same; that the funds which had been placed in the hands of the district paymaster not being sufficient to discharge the amount of their pay, they received, at the time of their discharge, *each*, the sum of twenty dollars and twenty cents, and

requested of Captain Jonathan Walmsly (who commanded the company to which they belonged) to settle and receive the balance of their pay from the paymaster, and carry it to them in the county of Randolph, in the State of Virginia, where they resided. Captain Walmsly received of the paymaster at Norfolk a check on Robert Brent, paymaster general, for the amount of the balance due to his men, and discounted it at that place at five per cent. On his way home, having taken a passage in the stage, he lodged at the Columbian hotel, in the city of Richmond, where his trunk was robbed of the money.

It appears to the committee, from the affidavits of John Mayce, Lieutenant John Brown, and Captain Walmsly, that they all arrived at the hotel together, and lodged in the same room; that, after getting into the room, it was thought by them that the money which Captain Walmsly had in his pocket would be equally safe, and more conveniently kept, in a trunk which belonged to Brown and Mayce; that the money was accordingly deposited in the trunk by Walmsly, in the presence of Brown and Mayce, and the key of the trunk given to Walmsly. On the next morning after the money was deposited, upon unlocking the trunk for the purpose of taking it out, it was ascertained by all three of them that the money had been stolen.

In the room in which the trunk was, Mr. Mayce lodged all night, and was at no time absent from the same, except a few minutes while at supper on that evening, and during that time he locked the door of the room upon starting to supper, and found it so locked upon his return to the same. The committee have the assurances of a member of the House of Representatives that Walmsly, Brown, and Mayce are all men of good character.

The petitioners ask of Congress to be paid the balance of the money due them for their services.

In this case, Walmsly may, perhaps, be considered the agent of the petitioners. Admitting that he is so to be considered, the question would arise in this case, whether they are to be bound by his acts, and receive the misfortune of his conduct. It is certainly a correct rule of justice that, in ordinary cases, the principal is bound by the acts of the agent; but the committee conceive this to be an exception to the general rule, the justice and policy of which they are willing to admit. In this case, it was the duty of the Government, pointed out by one of its own laws, to have paid the militia for their services at the *time* and *place* of their discharge. In consequence, however, of circumstances not to be foreseen, and which must often occur in this country, especially in times of war, it was found inconvenient, on the part of the Government, to pay the militia at the time and place of their discharge. Not having done this, it seems to the committee reasonable and just, and not subversive of any correct principle of justice or policy, that, in this case, the Government should bear the risk of the money until it was paid over to the petitioners. They therefore report a bill for their relief.

14th CONGRESS.]

No. 287.

[1st SESSION.]

MONEY LOST BY AN ARMY PAYMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Zachariah Schoonmaker, of the State of New York, reported:

That the petitioner was a paymaster to the second regiment of volunteer militia of the State of New York, a part of which was stationed at Fort Richmond, on Staten island, and a part at Sandy Hook, in the month of October, 1813; that, on the 8th day of that month, the petitioner received of the district paymaster a check on the Bank of America for the sum of \$9,000, which was paid him at the bank in *three* and *ten* dollar notes; that he paid to the troops stationed at Fort Richmond the sum of \$4,159 95, and immediately proceeded to Sandy Hook, for the purpose of paying the troops at that place; that, before he left the fort, he had put the money which remained in his possession into a small trunk, which, for safe-keeping, he deposited in a large trunk, and kept the keys of the same himself. When he arrived at Sandy Hook, he discovered that he had lost from his trunk the sum of \$2,256, in which were included all the ten dollar notes and a part of the three dollar notes. Of that sum, \$810, all in ten dollar notes, was afterwards found in a pile of sand in Fort Hudson; but the petitioner states that the balance, to wit, \$1,436, he has entirely lost. The petitioner prays of Congress to be remunerated for the loss.

This case was presented at the second session of the last (thirteenth) Congress, and the committee were then of the opinion that the petitioner was not entitled to relief: [report 10th March, 1814, which was burnt at the destruction of the Capitol on the 24th August, 1814.] The principle has often been adopted, and which this committee are persuaded is correct, that, when a paymaster has received money from the United States, to discharge a debt which the Government owes to its soldiery, and for which he receives an adequate compensation, he must be considered liable for the risk of the money, as well as its faithful and honest application. If the loss were produced by some inevitable accident, such as capture by an enemy, or some other unforeseen event, and which it would not be in the power of human diligence and wisdom to prevent or control, it would present a fit case for the equitable consideration and interference of Congress; but, in a case situated like the present, it is believed that sound policy and correct principles require that the party should abide by the contract he has made with the Government, and be held accountable for the money. The committee, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 288.

[1st Session.]

LOSSES OCCASIONED BY THE BLOWING UP OF A VESSEL OF WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 30, 1816.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the memorial of John D. Henley, on behalf of himself and the officers and crew of the schooner Carolina, reported:

The memorialist represents that, during the invasion of Louisiana by the British forces in December, 1814, he commanded the said schooner belonging to the United States, then lying at New Orleans; that, on the landing of the enemy on the 23d of December, he was requested by the American general to fall down the river, and take a position on the enemy's flank; that, in compliance with said request, the schooner fell down the river to the required position, where they opened a destructive fire on the enemy, which was continued until the Americans were so closely engaged with the British that a continuance of it would have been destructive of them as well as the enemy; that a fire of hot shot was at length opened on the schooner, by which she was set on fire, and finally blown up; that the memorialist, with his officers and crew, escaped with difficulty with their lives, and were unable to save their property, consisting of their clothing, and the nautical books and instruments of the officers, which was entirely lost, and for which they pray a remuneration from Congress.

The committee think this one of the cases of loss to which military men, both in the land and naval service, are frequently exposed; that numerous cases of the kind occurred during the late war, and must occur during all wars; that they believe there is no precedent of remuneration by Government for such losses. They therefore recommend the following resolution:

Resolved, That the prayer of the memorialist ought not to be granted.

14th CONGRESS.]

No. 289.

[1st Session.]

MONEY LOST BY A COLLECTOR OF THE REVENUE IN NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 31, 1816.

SIR:

TREASURY DEPARTMENT, *January 30, 1816.*

I have the honor to transmit, herewith, a report on the petition of Henry Malcolm, prepared in obedience to a resolution of the House of Representatives of the 17th instant.

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

A. J. DALLAS.

The Hon. the SPEAKER of the *House of Representatives.*

The House of Representatives having, by their order of the 17th of January, 1816, referred to the Secretary of the Treasury the petition of Henry Malcolm, with the documents accompanying the same, the Secretary has the honor to lay before the House the following report:

The petitioner, Henry Malcolm, was appointed the collector of the customs for the district of Hudson, in the State of New York, in the year 1795, when the district was established. It was his constant practice to remit the money which he received on account of duties in bank notes to the branch of the Bank of the United States in the city of New York, and no accident or loss occurred in consequence of this practice until the 28th of June, 1808. On that day the petitioner put under a cover, addressed to the cashier of the Branch Bank, a sum of one thousand dollars, in notes of the Bank of Columbia, in the city of Hudson, and delivered the packet to the postmaster of Hudson to be sent by the next mail. A letter of advice was at the same time forwarded to the cashier, which was duly received; but the money was stolen on its way, and has never been received at the Branch Bank, or passed to the credit of the Treasury. The accounting officers have refused to credit the remittance in the settlement of the petitioner's account, and he prays to be relieved by the authority of Congress.

The facts thus stated are satisfactorily proven, and serve to exonerate the petitioner from every suspicion of fraud in the course of the transaction. To entitle him, however, to the relief which is solicited, it is necessary to show that the mode of making the remittance did not transgress the rules prescribed by the Treasury Department; and, in this respect, it appears, from documents on record as well as from those which accompany the petition, that two objections have heretofore been made: 1st. That the remittance by mail was not authorized, or, if authorized, should have been guarded by cutting the bank notes into two parts, and sending the parts by successive mails. 2d. That the remittance was made in the notes of the Bank of Columbia, instead of the notes of the Bank of the United States or its branches.

1st Objection. The Treasury circular, addressed to the collectors on the 14th of October, 1789, authorized the remittance of bank notes by the mail, but prescribed the mode of doing it, by requiring, among other things, that each note should be divided into two equal parts, and endorsed by the collector; one-half to be sent by one post, and the other half by the next post, with descriptive lists, to the Treasurer of the United States.

But the Treasury instruction, addressed to the petitioner on the 9th of June, 1796, soon after his appointment to office, required him, in general terms, "to remit, from time to time, whatever moneys should come into his hands

in payment of duties, beyond the sums necessary for drawbacks, and to pay the expenses incident to his office, to the office of discount and deposite at New York, there to be placed to the credit of the Treasurer of the United States;" and the Treasury instruction, addressed to the petitioner on the 9th of November, 1809, subsequent to the loss of the bank notes in question, directed him "to deposite in the Branch Bank, New York, the public moneys in his hands; and, if the remittance be made in bank notes, he was directed to cut them, and postpone the transmission of the second halves until the receipt of those first sent was acknowledged."

The remittance of bank notes by the mail appears, then, from this review, to have been authorized by the Treasury Department. The first instruction, prescribing the mode of remitting the notes in halves, referred to remittances to be made to the Treasurer of the United States at the seat of Government, and it was issued before the Bank of the United States and its branches were established, as well as long before the establishment of the district of Hudson. The second instruction, which directed the petitioner to make his remittances to the Branch Bank at New York, is silent as to the mode of remitting the notes in halves; and the petitioner, considering this as the ruling instruction for his official conduct, after it had been received, uniformly made his remittances of bank notes to the Branch Bank, without severing the notes, from the date of the instruction, the 9th June, 1796, until the date of the instruction of the 9th of November, 1809, without encountering, as is already stated, any other loss or accident than that which is the subject of his petition.

Under these circumstances, so peculiar as to preclude any danger from the precedent of a favorable decision in the present case, it is believed that the petitioner, exonerated as he is from every suspicion of fraud, may also be justly relieved from the imputation of wilful or gross negligence.

2d Objection. If the petitioner does not suffer by the force of the first objection, it is presumed that the second objection will not be allowed to prevail against the prayer of the petition. The kind of bank notes remitted would have become an important question if the Branch Bank refused to credit them as cash in the account of the Treasurer, or if the notes had been depreciated in value. But the question now arises on a loss which would have happened whether the notes remitted were issued by the Bank of the United States or by the Bank of Columbia.

It is proper to observe, however, that the amount of the notes of the United States and its branches in circulation at Hudson was not equal to the demand for bank notes; that the notes of the Bank of Columbia circulated at par with gold and silver; that they had been constantly received in payment of duties, and remitted to the cashier of the Branch Bank at New York, who had credited them uniformly as cash, in the account of the Treasurer; and, finally, that, in a letter dated the 23d of August, 1806, the cashier, while objecting to bank notes of a particular description, expressly adds that, "if any other than notes of the banks in New York are sent, those of the Hudson bank would be most convenient; they pass equally well, and you could get large ones."

All which, including copies of the several Treasury instructions referred to, is respectfully submitted.

A. J. DALLAS, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *January 28, 1816.*

14th CONGRESS.]

No. 290.

[1st SESSION.]

DEPREDACTIONS BY THE CREEKS IN MISSISSIPPI.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1816.

Mr. LATTIMORE made the following report:

The committee, to whom were referred the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, and the petitions of sundry inhabitants of said territory, relating to Indian depredations, respectfully submit the following report:

The petitioners state that the inhabitants of the eastern section of the Mississippi Territory sustained, during the late war, very great losses of property, which was stolen or destroyed by the hostile Creek Indians, and, in some instances, taken from them by the troops in the service of the United States; and pray that reparation may be made to the sufferers out of the lands obtained from that nation of Indians by the treaty of peace.

Amongst the documents relating to this subject are statements (which are sworn to) of the losses sustained by one hundred and thirteen persons, which are estimated, in the whole, at \$127,905. As these injuries were inflicted by the enemy, who have made, by a cession of territory, what the petitioners conceive to be ample compensation for all losses sustained as well as expenses incurred by their hostility, they seem to think that the sufferers in question are entitled to peculiar relief. Your committee have examined the ground of this claim, but they find nothing to support it, either in the treaty with the Creeks, or any other authentic document which they have been able to procure. If, therefore, relief shall be granted to these sufferers, it must, in the opinion of your committee, be done upon a general principle, which would be applicable to the cases of all who have suffered from similar causes in other parts of the United States. In giving this opinion, your committee have no disposition to impair the impression produced by the afflicting scenes through which the eastern inhabitants of the Mississippi Territory have passed, or to diminish whatever claim they may have to the humanity of the Government, in consideration of their present distress. But whatever may be the merits of their claim on this score, your committee cannot perceive the propriety of any provision for their relief which shall not extend similar relief in all similar cases, and therefore submit the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

14th CONGRESS.]

No. 291.

[1st SESSION.

MONEY LOST BY AN OFFICER ENGAGED IN THE RECRUITING SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 4, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Peter P. Schuyler, of the State of New York, reported:

That, in 1812, the petitioner, late a colonel of the thirteenth regiment of infantry, was assigned to the recruiting service, the head-quarters of which was in the city of New York; that he received from the Department of War, at several times, large sums of money for that purpose; that, in the month of August, 1812, he put into the post office in the city of New York two hundred dollars, enclosed in a letter addressed to Major Joseph L. Smith, then at Litchfield, Connecticut, for the recruiting service, and which Major Smith informed him did not reach him. The petitioner states that, upon a settlement of his accounts with the Department, that sum has not been allowed him, because he could not produce a receipt from Major Smith. He asks of Congress to be allowed the sum in the settlement of his accounts.

It does not appear to the committee that the money was transmitted to Major Smith by mail, by the order of the Department; and, unless special orders for that purpose had been given, they are of opinion that the risk of such transmission was with the petitioner, and therefore he is not entitled to relief. They now send to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 292.

[1st SESSION.

HOUSE BURNT BY SOLDIERS OF THE ARMY AT BUFFALO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 4, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Ralph M. Pomroy, of the State of New York, reported:

That, on the 24th of November, 1812, and for some time previous thereto, the petitioner owned and occupied a dwelling-house in the village of Buffalo, in the State of New York; that, on the aforesaid day, a number of soldiers belonging to the United States army came to his house, broke it open, destroyed his furniture, and set the house on fire and burnt it. The petitioner prays of Congress to be paid the value of his house and furniture.

It does not appear to the committee, from the *ex parte* evidence of the petitioner, what was the cause of such wanton and unlawful conduct on the part of the soldiery. However much it is to be deprecated in those who perpetrated the offence, yet it certainly has created no obligation, moral or legal, on the Government to pay for the injury. This principle has often been adopted, and is believed by the committee to be founded in a wise and just policy. They recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 293.

[1st SESSION.

LOSSES OCCASIONED BY ACTS OF THE ENEMY DURING THE LATE WAR WITH GREAT BRITAIN.

COMMUNICATED TO THE SENATE, FEBRUARY 14, 1816.

Mr. BARBOUR made the following report:

The Committee on Military Affairs, to whom were referred the petitions of Nicholas Boilevin, of John de Lassize, and of Jumonville de Villiers, and others, praying compensation for losses sustained by the depredations of the enemy in the late war, have, according to order, had the same under consideration, and beg leave to submit the following report:

That no doubt exists on the minds of the committee as to the truth of the facts disclosed in the petitions; the losses complained of, resulting from a barbarous warfare carried on by the ferocious inhabitants of the wilds, as well as by the regular forces of His Britannic Majesty, have been most severe on the unfortunate petitioners. Whe-

ther it becomes the magnanimity of a Government whose only object should be the protection and prosperity of all its citizens to dispense relief in cases like these, and thereby to cause the war to fall equally on all, is a question which the committee believe is placed beyond their cognizance, in consequence of the course heretofore pursued by Congress in regard to losses sustained during the war—a course which seems to inculcate that indemnity is due to all those whose losses have arisen from the acts of our own Government, or those acting under its authority; while losses produced by the conduct of the enemy are to be classed among the unavoidable calamities of war, and do not entitle the sufferers to indemnification by the Government. The losses of the petitioners belong to the latter class, and therefore the committee, yielding to what is believed to be the settled purpose of Congress, have agreed to the following resolution:

Resolved, That the petitions of Nicholas Boilevin, John de Lassize, and Jumonville de Villiers, and others, are unreasonable, and ought not to be granted.

14th CONGRESS.]

No. 294.

[1st SESSION.

PROPERTY DESTROYED BY THE ENEMY IN CONSEQUENCE OF ITS PREVIOUS OCCUPANCY BY TROOPS OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of William Flood, of the State of Louisiana, reported:

That the petitioner owned and occupied a valuable dwelling-house, together with a valuable mill and other out-houses, on the west side of the river Mississippi, previous to the month of December, 1814; on the 27th of that month, the plantation of the petitioner was taken possession of by Brigadier General David B. Morgan, under an order from General Andrew Jackson, then commanding the United States troops in New Orleans and its vicinity, and the houses occupied by the officers and troops under his command. On the morning of the 8th of January, 1815, General Morgan was attacked by the enemy, forced from his position, and the houses of the petitioner, together with his mill and timber, at the same time destroyed by the enemy. It appears to the committee, from documents accompanying the petition, that the property was destroyed on account of its being occupied by the troops of the United States, and for the purpose of preventing barracks being again erected for the defence of New Orleans. No other buildings at that place, or in the neighborhood, were destroyed; and it was known to the enemy that the mill of the petitioner had furnished the timber with which the batteries had been constructed.

The committee are of opinion that the petitioner is entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 295.

[1st SESSION.

SUTLERS' CLAIMS AGAINST SOLDIERS WHO DESERTED, DIED, OR WERE DISCHARGED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Edmund Dana, of the city of New York, reported:

That the petitioner states that, during the late war, he acted in the capacity of a clothing sutler to the different posts and regiments of the third military district; that he opened shop in the different garrisons for the sale of such articles of clothing as suited the convenience of the officers and soldiers; and that, having given credit to many of the soldiers for such articles as they purchased, he has lost many of his debts by the death and desertion of his debtors, and by some of the soldiers having been discharged on account of their being minors.

He asks of Congress to pass a law authorizing him to receive the wages which may be due from the Government to such deserters, deceased and discharged soldiers.

The committee are of opinion that he is entitled to no relief from the Government. If he has made contracts with the officers or soldiery, he must look to them to comply with the same; the Government cannot interfere to settle such accounts. The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 296.

[1st SESSION.]

LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1816.

Mr. TALLMADGE, from the committee to whom was referred the petition of John Delafield, reported:

That the petitioner prays that the specie value of forty-three loan office certificates, of four hundred dollars each, amounting to twelve thousand one hundred and twenty-eight and thirteen-ninetieths dollars, with the interest which has accrued upon the nominal amount of said certificates, be funded according to law, as in such case made and provided.

This claim having originated in 1777, and being attended with special circumstances, the committee have deemed it their duty to give it a particular investigation, the result of which they now submit to this House, together with their opinion thereon.

It appears that these certificates are a part of thirteen millions of dollars authorized to be raised, on loan office certificates, by a resolution of Congress of 22d February, 1777, and which were to be signed either by Michael Hillegas, Treasurer, or Samuel Hillegas, and to be countersigned, agreeably to the resolutions of Congress of 3d October, 1776, and 15th January, 1777. The resolution of October states "that, for the convenience of the lenders, a loan office be established in each of the United States, and a commissioner, to superintend such office, be appointed by the said States, respectively, who are to be responsible for the faithful discharge of their duty in the said offices." The same resolution made it necessary that the said loan office certificates should be countersigned by the said commissioner of loans.

In the report of the Secretary of the Treasury, dated the 28th day of March, 1792, much stress is laid on the circumstance that E. Davies was not the commissioner of loans for the State of Georgia, but that he countersigned those certificates by order of Governor Treutlen. Supposing this to be the fact, it does not appear conclusively to follow that the certificates in question ought to be rejected, inasmuch as they are admitted to be genuine, and regularly issued from the loan office of the United States, and, as will hereafter more fully appear, it being highly probable that no commissioner of loans was in office within the State of Georgia when these certificates were issued.

It appears, by the report of the Secretary of the Treasury, dated the 23d of December, 1795, [See No. 66, page 173.] that the certificates under consideration form a part of \$200,000 sent from the Treasury on the 24th of September, 1777, to Georgia, under the care of a Captain Medici, and intended for the loan officers there, who were at that time, and long after, (as is stated in said report,) O'Bryan and Wade; that they were countersigned by E. Davies, by order of J. A. Treutlen, Governor of Georgia. The Secretary of the Treasury further states that "E. Davies was not known as an officer of the United States, but was a temporary agent of Georgia, employed to purchase a quantity of *Indian goods*; and, to enable him to effect that object, a sum was placed in his hands, in certificates, which, by an *order of council*, he was authorized to issue; and that these probably were the certificates now under consideration."

From the most thorough investigation of this subject, your committee have not been able to ascertain the fact that O'Bryan and Wade were loan officers for the State of Georgia in the year 1777; but, from other sources of information, it would seem most probable that no such officers were in commission and executing the duties of that office prior to the year 1779.

In answer to some queries stated by the chairman of your committee to Joseph Nourse, Register of the Treasury, he remarks, "that William Gevott, his predecessor, opened an account in ledger A, folio 214, entitled '_____ Commissioners' loan office, State of Georgia, account current,' leaving a blank for the names of the commissioners;" that the same account obtained a credit, March 18, 1778, for \$202,423; and that he filled up the blank left for their names, 4th September, 1780. He also states that, to the best of his recollection, O'Bryan and Wade were in office 10th May, 1779, when he entered the Treasury Office as Assistant Auditor General. To the question stated by the committee, "Are O'Bryan and Wade charged with the two hundred thousand dollars alluded to in Mr. Wolcott's report?" (1795,) the Register answers, "They are charged with that sum on the 22d of November, 1781; but it appears, by the report of the Auditor of the Treasury, dated 19th January, 1795, that they were transmitted on the 24th of September, 1777, when the record might have been made, had Mr. Gevott been possessed of the voucher upon which I afterwards made the record." It appears that, at the time these certificates were sent from the Treasury, Congress were removing from Philadelphia to Lancaster, where they sat one day, and adjourned to Yorktown.

It also appears that the Governor of Georgia drew drafts upon the delegates of that State in Congress for \$19,000, for the purpose of recruiting continental troops, which were paid by that body, 1st September, 1777; and that Governor Treutlen drew another draft on the continental treasurer for \$500, for expenses for recruiting a company of light horse for the benefit of that State, which was paid 10th October, 1777, and was to be considered as a part of the \$300,000 appropriated for supplying the military chest of Georgia.

It further appears to the committee that, in March, 1780, William Smith, of Baltimore, applied to Congress for the payment of interest on the loan office certificates held by him, and which were issued on the same day, and in the same manner, as those now under consideration. The committee to whom his application was referred report, as their opinion, "that the said interest cannot be regularly discharged, except by the person who is possessed of the books of the office, and by whom alone they can be checked; and as the Government is now again in operation, and it cannot be doubted that the business of the loan office is revived, and regularly carried on, the certificates ought to be presented there." The sum of \$6,300,000 was raised in bills of exchange on the commissioners of the United States in Paris, 19th May, 1778, to pay the interest of that class of loan office certificates as were entitled to receive it in such bills.

On the 3d of August, 1780, (the same year that Mr. Smith was referred to the loan office in Georgia,) \$456,000, in bills on Paris, were prepared to pay interest on loan office certificates. On the same day Congress ordered the loan office of Georgia to be removed to some place of safety, as contiguous as possible to the State, until it could be re-established with convenience and safety; and that until such office be so fixed, and public notice given thereof, the Treasurer of the United States be empowered to pay all interest due, &c. on certificates issued from that office, in the same manner that such interest is directed to be paid by the commissioners of the continental loan offices.

In obedience to this resolution of Congress, interest was paid by the Treasurer of the United States on these certificates, in bills of exchange, from 23d December, 1777, to the 23d December, 1781, who endorsed the same on the back of each certificate, in his own handwriting, and sanctioned the act by his official signature.

That these certificates belong to that class, the interest arising upon which was to be paid in bills of exchange, appears by a resolution of Congress of the 10th of September, 1777.

The committee further report, that these certificates were deposited in the office of the Auditor of the Treasury, pursuant to an act of Congress of the 12th of February, 1793, on the 18th day of April, 1794, and consequently are not barred by any law of limitation.

As far as the committee have been able to ascertain the fact, there appears to be but seventy-six of the description of certificates under consideration outstanding.

Whether the certificates of the residue of the \$200,000 sent by Captain Medici (amounting to \$169,600) were bought in by the loan officers of Georgia, or whether they have been returned and cancelled at the Treasury board, or funded, cannot be ascertained, as all the old papers relating to the settlement of accounts between the United States and Georgia were burnt in August, 1814, by the enemy.

By the report of 1795, [p. 174,] it appears probable that the certificates were employed in the purchase of Indian goods for the State of Georgia. And from the certificate of Mr. Farrell, of the Auditor's office, it appears that that State, "in her accounts exhibited against the United States, got credit for various articles delivered out of a public store." It is, therefore, highly probable that these certificates were appropriated to furnish supplies for such public store.

It further appears to your committee that repeated applications have been made by the holders of this description of public securities to Congress, and upon which no positive decision has been made. The subject, therefore, is fairly open for legislative interference.

In making up their opinion, the committee have considered the situation of the United States, and particularly that of the State of Georgia, at the time these certificates were issued. In 1776, South Carolina was invaded; in 1777, Georgia was subject to the predatory incursions of the enemy from East Florida, to prevent which they had carried on an expedition against that country, under Major General Robert Howe, which proved unsuccessful; and in 1778, Georgia was invaded, and its capital taken. (Lee's Memoirs, 1 vol. pp. 68-9 and 70.)

When the committee reflect upon the general confusion and distress of that day; when they consider that the public safety required "that a great number of individuals be necessarily invested with the power of binding the public by their contracts;" and when it is not to be denied that "almost every officer of the army, whether in the commissary's department or otherwise, in different stages of the war, had it in his power to contract debts legally or equitably binding upon the United States;" [Vide report of the Committee of Claims of 24th February, 1797, page 202;] and when the committee give due weight to these facts, they do not hesitate to believe that the act of Governor Treutlen, in issuing these certificates, was known and sanctioned by Congress, which abundantly accounts for the conduct of the Treasurer (who issued them) in recognising their correctness and validity.

As the principal and a part of the interest due on these certificates have never been paid, and as no fraud whatever is imputed, the committee consider the faith of the United States as solemnly pledged for their redemption or payment, and that the prayer of the petitioner ought to be granted.

They have therefore directed their chairman to ask for leave to bring in a bill for that purpose.

[NOTE.—See further reports Nos. 325, 426.]

TREASURY DEPARTMENT, *March 28, 1792.*

The SECRETARY OF THE TREASURY, to whom was referred the petition of William Smith, of Baltimore town, in the State of Maryland, respectfully submits the following report:

The resolutions of the United States in Congress assembled, which respect the issuing of the certificates commonly called loan office certificates, make it necessary that they should be previously countersigned by certain officers denominated commissioners of loans, who were to be appointed under the authority of the particular States.

After diligent inquiry within the State of Georgia, no evidence has been obtained either of the appointment of E. Davies (the person by whom the certificates in question were countersigned) to the office of commissioner of loans for that State, or that he was ever known or reputed to have acted in that capacity. The reverse of this, indeed, appears from various communications to the Treasury, copies and extracts of which are contained in the schedule herewith transmitted. It is to be remarked that E. Davies does not even style himself commissioner of loans; but, instead of this, adds to his signature the words: "by order of J. A. Treutlen, Governor of Georgia."

The certificates, however, are signed by the proper officer, and all such as have appeared are genuine; and interest, as alleged in the petition, has been paid upon them by the late Treasurer of the United States, as in other cases. A number of those certificates have been offered to the present commissioner of loans for the State of Georgia, to be subscribed pursuant to the act making provision for the debt of the United States, and, upon a reference to the Treasury by that officer, have been directed to be refused.

The reasons for this direction are substantially as follows:

The certificates in question having been irregularly issued, and without the requisites prescribed by the acts of Congress, were, of course, in the first instance, not obligatory upon the United States.

The subsequent payment of interest upon them by an executive officer, without the sanction of any order or resolution of Congress, could not confer validity upon a claim originally destitute of it, though it might occasion hardship to individuals who, upon the credit of that payment, may have been induced to become possessors of those certificates for valuable consideration.

There are examples of the payment of interest, by the mistakes of public officers, upon counterfeit and forged certificates. It seems to be clear that such payments cannot render valid or obligatory certificates of that description; and yet a similar hardship to those which have been mentioned would attend those who may have afterwards become possessed of them for valuable consideration; nor does there occur any distinction between the effect of such payment in the one and in the other case.

Between individuals, the payment of interest by an agent, upon the presumed but not real obligation of his principal, either through mistake or otherwise, without special authority of the principal, could certainly give no new validity to such an obligation; and the same rules of right govern cases between the public and individuals.

These considerations were deemed conclusive against the admission of those certificates under the powers vested in the officers of the Treasury. It remains for the Legislature to decide how far these are considerations strong enough to induce a special interposition in their favor. In making this decision, the following circumstances will, it is presumed, appear to deserve attention:

The present is not a case of mere informality; there is no evidence that the certificates were issued for any purpose of the United States. The contrary, indeed, is stated to be the fact.

Their amount is not positively ascertained; no account of the issues having ever been rendered, though there is no appearance of any considerable sums being afloat.

All which is respectfully submitted.

Extract of a letter from Richard Wyllyzhyr, Commissioner of Loans for Georgia, to the Secretary of the Treasury.

MAY 17, 1791.

I have the honor of enclosing you the affidavit of Mr. John Wereat, Auditor of this State, respecting the late Edward Davies, who issued sundry loan office certificates without, I believe, any authority, as I can receive no answer from our Governor, to whom I wrote long since on this subject. I have requested Mr. William Houston, who is gone to Augusta, to endeavor to find out by the public records whether Mr. Davies had any appointment or not.

Mr. O'Bryan, Mr. Wade, and Mr. Davies are all dead.

GEORGIA, *Chatham county:*

Personally appeared John Wereat, Auditor for the said State, who, after being duly sworn, said: That he well knew Edward Davies, Esq., formerly of the city of Savannah, in the said State; and, further, this deponent verily believes that the said Edward Davies never was at any time loan officer for the State aforesaid, as your deponent constantly resided here, and was well acquainted with all the officers of Government, *except when the British forces had possession of the country; and further saith not.*

JOHN WEREAT.

Sworn to this 16th day of May, 1791.

JOS. HABERSHAM, J. P.

Extract of a letter from the Commissioner of Loans for Georgia to the Secretary of the Treasury, dated

JUNE 13, 1791.

I have, without success, applied a second time to the Governor to know by what authority Mr. Davies acted as loan officer. I am well assured he had none.

Extract of a letter from the Commissioner of Loans to William Simmons, Principal Clerk in the Auditor's Office, dated

AUGUST 31, 1791.

Herewith you will receive thirty-three loan office certificates, which I have examined, and believe them genuine; the five last in the abstract, which were issued by Edward Davies, I do not, however, think should be received, for the reasons assigned in my former letter to the Secretary of the Treasury, and the late Auditor. I applied to Mr. Steick (the gentleman I mentioned in my letter to Mr. Wolcott, dated the 20th ultimo,) for a copy of the order of council, which he said he had. I now enclose you his answer; which you will please to show to the Secretary of the Treasury.

Samuel Steick to Richard Wyllyzhyr.

SIR:

SAVANNAH, August 31, 1791.

Agreeably to your request, I made search among my papers for the order of the Executive of the year 1777, authorizing Edward Davies and Thomas Stone to make a purchase of goods from a Captain Farquhar, but cannot find it. As well as my recollection serves me, it was to the following effect: that they, the said commissioners, were directed to purchase, and pledge the faith of the State for the payment, either in indigo at the Carolina price, or in loan office certificates, which were then expected from Congress. The contract was concluded, and the goods delivered by Farquhar to Davies. When the loan office certificates arrived, the Governor paid Mr. Davies ten thousand pounds, or something near that sum, which it was expected would be paid to Farquhar or his agent; this was not done. Davies kept the goods and certificates, and did not before his death account with the State for either. These certificates can very easily be ascertained, as they are countersigned by Edward Davies, by direction of John Adam Treutlen, as Governor.

I am, &c.

SAM. STEICK.

RICHARD WYLLZYR, *Commissioner of Loans.*

SIR:

TREASURY DEPARTMENT, January 9, 1816.

In answer to the inquiries contained in your letter of the 4th instant, relating to certain loan office certificates belonging to John Delafield, and referred to in his petition, a copy of which was enclosed in your letter, I have the honor to state:

1. That the certificates (if they are of the description supposed, as they are not sufficiently designated to render it certain) were not regularly issued from any loan office of the United States.
2. The interest for four years was paid on a part of them by Michael Hillegas, formerly Treasurer of the United States.
3. No certificates belonging, as far as appears from any papers accompanying them, to John Delafield, are in the Treasury. Forty-three certificates, corresponding in amount with those referred to in his petition, and which were presented at the Treasury on the 18th of April, 1794, by Uriah Tracy, in behalf of Benjamin Tallmadge, are now in the Auditor's Office, and are supposed to be the certificates in question.

4. There are four other certificates, of the nominal amount of \$400 each, of the same description, and presented in behalf of other persons, also remaining in the Auditor's office.

5. The objections against funding the certificates are stated in the report of the Secretary of the Treasury of the 28th of March, 1792, on the petition of William Smith, of which a copy is enclosed.

I will only add that this subject has been repeatedly before Congress, and that no provision has hitherto been made for the payment, in any way, of the certificates issued under the circumstances of those in question.

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

A. J. DALLAS.

HON. BENJAMIN TALLMADGE, *Chairman of a Committee, &c.*
House of Representatives.

SIR: TREASURY DEPARTMENT, REGISTER'S OFFICE, *February 5, 1816.*

In reply to the queries you have done me the honor to propose:

1st. When were O'Bryan and Wade appointed loan officers for the State of Georgia?

Answer. To the best of my recollection, they were in office on the 10th May, 1779, when I first entered the Treasury Office as Assistant Auditor General, under an appointment by Congress. Before that period I have not any knowledge of them.

2d. What is the date of the first entry respecting those officers to be found in any books in your office?

Answer. An account was opened by my predecessor, William Gevott, in leger A, folio 214, entitled " ——— Commissioners' loan office, State of Georgia, account current;" which account obtained a credit, March 18, 1778, by Joseph Clay, of \$202,423. The blank left for their names was inserted by myself on debiting them, 4th September, 1780, with \$12,000 to Thomas Smith, his account current.

3d. Are O'Bryan and Wade charged with the \$200,000 alluded to in Mr. Wolcott's report?

Answer. They are charged with that sum on the 22d November, 1781; but it appears by the report of the Auditor of the Treasury, dated 19th January, 1795, that they were transmitted on the 24th September, 1777, when the record might have been made had Mr. Gevott been possessed of the voucher on which I afterwards made the record.

4th. Have they any credit, and to what amount?

Answer. They have credit for returned loan office certificates amounting to \$402,000.

5th. In reply to the last query: Were the papers of the State of Georgia, on which a settlement was made by the United States with that State, burnt? they were burnt on the — day of August, 1814, at the irruption of the late enemy.

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

JOSEPH NOURSE.

HON. BENJAMIN TALLMADGE.

14th CONGRESS.]

No. 297.

[1st SESSION.]

SCOWS SUNK FOR THE DEFENCE OF BALTIMORE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1816.

SIR: WAR DEPARTMENT, *February 16, 1816.*

In obedience to the order of the House of Representatives of the 6th instant, referring the petition of Taylor and McNeal and others to this Department, I have the honor to state:

That, in all cases where losses have been incurred by the application of private property to public purposes by military commanders, under circumstances which, in the opinion of the Executive, justified the act, indemnity is considered within the legitimate powers of the War Department.

Had the case of the petitioners been founded upon a proceeding purely military, under the principle here stated, satisfaction would have been made. It appears, however, that the application of private property to public purposes, in this case, has been made by a body of citizens, acting as a committee of vigilance, who, in that capacity, were not subject to the military orders of the commanding general.

The claim for redress is not weakened by this circumstance; but the petitioners must obtain that redress from the Legislature, which alone is competent to afford it.

Under an act of Congress bearing date the 16th of July, 1813, the sum of \$250,000 was appropriated for the purpose of hiring or purchasing hulks to be sunk in such ports or harbors as should be menaced by the enemy. This appropriation was considered as forming a part of that for fortifications, and has been applied partly to its legitimate object, and the remainder, together with other sums under that head of appropriation, has been transferred to the head of subsistence, and exhausted upon that object.

A liberal construction of this act, did the fund yet exist, might embrace the case of the petitioners. An appropriation for this object is, therefore, indispensable, if relief is intended to be given.

I have the honor to be your most obedient and very humble servant,

WM. H. CRAWFORD.

HON. HENRY CLAY, *Speaker of the House of Representatives.*

[14th CONGRESS.]

No. 298.

[1st SESSION.]

LOSSES SUSTAINED BY THE PURCHASE OF AN INTEREST IN A VESSEL ILLEGALLY
SOLD FOR THE BENEFIT OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, FEBRUARY 20, 1816.

Mr. CAMPBELL, from the committee appointed on so much of the message of the President of the United States as relates to finance and a uniform national currency, to whom was referred the petition of Thomas Cutts, of Biddeford, in the State of Massachusetts, reported:

That a judgment was recovered in favor of the United States against Tristram Hooper, Moses Lowel, and Benjamin Chandler, on a revenue bond; an execution issued thereon against their property, and was levied by the deputy marshal for the district of Maine, on three-eighth parts of the schooner Catharine, at the sale of which, on the 19th January, 1808, the petitioner, Thomas Cutts, became the purchaser, at four hundred and twenty-five dollars. A claim was afterwards set up to the said three-eighths of said schooner by Asa Stephens, founded on an attachment previously levied thereon; and in an action brought against the petitioner, it appears the title of the said Stephens to three-fourth parts of said three-eighth parts of said schooner was established; and it was of course decided that no right to the said three-fourth parts vested in the petitioner by his purchase at said marshal's sale. The petitioner alleges that, besides the loss of the three-fourths of said three-eighths of this vessel, he has been put to great expense and trouble in defending his supposed title, derived from said marshal's sale, and prays such relief as Congress may deem just and equitable.

The committee cannot perceive any thing in this case to distinguish it from the ordinary case of a sale under an execution, in which the plaintiff cannot be considered as warranting the title to the property. The purchaser buys at his own risk, and must judge for himself, from the best information he can obtain, whether the title of defendant in the execution be good or not; and it is believed he generally regulates the price he offers according to the opinion he forms on this point. The committee are therefore of opinion the petitioner is not entitled to relief, and recommend to the Senate the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[14th CONGRESS.]

No. 299.

[1st SESSION.]

CLAIM OF THE WIDOW OF COLONEL ALEXANDER HAMILTON FOR COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1816.

Mr. COMSTOCK, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Elizabeth Hamilton, reported:

That it is stated by the petitioner that her late husband, Alexander Hamilton, was, as she is advised, justly entitled to five years' full pay (as commutation of half-pay during life) of a lieutenant colonel, in which capacity he served in the regular army of the United States during the revolutionary war.

That her husband never received the said pay to which he was so entitled; that if he ever relinquished his claim to said pay, of which an apprehension is expressed by the petitioner, it was from the delicate motive of divesting himself of all interest upon the subject of making provision for the disbanded officers of the revolutionary army who served during the war, in which important business he was called on to act, as a member of Congress, in the year 1782; and that the present situation of the family of her lamented husband renders it desirable that they should receive that remuneration to which he was justly entitled from his country. This remuneration, therefore, the petitioner respectfully solicits.

The committee are not aware of any public record or document showing the time at which Colonel Hamilton resigned his commission in the army. From the uniform tenor of various letters of distinguished officers of the revolutionary army, addressed to the Hon. Richard M. Johnson, as chairman of the Committee of Claims, in the year 1810, as well as from a brevet commission dated the 28th day of October, 1783, by which Lieutenant Colonel Alexander Hamilton was promoted to the rank of colonel by brevet in the army of the United States, the committee entertain the opinion that Colonel Hamilton served during the war, and that he never received either half-pay during life, or full pay for five years in lieu thereof as commutation, to which he was entitled by law.

Of any relinquishment of Colonel Hamilton to the claim now asked to be satisfied, the committee possess no knowledge, except that derived from the apprehension expressed in the petition to which they have already adverted, and from a written document signed A. H., importing to be a statement of the temporal concerns of Colonel Hamilton, in which allusion is made to a note by him signed, addressed to the Secretary of War, relinquishing the claim in question. The committee would further remark that, should a probability exist that Colonel Hamilton may have relinquished his said claim, and notwithstanding it is barred by the statute of limitation, nevertheless, as the services have been rendered to the country, by which its happiness and prosperity have been promoted, they are of opinion that, to reject the claim under the peculiar circumstances by which it is characterized, would not comport with that honorable sense of justice and magnanimous policy which ought ever to distinguish the legislative proceedings of a virtuous and enlightened nation.

They have therefore prepared a bill granting the relief solicited in the premises.

[NOTE.—See adverse report No. 200, page 370.]

14th CONGRESS.]

No. 300.

[1st Session.]

SLAVE LOST IN THE HOSPITAL SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 24TH FEBRUARY, 1816.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of William P. Lawrence, of the State of Tennessee, reported:

That the petitioner was a surgeon in the detachment of militia from Tennessee, called to the defence of New Orleans, in December, 1814; that, upon the return of the militia to Tennessee, in the month of March, 1815, the petitioner was ordered to be stationed at Bogue Chitto, in the State of Louisiana, with a number of men taken sick on their return. The petitioner states that the disease of the soldiery became contagious, and, from the scarcity of servants to attend the sick, his own servant and slave was obliged to be employed as such; and that, while thus engaged in waiting on the sick, he took the disease and died. He asks of Congress to be paid his value.

The committee are of opinion he is not entitled to relief. If an officer of the Government thinks proper to take into his own service his slave in the capacity of servant, and receives the pay allowed for servants, instead of employing a freeman for that purpose, the United States should not be considered liable for his value in case of death or other loss to the owner.

It was the obvious and correct policy of the act of Congress, and it is evidently its intention, not to make the Government liable for the value of the servant, but to provide a sufficient compensation for his services.

The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be allowed.

14th CONGRESS.]

No. 301.

[1st Session.]

TRANSPORTATION OF PRISONERS OF WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 24TH FEBRUARY, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Joseph Sims, of Philadelphia, reported:

That the petitioner was the owner of the ship Rebecca Sims; and in the month of April, 1813, she brought from Kingston, in Jamaica, to the United States, the first lieutenant and sailingmaster of the brig Vixen, and twenty-one petty officers, midshipmen, and seamen, all of whom were prisoners of war. The petitioner states that the master of the vessel and the lieutenant and sailingmaster of the Vixen entered into a contract for their transportation, by which it was agreed to give to the owner of the vessel the sum of \$1,234 50; and that a bill for that sum was drawn by them on George Harrison, Esq., navy agent at Philadelphia, who declined paying the amount, referring the petitioner to the commissary general of prisoners; that application has been made to the commissary general of prisoners, who refused to pay the amount of the bill, and offered in lieu thereof to pay the sum of \$751. The petitioner prays that the full amount of the bill may be paid him.

Upon the subject of this petition, a letter was addressed by the Committee of Claims to the commissary general of prisoners, who returned the following answer:

SIR: OFFICE OF THE COMMISSARY GENERAL OF PRISONERS, *February* 13, 1816.

I have had the honor to receive your letter of the 7th instant.

In the summer of 1813, and during the late war, it was sufficiently established, by documents produced at this office, that there had been brought from Jamaica to Philadelphia nine officers and fourteen seamen, prisoners of war on parole, belonging to the late United States brig Vixen, in the ship Rebecca Sims, owned by Joseph Sims, Esq., of that city.

Early in the war it was determined that the Government would bring home, at its expense, to be disbursed from this office, such of our citizens as having been made prisoners, and held abroad by the enemy, might be redeemed, either in exchange or on parole; and in cases where cartel ships were not sent for them from this country, or taken up by our agents for prisoners abroad at stipulated rates, such rates were fixed as were found to make a fair compensation for the service performed, including (where subsistence was found) an allowance for full and wholesome rations, cast at the price of provisions then existing at the port of embarkation, and computing double rations for officers.

In cases, as in the present instance, where bargains had been made abroad by officers or by individuals thus situated, and a claim brought in to this office for payment, such bargain in its amount was tested by the rule before mentioned, and, if found too high, the excess was rejected, and the claimant referred to the individuals concerned, or, if officers, to the department under which they served, for information or responsibility, as the case might be, on the principle that the Government could not assume the contracts of all its citizens who had been in captivity, and could do no more as to their return to their country than provide for it by allowing the fair price of a passage, and plentiful and wholesome but plain subsistence.

On this ground Mr. Sims was informed, as by my letter to him of the 27th August, 1813, which he has filed, that, on the bill on the navy agent at Philadelphia, drawn by the officers of the Vixen, for \$1,234 50, so much as

\$751, and no more, could be paid at this office, and he was furnished with a statement showing that this sum was made up thus:

| | |
|---|----------|
| By allowing for the passage of each of the nine officers, including subsistence, at the rate of \$52 33 ¹ / ₃ , | \$471 00 |
| For each of the fourteen seamen, including subsistence, at \$20, - - - - - | 280 00 |
| | \$751 00 |

These rates are quite as high as this office has paid in other cases.
 With great respect, I am, sir,
 Your most obedient, humble servant,

J. MASON.

P. S. The papers transmitted me by you are herewith enclosed.

BARTLETT YANCEY, Esq.
Chairman of the Committee of Claims, House of Representatives.

It appears to the committee, from the statement of the petitioner, and the letter of General Mason, that the sum of \$751 is ready to be paid the petitioner upon application; and as that sum is according to the usual rates of transporting prisoners of war, as fixed by law, and there exists no reason in this case why the petitioner should be allowed more than in ordinary cases, the committee are of opinion he is not entitled to relief, and therefore recommend to the House the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and documents.

14th CONGRESS.]

No. 302.

[1st Session.]

BOUNTY LAND GRANTED FOR EXTRAORDINARY MILITARY SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Abigail O'Flyng, of New York, reported:

That Abigail O'Flyng is the wife of Patrick O'Flyng, of the town of Batavia, in the State of New York. During the late war Patrick O'Flyng, and three of his sons, Patrick, Temple E., and Edmund O'Flyng, enlisted as soldiers in the army of the United States. The father continued in the service until the 28th of June, 1815, and was then honorably discharged: Edmund O'Flyng, the youngest son, on account of his distinguished good conduct and bravery, was discharged from the service, and obtained a cadet's appointment in the Military Academy at West Point; Patrick O'Flyng, on account of his brave and meritorious conduct, was promoted to the appointment of a lieutenantcy, and Temple E. O'Flyng to that of ensign. Patrick led the forlorn of the first brigade, under the command of General Miller, in the sortie at Fort Erie; and of the twenty-four men whom he commanded, twenty were killed or wounded. Since the termination of the war he has died, without wife or child. Temple E. O'Flyng, on that memorable occasion, equally distinguished himself: he received a wound, of which he died the next day, leaving no wife or child.

The petitioner states that her husband, being old and infirm, is unable to attend to his business, and that she has made application to the War Department for the bounty land of her husband and sons, and has received for answer that her husband, Patrick O'Flyng, being above forty-five, and her youngest son, Edmund, being under eighteen, at the time of their enlistment, the act of Congress does not authorize the Department to issue warrants for the land; and that, in consequence of the promotion of her other two sons, Patrick and Temple, to appointments in the army, they are not entitled to their bounty lands.

The committee entertain no doubt that the construction of the act of Congress, given to it by the Department, is correct; but they, at the same time, entertain no doubt of the equitable and just claim of the petitioner and her husband. Notwithstanding the father was above forty-five, and the youngest son under eighteen, they performed services, as soldiers, important and valuable to their country, and highly honorable to themselves and their family.

The committee are also of opinion that the claim of the petitioner and her husband, for the bounty land of Lieutenant and Ensign O'Flyng, is equally meritorious and just. It cannot possibly be the policy of the Government to withhold the bounty land of a soldier because he has distinguished himself by his bravery and good conduct so as to merit and receive an appointment in the army.

The committee are of opinion that the persons interested are entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 303.

[1st Session.]

LOST LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE SENATE, FEBRUARY 26, 1816.

In obedience to a resolution of the 9th of January, 1816, the Secretary of the Treasury has considered the memorial of John Holker, formerly consul general of France, referred to him by the Senate, and he has now the honor to submit the following report:

The material facts involved in the consideration of the memorial are the following:

That, on the 2d of January, 1780, the memorialist was possessed of loan office certificates to the amount of \$426,800; part of them, to the amount of \$405,100, issued from the loan office of Pennsylvania; part of them, to the amount of \$7,900, issued from the loan office of Massachusetts; part of them, to the amount of \$300, issued from the loan office of New Hampshire; part of them, to the amount of \$800, issued from the loan office of Rhode Island; part of them, to the amount of \$1,200, issued from the loan office of New York; and part of them, to the amount of \$11,500, issued from the loan office of Georgia.

That, on the 2d of January, 1780, the house of the memorialist in the city of Philadelphia was burnt, and the loan office certificates above mentioned, with other valuable effects, were consumed.

That the loss of the loan office certificates was made known to Congress, as well as to the Superintendent of Finance, soon after the accident, and a renewal of the certificates claimed.

That, at the time of the accident, no provision had been made by law for the renewal of lost certificates; but, on the 10th of May, 1780, Congress passed a resolution authorizing a renewal upon certain conditions; of which those material on the present occasion were: 1st. That the certificates destroyed should be advertised immediately in the newspapers of the State where the accident happened; and, if they have been taken out of the loan office of a different State, in the newspapers of such State also. 2d. That a copy of the advertisement shall be lodged in the loan office whence the certificates issued, together with the evidence of loss. 3d. That a bond should be given, with a condition to indemnify the United States.

That the memorialist, by an advertisement dated the 8th of August, 1780, which appears in the "Pennsylvania Journal," published in the city of Philadelphia on the 9th of August, 1780, and at several subsequent dates, gave notice of the loss of the loan office certificates, and particularly described each of them.

That, on the 2d of May, 1787, the Board of Treasury considered the above advertisement as a compliance, in that respect, with the terms of the resolution of Congress of the 10th of May, 1780, and directed the loan office of Pennsylvania to renew the certificates which had been issued in that State to the amount of \$405,100, upon receiving a bond from the memorialist to indemnify the United States against any future claim. These certificates were accordingly renewed.

That the memorialist, by an advertisement dated the 4th of October, 1789, which appears in the "Massachusetts Centinel," published in Boston on the — of November, 1789, and at several subsequent dates, gave notice of the loss of such of the certificates as had been issued at the loan office of Massachusetts, and particularly described them.

That the memorialist, by an advertisement dated the 26th of July, 1790, which appears in the "New York Journal," published in New York on the 6th of August, 1790, and at several subsequent dates, gave notice of the loss of such certificates as had been issued at the loan office of New York, and particularly described them.

That the memorialist alleges that he caused like advertisements to be published in the States of New Hampshire, Rhode Island, and Georgia, giving notice of the loss of such of the certificates as had been issued at the loan offices of those States, respectively; but the newspapers in which the advertisements were published do not accompany the memorial.

That, on the 18th of February, 1792, the memorialist again formally applied to the Secretary of the Treasury for a renewal of the certificates, and was answered on the 20th of June following, that "as the thing then appeared to the Secretary, he saw no chance for the memorialist but in the final winding up of the arrangements concerning the public debt, when the existence or non-existence of the certificates would be ascertained." And this answer was accompanied with a note from the Comptroller of the Treasury, stating that "the memorialist did not comply with the resolution of Congress in advertising the certificates *immediately*; that, in some cases, no proper evidence was adduced that the certificates were advertised at all in the States in which they were issued; and that, in his opinion, this claim should be suspended until an arrangement of all the certificates had been completed."

That, on the 21st of April, in the year 1794, an act was passed, limiting the time for presenting claims for destroyed certificates of certain descriptions, in which it was declared "that all claims for renewal of certificates of the unsubscribed debt of the United States, of the description commonly called 'loan office certificates,' or 'final settlements,' which may have been accidentally destroyed, shall be forever barred and precluded from settlement or allowance, unless the same shall be presented at the Treasury on or before the 1st day of June, in the year 1795." And the act adds, "that no claim shall be allowed for the renewal of loan office certificates destroyed before the 4th day of March, 1789, unless the destruction of the same was advertised, according to the resolution of Congress of the 10th of May, 1780, or, before that time, was notified to the office from which the same was issued; nor shall any claims be allowed for the renewal of loan office certificates destroyed on or after the 4th day of March, 1789, nor of final settlement certificates destroyed at any time, unless the destruction of the same was so far made public as to be known to at least two credible witnesses soon after it happened, and shall have been, before the presentation of the claim to the Auditor of the Treasury, advertised for at least six weeks, successively, in some one of the newspapers of the State in which the destruction happened, and also in some one of the newspapers of the State in which the certificates issued, if that was another State," &c.

That the memorialist's claim for a renewal of the certificates was presented, with the evidence in support of it, to the Auditor of the Treasury, on the 7th of October, 1794; but the Auditor did not deem the claim admissible by him under the act of the 21st of April, 1794, and returned the papers to the memorialist on the 7th of May, 1814.

That the memorialist has made repeated applications to Congress for relief; and the applications have been referred to the Committee of Claims, and to the Department of the Treasury; but it does not appear that any report or decision has been made upon the case.

That it appears, from the records of the Treasury, that the certificates alleged by the memorialist to have been destroyed by fire on the 2d of January, 1780, were actually issued from the several loan offices mentioned

in the claim of the memorialist; that none of them have ever been subscribed to the funding system; that the renewal of the certificates issued at the loan office of New York, amounting to \$1,200, was claimed on the 25th of May, 1795, for Henry Bass and Ann Martin, under the act of the 21st of April, 1794, but the claim was rejected by the Auditor, because "no proof of destruction was given, nor were the certificates advertised as required by the resolution of the 10th of May, 1780; and, also, because they were claimed by the memorialist;" and that for the rest of the certificates there has been no claim, nor have they in any manner been presented at the Treasury by any other person than by the memorialist.

Under these circumstances, the memorialist prays that Congress will interpose for his relief; and the compliance with his prayer may probably depend upon the following considerations: 1st. Whether the existence, possession, and destruction of the loan office certificates are satisfactorily proved; 2d. Whether the essential forms of the law have been observed in making public the destruction of the certificates; and 3d. Whether the claim to a renewal of the certificates is barred by the positive provisions of the act of the 21st of April, 1794.

1st. The existence of the certificates is proved by the public records. The possession of the certificates by the memorialist, when his house was burnt, is proved by the best evidence of which the case is susceptible. Even upon the strict rules of evidence, in a court of common law, the testimony of the interested party is, from necessity, allowed to prove the loss of written instruments, as a foundation for introducing a copy, or for proving the contents of the original. The oath of the memorialist is direct and explicit on the subject. The burning of his house on the 2d of January, 1780, was an occurrence of public notoriety; and it is, moreover, proved upon oath, independent of the oath of the memorialist. The fact that the certificates were then consumed was made known to Congress, and probably produced the act of the 10th of May, 1780. The certificates were publicly advertised in detail, at the place where they were consumed, on the 9th of August, 1780; and from that day until the present day, a period of more than thirty-five years, the memorialist has constantly urged his claim, and no counter-pretension has ever been presented, except in the instance which has been mentioned. The public records show that the United States are still indebted for the whole amount of the lost certificates.

The claim of Bass and Martin to the renewal of the certificates issued from the loan office of New York appears at the Treasury under very extraordinary circumstances, on the 25th of May, 1795, a few days before the expiration of the statute to bar it, about fifteen years after the memorialist had advertised their loss in Philadelphia, and about five years after he had advertised their loss in New York. From the 25th of May, 1795, until the present time, Bass and Martin have ceased to claim; and it is represented that the memorialist, uniformly declaring the claim to be unfounded, has suggested that the description of the certificates was fraudulently taken from his advertisement in the newspapers of New York.

It is believed, upon this view of the case, that the existence, possession, and destruction of the certificates claimed by the memorialist are satisfactorily established.

2d. On the 2d of January, 1780, when the certificates were destroyed, there existed no law prescribing the form for making the loss public, and for obtaining a renewal. Subsequent regulations ought, therefore, to be applied to the case, upon the most liberal construction, in favor of a claimant.

The act of the 10th of May, 1780, established regulations upon the subject, for the first time providing—

1. That all certificates destroyed through accident should be advertised *immediately* in the newspapers of the State where the accident happened, but this rule for an immediate advertisement could not apply to the case of certificates which had been burnt four months previously; and, accordingly, the Board of Treasury allowed that an advertisement three months subsequently, on the 9th of August, 1810, with respect to the certificates issued at the loan office of Pennsylvania, was a compliance with the act of Congress in point of time.

2. That if the certificates had been taken out of the loan office of a State, different from the State in which they were destroyed, they should be advertised in such State also, and the claim and evidence left with the loan officers. The advertisement is proved to have been made in the years 1789 and 1790, in the States of Massachusetts and New York, as to the certificates issued in those States, respectively, and it is alleged to have been made about the same time in the States of New Hampshire and Georgia. The reasons assigned for not making an advertisement in those States at the time that it was made in Pennsylvania are, principally, that the act of Congress was not deemed to apply strictly to the case, and that the then hostile possession of the country by the British troops rendered the measure impracticable.

It seems, indeed, to have been the sense of the Secretary and Comptroller of the Treasury, in 1792, that nothing had occurred up to that time which was fatal to the claim of the memorialist; but that the claim ought to be suspended until the general arrangement of the certificates had been completed under the funding system, when the existence or non-existence of the particular certificates in question would be ascertained. The arrangement has been long completed; and the lapse of more than twenty-five years strips the case of all reasonable doubt upon the non-existence of the certificates, whatever may have been the failure of advertising their loss in strict form.

3d. The act of the 21st of April, 1794, barred all claims for the renewal of loan office certificates which were accidentally destroyed, unless they were presented at the Treasury on or before the 1st of June, 1795. But the claim of the memorialist was presented on the 7th of October, 1794; and, therefore, it is not barred by the lapse of time.

The act further declares, however, that no claim shall be allowed for the renewal of loan office certificates destroyed before the 4th of March, 1789, unless the destruction of the same was advertised according to the resolution of Congress of the 10th of May, 1780, or, before that time, was notified to the office from which the same was issued. But the certificates in question were destroyed before the 4th of March, 1789; and they were advertised in the manner, at the times, and under the circumstances, which have been already stated.

Upon the whole, the Secretary of the Treasury has the honor to conclude this performance of the duty which the Senate has assigned to him with these propositions:

1. That the loan office certificates constitute a debt of record, which the United States have never paid or satisfied.
2. That the debt has not been barred by the act of limitations, in consequence of the lapse of time prescribed for claiming it at the Treasury.
3. That the debt has, nevertheless, been disallowed by the Auditor, because the destruction of the certificates was not advertised and notified in the strict form prescribed by the resolution of the 10th of May, 1780.
4. But that, under all the circumstances of a contemporaneous, constant, and public claim, the memorialist is entitled to the relief solicited from the Legislature, upon giving a bond of indemnity.

All which is respectfully submitted.

A. J. DALLAS, *Secretary of the Treasury.*

[14th CONGRESS.]

No. 304.

[1st SESSION.]

CLAIM OF THE ASSISTANT MARSHALS FOR TAKING THE THIRD CENSUS IN SOUTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 1, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Thomas Farrer, William Young, and William Mosely, reported:

That at the last session of Congress these petitions were referred to the Secretary of the Treasury, who made the annexed report thereon.

At the present session of Congress the claim is attended with affidavits which, in the opinion of the committee, are sufficient to show that the duties of assistant marshal were performed by the petitioners, and that they have received no compensation therefor. They therefore report by bill.

In obedience to the order of the House of Representatives, referring the petitions of William Mosely, Thomas Farrer, and William Young, to the Secretary of the Treasury, the Secretary has the honor to report:

That the petitioners represent that they were appointed, under the marshal of the State of South Carolina, to take the census of the year 1810, and performed the duties of the appointment, including a return of the manufactures in their district; that they have been paid for the service of taking the census, but not for the service of returning the manufactures; and that, as the marshal has become insolvent, they claim such relief as Congress shall deem meet.

That, by the act of the 26th of March, 1810, the marshals were empowered to appoint assistants for taking the census, and the compensation of the assistants was graduated according to the number of persons returned.

That, by the act of the 1st of May, 1810, it was made the duty of the marshals and their assistants to take an account of the manufactures established within their districts, under the instructions of the Secretary; and, for the performance of this additional service, they were promised a compensation, which should be afterwards provided by law.

That, by the act of the 3d of March, 1811, the Secretary of the Treasury was authorized to allow such reasonable compensation as he should deem adequate for the services of each of those persons who took, under his direction, an account of the manufactures, provided the sum expended out of the fund appropriated for taking the census did not exceed \$30,000.

That, by the act of the 16th of May, 1812, there was appropriated, for compensation to the marshals and assistant marshals for taking an account of the manufactures, an additional sum of \$40,000.

That, in execution of the acts of Congress, providing for the compensation of the marshals and their assistants, in making the return of manufactures, the Secretary of the Treasury addressed a letter to the marshal of the State of South Carolina, dated the 17th June, 1812, and remitted to him a draft for \$3,150, to pay himself and his assistants. The Secretary of the Treasury addressed another letter to him, dated the 18th February, 1813, peremptorily ordering the payment, but no answer or explanation has been since given by the marshal.

That, upon a general view of the acts of Congress, it appears that, although the marshal was authorized to make the appointment of the assistants, the assistants were in the service and pay of the United States; that the marshal was a public agent to distribute the compensation among his assistants; that the default of a marshal could not operate more in this case to discharge the public debt for actual services, than it would in the many other cases in which he is the agent for distributing the public money; and that the petitioners are consequently entitled to relief, unless they have voluntarily given a credit to the marshal, or have unreasonably neglected to apply to him for payment while he was solvent.

Whether either of these objections could be maintained, is a question upon which no evidence has been received at the Treasury Department.

All which is respectfully submitted.

A. J. DALLAS.

TREASURY DEPARTMENT, *November 14, 1816.*

[14th CONGRESS.]

No. 305.

[1st SESSION.]

CONFISCATION OF AMERICAN PROPERTY AT SANTA MARTHA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 8, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the memorial and documents of Jasper Ward and Abraham Riker, of the city of New York, reported:

That the petitioners state that, in the month of November, 1812, they fitted out a schooner, called the *Saratoga*, as a privateer, and, on the 13th of December following, they captured the British schooner *Maria*, put on board an officer and crew, and ordered her for the United States; that the said schooner *Maria*, having suffered in a gale so as to be unable to prosecute her voyage to the United States without repairing, put into Santa Martha for that purpose, where the crew were seized and put in irons, and the vessel and property of the petitioners condemned and confiscated. They ask of Congress to be paid the value of the property, and the wages of the crew during their confinement.

This case constitutes a cause of complaint by the Government of the United States, in behalf of its citizens, against the Government of Spain; but it can form no claim for indemnity on the part of the petitioners against this Government.

The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

14th CONGRESS.]

No. 306.

[1st Session.

HORSE SHOT BY A SENTINEL ON DUTY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 8TH MARCH, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Joseph Wilson, of the city of Washington, reported:

That, in the month of October, 1813, a sentinel, belonging to the troops commanded by General Bloomfield, near the city of Washington, whilst on duty in the night, shot a horse the property of the petitioner, under an impression that it was some person crossing his post. The petitioner prays of Congress the value of his property. The committee are of opinion he is entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 307.

[1st Session.

INCREASE OF THE RATE OF PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 8TH MARCH, 1816.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the resolution of the House of Representatives of the 28th of December last; directing an inquiry into the expediency of increasing the rate of pensions to officers and soldiers disabled in the service of the United States during the late war with Great Britain; and also into the expediency of amending the law relative to the proof required from officers and privates in the militia to establish their claim to a pension, reported:

That the pension now allowed to a non-commissioned officer or soldier for the greatest disability is five dollars per month, and to the commissioned officers the half of their monthly pay; making the highest pension

| | Per month. |
|------------------------------------|------------|
| Of an ensign amount to - - - - - | \$10 00 |
| Of a 3d lieutenant, - - - - - | 11 50 |
| Of a 2d lieutenant, - - - - - | 12 50 |
| Of a 1st lieutenant, - - - - - | 15 00 |
| Of a captain, - - - - - | 20 00 |
| Of a major, - - - - - | 25 00 |
| Of a lieutenant colonel, - - - - - | 30 00 |

That for all disabilities less than total the pension is proportionably less; and that the half-pay of a lieutenant colonel is the highest pension which any officer can receive.

In the investigation of this subject the committee have been necessarily led to consider the time when the present rates of pensions were established, and to contrast the then prices of the articles which constitute the necessities of life with the present. The difference is manifest; and the result is, that what was then considered a competent provision now falls far short of the object. Sixty dollars per annum is the pension allowed a soldier for the greatest disability. This, under the change which has taken place in the prices of articles, the committee deem insufficient to enable him to *support himself plentifully and comfortably*. They think that whatever sum the Government may allow should have, at least, this end in view. It seems to be the object of all Governments—it is certainly the peculiar duty of this, dictated alike by a just regard to sound policy and the injunctions of humanity.

The same absolute necessity may not exist to increase the pensions of the officers, because it is possible they may, with the present rates, live free from actual want; but as there is a difference in their grade and responsibility, in their pay whilst in service, and the pensions which have been allowed not only in this but in other Governments, the committee deem it improper to depart from these rules; they think some regard should be paid to the conditions of men, and that, as far as can consistently with policy, they should be placed in circumstances of relative ease and comfort.

The resolution instructs them to inquire into the expediency of increasing the pensions of the officers and soldiers disabled in the late war with Great Britain only. In doing this, they have unavoidably been obliged to consider the cases of all persons who have been disabled whilst in the military service of this Government, and they

have not been able to discover any difference in their claims. They think no distinction should be allowed to exist, but that whatever provisions are made should relate equally to all invalids.

The committee are in favor of a partial increase of pensions; but as it may be satisfactory to the House to see the effect of this increase on the Treasury, they have ascertained the number of pensioners now on the list, what number are officers, and what privates, distinguishing those of both denominations who were of the revolutionary army, and the amount of pensions at present paid, and find there is paid annually the sum of \$119,624 05 for that object; that there are 185 officers and 1,572 non-commissioned officers and soldiers of the revolutionary army, and 52 officers and 391 non-commissioned officers and soldiers who have become disabled since the revolution, making an aggregate of 237 officers and 1,963 non-commissioned officers and privates, and a total of 2,200 pensioners.

The above statement extends to as late a date as the 4th of January last. Since that time it is probable many applications have been made to the War Department for pensions; and there are also, from the best judgment the committee can form from the papers now before them, from 80 to 100 cases which will be added to the number during the present session. What number springing out of the late war remains to be presented cannot be stated. The committee, however, deem it proper to observe that the revolutionary cases compose the great mass of those already on the list, which, from a course of nature, cannot very long remain a charge on the Government. The very circumstance of the advanced age of most of the pensioners, and the consequent diminution of their ability to add much by their personal exertions to their own support, seem to strengthen their claim to an increase of pensions. The pensions now allowed to captains, and those above that rank, the committee think are sufficient to discharge the obligations of gratitude and duty which the Government owe them, and to place them not only above actual want, but in tolerable comfort. They therefore do not deem it necessary to increase their pensions; but as this is not the case with the other officers and soldiers, they deem it proper to recommend to the House to increase their pensions so as to allow to them the following sums in lieu of those to which they are now entitled, viz:

| | Per month. |
|--------------------------------|------------|
| To a 1st lieutenant, - - - - - | \$17 00 |
| To a 2d lieutenant, - - - - - | 15 00 |
| To a 3d lieutenant, - - - - - | 14 00 |
| To an ensign, - - - - - | 13 00 |
| To each private, - - - - - | 8 00 |

For the highest degree of disability, and for all less degrees, a sum proportionably less. The effect of this would be an increase of sixty per cent. on the pensions of the soldiers, and about an average increase of twenty-one per cent. on the pensions of the officers, and would require about the sum of \$200,000 per annum.

The committee do not deem it necessary to recommend any alterations in the laws relating to the proof necessary to place the officers and soldiers of the militia on the pension list, other than to put them on the same footing in that regard with the officers and soldiers of the regular army. The rules at present prescribed for that purpose are not more rigid than is necessary to guard with sufficient care against frauds on the Government, and, as these rules have been long established, they are known to the public in some degree, and will be acted on; whereas, if new ones were established, they would perhaps only tend to confuse without benefiting the applicant. To effect the above object, they report a bill.

14th CONGRESS.]

No. 308.

[1st Session.]

COURT-HOUSE IN CINCINNATI BURNT WHILE OCCUPIED AS A BARRACK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 11, 1816.

Mr. YANCEY, from the Committee of Claims, to whom was referred the resolution of the House of Representatives of the 25th of January last, instructing them to inquire into the expediency of paying the amount of damages sustained by the destruction of the court-house in Cincinnati, in the State of Ohio, produced by fire, through the negligence of the troops of the United States, while occupying the same as barracks, reported:

That, in the month of February, 1814, a detachment of the troops of the United States, under the command of Captain Thomas Ramsay, occupied as barracks the county court-house of Hamilton, in the town of Cincinnati, by permission of the sheriff of the county, there being at that time no other house which they could procure, and the weather being so cold and severe as to require good quarters. It satisfactorily appears to the committee, that, while the court-house was thus occupied, from some uncontrollable accident, fire was communicated to the house, and it was consumed.

The house having been thus in the occupation of the United States, and, in consequence of that, consumed by accident, which no one whose duty it might have been to take care of it could control, it is the opinion of the committee that the damage sustained in consequence thereof should be paid to the county, to enable them to rebuild the house. They therefore report by bill.

14th CONGRESS.]

No. 309.

[1st Session.]

LOSS ON THE CONTRACT FOR BUILDING THE SLOOPS OF WAR ERIE AND ONTARIO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 11, 1816.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Thomas Kemp, of the city of Baltimore, reported:

That, early in the year 1813, the petitioner entered into a contract with the Navy Department to build two sloops of war, "the Erie and Ontario," at Baltimore. The sum which was agreed, on the part of the Government, to be given for the vessels was *then* considered by the petitioner to be adequate to cover the expenses of materials and labor, and afford a sufficient compensation for the undertaking; but he states that, in consequence of the British naval force which soon after came into the Chesapeake, the materials out of which the vessels were built cost him a much larger sum than they otherwise would have done, and that he has sustained a loss of six thousand three hundred and twenty-three dollars, which he prays may be paid him.

In making this contract, there can be no doubt that the petitioner considered he had taken sufficient care of himself; and if it had turned out, upon the completion of the contract, that he had made, beyond a reasonable compensation for his labor, care, and expenses, the sum of money in question, it could not have been expected by the Government that he should have refunded that sum. The contract should be reciprocal. All that can be expected by the Government is, that it should fairly and honestly comply with its engagements. If it should be fortunate enough sometimes to make a profitable contract, it will only by that means supply a deficiency often produced by bad ones. The committee are of opinion that the petitioner is not entitled to relief, and therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 310.

[1st Session.]

USAGE OF THE WAR DEPARTMENT IN RELATION TO INTEREST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 23, 1816.

Sir:

DEPARTMENT OF WAR, *March 23, 1816.*

In obedience to the resolution of the House of Representatives of the 21st instant, I have the honor to state that the general usage of the War Department has been to pay no interest upon any demand whatever, without regard to its origin.

During the latter part of the year 1814, and through the whole of 1815, the Department, being unable to discharge the multiplied and extensive demands which were made upon it in some instances, authorized different officers employed in disbursing the public money, and various contractors, to obtain money upon loan; and, in some instances, where their bills were presented and remained unpaid for the want of funds, assurances were given to the banks that interest would be paid upon them if they were taken up by them. In all such cases, interest has been paid. Interest has also been allowed upon bills drawn by contractors pursuant to their contracts, which have been protested for the want of funds. This is the only case in which it has been allowed, except upon special agreement to that effect. No distinction has been made between bills drawn for money actually received by a public agent and for debts contracted by such agent in the course of his official duty.

I have the honor to be your most obedient and very humble servant,

WM. H. CRAWFORD.

The Hon. HENRY CLAY,

Speaker of the House of Representatives of the United States.

14th CONGRESS.]

No. 311.

[1st Session.]

SEIZURE OF THE SHIP "AMERICAN EAGLE."

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 27TH MARCH, 1816.

Sir:

TREASURY DEPARTMENT, *February 19, 1816.*

It is my duty to lay before the Committee of Ways and Means a request for an appropriation to pay the amount of a judgment recovered by Gould Hoyt against David Gelston, the collector, and Peter A. Schenck, the surveyor of the port of New York, under the following circumstances:

Information being received in July, 1810, from the French minister, as well as from various official sources, that a ship called the "American Eagle" was arming and equipping as a vessel of war in the port of New York, for the use of Petion, one of the chiefs of the island of St. Domingo, the collector and surveyor of the port were instructed by the Secretary of the Treasury, acting with the authority of the President, to seize the ship for adjudication, under the act of the 5th of June, 1794. The seizure was accordingly made, but, upon trial, (after a delay of more than two years,) a decree of restitution was pronounced. Mr. Hoyt, the alleged owner of the ship, then instituted an action against Messrs. Gelston and Schenck, to recover damages; and has, in fact, obtained a verdict for \$107,369 43, upon which judgment has been rendered by the Supreme Court of the State of New York.

The case involving a construction of an act of Congress upon questions highly interesting to the United States in their relation to foreign Powers, the attorney for the district of New York was instructed to aid in the defence of the suit, and to take the proper measures to obtain the judgment of the Supreme Court of the United States, should the decision of the State court render it necessary. Accordingly, the case has been removed by writ of error into the highest court of law in the State of New York, with a view to its being brought finally before the Supreme Court. It has, however, been represented by the counsel of the defendants that the expense of prosecuting the writ of error will be great, and that the probability of reversing the judgment is slight. It becomes necessary, therefore, to provide for the event of a final judgment in favor of the plaintiff.

In explanation of the facts thus generally stated, I have the honor to transmit the following documents:

1. A copy of the report made by this Department to the Senate on the 13th February, 1815, in which the circumstances that led to the seizure of the ship "American Eagle" are particularly stated.

2. A transcript from the record in the case of Hoyt vs. Gelston and Schenck.

3. The correspondence with Mr. Gelston and his counsel relating to the suit.

4. A letter from Albert Gallatin, Esq., who was Secretary of the Treasury at the time of the seizure of the "American Eagle," explanatory of the facts and principles on which the seizure was directed.

From the whole, it will satisfactorily appear—

That the instructions for seizing the "American Eagle" were founded upon official information of an illicit design in her equipment, upon a sense of public duty, and upon a fair and reasonable construction of the law;

That the seizure was made by the collector and surveyor, in the course of their official duty, under the official instructions of the Treasury Department;

And that an indemnity is due from the Government to the collector and surveyor, by providing for the payment of the damages which have been awarded against them.

If, therefore, the Committee of Ways and Means concur in this view of the subject, I respectfully ask their direction to insert in the general bill of annual appropriations (which is now preparing) an item "for discharging the judgment obtained in the Supreme Court of the State of New York, by Gould Hoyt against David Gelston and Peter A. Schenck, in an action of trespass for seizing the ship "American Eagle," under instructions from the Treasury Department, a sum not exceeding \$112,000."

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

A. J. DALLAS.

The Hon. W. LOWNDES, *Chairman of the Committee of Ways and Means.*

LOSS OF THE SHIP ALLEGANY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 30, 1816.

Mr. STANFORD, from the Committee of Claims, to whom was referred the memorial of Washington Bowie, John Kurtz, and others, of Georgetown, in the District of Columbia, reported:

That Richard Forrest, as agent for the Department of State, chartered the ship Allegany, Captain Evelith, of the house of Bowie, Kurtz, and others, of Georgetown, to take out a cargo to the Dey of Algiers, in fulfilment of our treaty with the Regency. The charter-party was entered into on the 20th day of January, 1812, and stipulated the time of receiving the cargo on board in the United States, and the time of its delivery at Algiers, the amount of freight, where and how it should be paid, and all the terms of the voyage, in the most precise and formal manner, binding the memorialists, with their ship, her freight and appurtenances, to the true and faithful performance of the same, under the penal sum of twelve thousand dollars, lawful money of the United States.

After the public cargo, however, was taken on board, room was found in the cabin and other parts of the ship to admit a further shipment of coffee and spices, and the privilege of such an adventure was accorded to the owners, on their private account, in consideration of their agreeing to receive in the United States the portion of their freight which the Government was otherwise bound to pay them at Algiers, which was accordingly accepted and agreed to.

Thus chartered and loaded, the Allegany sailed on her destined voyage, but was soon arrested by the embargo which preceded the declaration of war, and could not proceed until a special act was passed by Congress to permit the departure of vessels in the public service. When released, she proceeded and arrived at Algiers in good time, and, in all respects, conformably to contract. The cargo was consigned to Colonel T. Lear, the consul general of the United States near the Dey and Regency of Algiers.

He states, in his communication to the Government on this subject, that the Dey and his officers at first appeared well pleased with the arrival of the Allegany; that the articles on board were at the time much needed; and that on the 20th of July (the third day after the arrival of the ship) the Minister of the Marine sent off a lighter, and actually received from on board the ship a considerable quantity of plank and spars, and proceeded to the landing place of the marine.

Until now, every thing appeared to be going on well, when, of a sudden, the temper and conduct of the Dey assumed the reverse aspect. He at once affects to be disappointed in the quantity of gunpowder and cables which had been sent to him; directs the lighter to be sent back to the ship with the plank and spars received, and at the same time sends a peremptory order "that the Allegany should depart from Algiers in three days, and take with her our consul general, and all other citizens of the United States then at Algiers."

Against this violent proceeding remonstrances were made by Colonel Lear; but all was in vain—no argument availed any thing. Instead of relaxing, he went still further, and demanded a cash payment of \$27,000, which he insisted, according to the Mahometan year, was the balance due upon his annuities. Our consul contended that \$15,827 was all that was due, and that the cargo of the Allegany, if received, was more than sufficient to discharge it. But the Dey refused to have any thing to do with the cargo, or to suffer it to be sold at Algiers. He did, however, extend the time two days longer for the departure of the ship, and then repeated his mandate that if, within the time, "the demanded balance was not paid into his treasury, and the ship did not depart, with the consul, his family, and all the other Americans on board, he would detain them in slavery, confiscate the ship and cargo, and declare war against the United States."

Under this unpleasant alternative, Colonel Lear determined to raise the money, if possible, and depart accordingly. The house of Bacri was the only one where he could obtain the money for a bill on Gibraltar, and he drew one on John Salvino, consul of the United States at that place, giving Bacri to understand that he bottomed the credit and redemption of the bill on the cargo of the Allegany, so far as it would go, who expressed his confidence in the pledge, and advanced the money; and the ship was then early on the morning of the 25th of July, within the prescribed time, carried by an Algerine captain and crew out of the port, whence she proceeded to Gibraltar.

Captain Evelith, of the Allegany, yielding to the necessity of the case, states in his protest that he should abandon the ship to the United States, and consider her as in their service and at their risk, but would navigate her under Colonel Lear's control and direction. Colonel Lear admits that, although he does not recollect any formal abandonment of the ship, Captain Evelith did submit her to his destination and control, and that he directed her to Gibraltar, a place from whence he could better serve the interests of the United States in sending out information of the events at Algiers to our different consuls in the Mediterranean, in disposing of the Allegany's cargo, and providing to meet the bill which he had drawn on that place.

The committee have thus given as brief a view of the case of the Allegany as the history of the case would admit. Considering that she was chartered by the Government, and performed the stipulated voyage to their entire satisfaction; that she was then, by the arbitrary power of the Dey, compelled, not chartered, into their further service, and that, too, to save their citizens and their property from Algerine seizure; sent upon a new voyage, as opposed to the interests of the owners as it was contrary to the instructions given to their commander; that she was thus diverted from her proper destination, and thrown into the hands of a different enemy, where she was seized and ultimately condemned, ship and cargo, to the serious disadvantage and loss of the memorialists—the committee are impressed with the justice of their claim, and are of opinion that they are entitled to indemnity in this case, when they reflect that the Government has awarded relief in similar cases recollected, and particularly in the cases of the Anna Maria, of New York, and the Resource, of Baltimore, vessels employed in the same service, and suffered in like manner by the arbitrary conduct of some one or other of the Barbary Powers.

They therefore beg leave to report a bill for the relief of the memorialists in the present case.

[NOTE.—See report No. 251, page 435.]

14th Congress.]

No. 313.

[1st Session.]

LOSS OF THE COURT-HOUSE OF CLINTON COUNTY, NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 1, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of the supervisors of the county of Clinton, in the State of New York, reported:

That, in the month of September, 1814, when the British forces invaded the United States on the frontier of the State of New York, they took possession of a part of the village of Plattsburg, and sought a cover from the American artillery at the fort near the village from a number of houses belonging to individuals and the court-house of the county of Clinton. In order to uncover and dislodge the enemy, General Macomb, who at that time commanded the American troops at that place, considered it prudent and proper to fire hot shot into the houses, for the purpose of destroying them. Among the number thus destroyed was the court-house of Clinton. The petitioners, on behalf of the county, pray that Congress will pay the value of the house.

The facts in the petition having been satisfactorily established, and it appearing to the committee that the property was destroyed for public good, they are of opinion that the petitioners are entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 314.

[1st SESSION.]

LOSS OF A WHARF AND STOREHOUSE AT HAMPDEN, MASSACHUSETTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 1, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of John Crosby and John Crosby, Jun., of the State of Massachusetts, reported:

That, in the month of August, 1814, the United States frigate Adams, commanded by Captain Charles Morris, arrived at Hampden, in the county of Hancock and State of Massachusetts, and was moored at the wharf of the petitioners. The Adams remained at the wharf until the 3d day of September following, when a British naval force appeared and attacked her. Captain Morris, after having bravely defended his ship for a considerable time against a much superior force, considered it prudent, under all circumstances, to set fire to the ship and blow her up, to prevent her falling into the possession of the enemy. The fire which was thus applied to the ship communicated itself to the wharf and storehouse of the petitioners, and they were consumed, together with their stock of goods on hand. They pray that Congress would pay them the value of their property destroyed.

The committee are of opinion that the injury which the petitioners have sustained being immediately consequential of a justifiable and prudent act of an officer of the Government, they are entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 315.

[1st SESSION.]

COMPENSATION TO OFFICERS OF THE CUSTOMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 1, 1816.

Mr. MIDDLETON, from the select committee to whom was referred the petition of James H. McCulloch, reported:

The said petitioner states that he entered upon the office of collector of the port of Baltimore early in the year 1808, with a prospect, indeed, of difficulties and labors arising from the peculiar situation of the country at that time, but under an assurance of receiving adequate compensation for his services. That such an expectation was reasonable, may be inferred from the universal practice of this Government, which has ever been to provide fixed salaries where other profits are either inadequate or forbidden. The petitioner was confirmed in this his belief, from the circumstance of the House of Representatives having, in that particular juncture of affairs, under the impression that the emoluments of the officers of the customs would be lessened by the embargo acts, directed the Secretary of the Treasury to report his opinion of the cases where a temporary increase of salary might be necessary. In obedience to this resolve, the then Secretary addressed a circular to the officers of the customs, under date of 28th April, 1808, giving instructions respecting the embargo act, and calling upon the said officers to make returns of their emoluments, in order that he might make his report in conformity to the views of Congress.

That the emoluments of the petitioner, as collector of the port of Baltimore, have not been by any means adequate to the services he performed within the period alluded to, appears from his statement that in 1808 he *seemed* to receive \$72, but actually *sunk* \$428, on account of a salary to a clerk paid by himself; in the year 1809 he received \$589; in the year 1810 he received \$512; in 1814 *he paid* \$980 for performing the public service, while the support of his family each year amounted to \$2,000: the result is, that in these four years he *received* from the public \$673, and *expended* in the maintenance of a frugal family \$8,000, and in the support of a custom-house for the public \$980. His account at the Treasury will establish the correctness of what is here stated. The intervening years were more profitable, but below the common receipts of the office and the limit of the law.

The committee, having duly considered the foregoing statement, are of opinion that the compensation allowed by law to James H. McCulloch, collector of the customs at Baltimore, having been taken away by the operation of other laws enacted for the public benefit, he has an undoubted claim upon the public justice to provide an equivalent; and inasmuch as the committee believe that there exist other similar cases of hardship, arising from the non-productive state of the revenue derived from impost during the embargo and non-intercourse laws, with a view to embrace such cases, they recommend the following resolution:

Resolved by the Senate and House of Representatives, That the President of the United States be authorized to allow an extra compensation, for a limited time, to those officers of the customs whose emoluments were diminished below a reasonable salary during the restrictive system.

14th CONGRESS.]

No. 316.

[1st SESSION.]

VESSELS CAPTURED FOR A BREACH OF THE BLOCKADE OF THE PORT OF TRIPOLI
IN 1804.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 17, 1816.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the report of the Secretary of the Navy on the petition of John McCauley, prize agent, reported:

That they have considered the report of the Secretary of the Navy, together with the opinion of the Attorney General on the case of the Madonna Catapolianna, captured by the Syren for a breach of the blockade of the port of Tripoli in the war carried on by the United States against that Power. The Attorney General gives it as his opinion that the subject is a proper one for the consideration of Congress, as he does not think it different in principle from the case of the Algerine vessels taken in the late war against that Power, and restored at the treaty of peace, and for which the captors have been compensated by a bill which has passed this House. The Algerine vessels were taken in open war from an enemy; the Madonna Catapolianna was taken from a neutral and friendly Power for a breach of blockade, and restored without having ever been carried before a court of admiralty. The committee think it would be carrying the principle too far to say that a vessel, belonging to a friendly and neutral Power, captured for breach of blockade, and restored to the neutral by the commander of the blockading squadron, without the case having been decided on by a court of admiralty, [should oblige the Government] to pay to the captors the supposed value of such prize. They therefore recommend to the House the following resolution:

Resolved, That it is inexpedient to grant the prayer of the said petition, and that the petitioners have leave to withdraw their petition and documents.

SIR:

NAVY DEPARTMENT, *March 29, 1816.*

I have the honor, in obedience to an order of the House of Representatives of the 5th of February last, to transmit to you, to be laid before them, the petition of John McCauley, with the papers connected therewith, and a copy of the opinion of the Attorney General of the United States, to whom I referred the points of law which the subject involved. Should Congress decide, in conformity with the opinion of the Attorney General, to grant the amount of the original valuation of the brig Transfer, a special appropriation will be necessary for that object. It will remain for Congress to judge of the principle and policy which led to the restoration of the ship Madonna Catapolianna without a judicial appeal, and how far the case is analogous to the late transactions with Algiers.

All which is respectfully submitted.

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

B. W. CROWNINSHIELD.

The Hon. the SPEAKER of the House of Representatives.

SIR:

WASHINGTON, *March 27, 1816.*

I have examined the papers transmitted to me with your letter of the 12th of last month, and have now the honor to submit, according to your request, the following opinions upon the cases which they present.

1st. It appears that the brig Transfer was captured off Tripoli by a breach of blockade on the 17th of March, 1804, by a part of the squadron under the command of Commodore Preble; that she was regularly condemned as a prize of war; and that she was taken by the commodore at a valuation of \$5,000, and placed in the service of the United States, where she co-operated as a cruiser with the squadron aforesaid in the course of its subsequent belligerent operations. Under such a state of facts, I do not think that the captors are divested of their prize interest. They are entitled to it at the hands of the Government, which thus became the purchaser of the prize. Considering this interest as a vested one on their part, I can see no objection to a payment of the amount by the Navy Department, provided there be any existing appropriation of money to cover such payment. I also think that the portion of the prize to which the United States are entitled should, as in other cases, be applied to the use of the navy pension fund, as directed by the ninth section of the act of Congress of the 23d April, 1800.

2d. In regard to the ship Madonna Catapolianna, captured by a part of the same squadron off Tripoli, on the 22d March, 1804, and restored to the former owners by the authority of the commodore, before any condemnation or judicial proceedings had, it would seem alike equitable that the captors should be reimbursed. I forbear, at this time, the expression of any more direct opinion upon this case, the power of Congress being fully competent to act upon it, as in the case now before that body of the Algerine vessels lately surrendered, from which the present is not, in principle, distinguishable.

I pray you, sir, to receive as an apology for this late answer to your letter, that, when it was received, and for some weeks afterwards, my constant public engagements at the Supreme Court of the United States prevented an attention to other subjects.

With great respect, I have the honor to be, &c.

RICHARD RUSH.

Hon. B. W. CROWNINSHIELD, *Secretary of the Navy.*

14th CONGRESS.]

No. 317.

[1st Session.]

ACCOUNTS OF JAMES THOMAS, DEPUTY QUARTERMASTER GENERAL, INVESTIGATED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 24, 1816.

Mr. McKee, from the committee appointed to inquire into the state of the accounts (rendered and settled) of James Thomas, a deputy quartermaster general of the United States, and also to examine all accounts connected therewith, reported:

That the committee have examined the subject referred to them with as much care as a due attention to the current business of the House would permit. When the papers were referred to the committee, it was understood that James Thomas was in the western country, and a letter was addressed to him at Pittsburg, informing him that a committee was appointed to examine and report on his accounts.

James Thomas arrived in this city on the 12th instant, and made application to the committee to postpone a report on his case to the next session of Congress; the reasons assigned in support of this application are fully disclosed in the papers herewith submitted to the House as a part of this report, from which it will appear that the committee had neither time nor the means of pronouncing on the character of the transaction, or the conduct of James Thomas, without wholly disregarding the statements made by him to the committee.

So far, therefore, as James Thomas is concerned, the committee recommend a postponement of the case to the next session of Congress, so that the case may then undergo a more mature examination than can now be given to it.

The settlement made in this case by the accounting officers of the Government seems to require examination; the settlement was made on the papers and documents now before the committee, and on that evidence *alone* the settlement, and the principle on which it was made, must stand the test of examination.

Without designing to express any opinion in relation to James Thomas, the committee submit to the House the following statement of the case, as it seems to have been presented to the accounting officers of the Government for settlement, as well as the several occurrences which happened in the progress of the settlement.

On the 22d day of November, 1812, General Smyth, commanding on the Niagara frontier, ordered James Thomas, deputy quartermaster general, to purchase immediately, and deposit at or near Buffalo, flour for five thousand troops for two months, besides the current issues; and Michael T. Simpson immediately thereafter proceeded to purchase flour from the country people, and in effecting the purchase he represented himself as the agent of James Thomas, and entered into a contract in that character. Said Simpson procured, in the vicinity of Batavia and Caledonia, about 1,500 barrels of flour, at or near the average price of \$9 per barrel at those places, as it appears from the depositions and certificates of the persons from whom it was obtained.

On the 12th day of December, 1812, Michael T. Simpson charges the United States \$29,155 for 2,205 barrels of flour delivered at Caledonia and Batavia, \$728 87 commission for purchasing the same, and \$2,520 for transporting 630 barrels of flour from Caledonia to Buffalo. Between the 12th of December, 1812, and the 28th of June, 1813, Michael T. Simpson charges the United States for a variety of articles of army supplies, amounting, inclusive of the bill of the 12th of December, 1812, to the sum of \$61,192 15½; and James Thomas obtains Simpson's receipts for this sum in nine separate bills and receipts, which he renders as evidence of disbursement made by him on public account.

The late Accountant of the War Department, to whom the accounts were rendered, regarding Michael T. Simpson as a citizen of the country, who had possessed himself of the articles sold to James Thomas with his own funds or credit, and at his own risk, in the ordinary course of business, considered his receipts as good evidence of disbursement. But it was discovered to the satisfaction of the late Accountant of the War Department, before the account was finally settled, that Michael T. Simpson was not a citizen of that part of the country, but merely a wayfaring person seeking employment, and that he had not become possessed of the property sold to the public in the ordinary course of business, or at his own risk, but that he had purchased the same by means of the public funds in the hands of James Thomas. It was also discovered that the flour was charged to the United States at a rate much higher than its actual cost. The late Accountant of the War Department therefore ordered the amount of Michael T. Simpson's receipts (except a part of the receipt for \$10,510 25) to be taken from the credits of James Thomas, and suspended until the receipts of those persons from whom the articles were actually purchased should be produced as evidence of the disbursement as well as the cost of the articles. This suspension seems to have been made on the principle that M. T. Simpson was the agent of J. Thomas, and that he was enabled to make the purchases aforesaid from the public funds in his hands. After this decision was made known, the copy of a letter from James Thomas to Michael T. Simpson of the 25th of November, 1812, and Simpson's answers of the 28th of November, and 4th of December, 1812, were filed in the handwriting of James Thomas, with the intention of establishing thereby the existence of a contract between Michael T. Simpson and James Thomas in regard to the flour purchased by said Simpson. This evidence was deemed by the late Accountant insufficient to authorize a change of the decision made; and the account was closed, leaving a balance due to the United States by James Thomas of \$133,087 84. From this decision James Thomas appealed to the accounting officers of the Treasury Department, and the accounts were sent to the Treasury Department by Peter Hagner, the acting Accountant, by whom they were closed on the 14th day of July, 1814, for re-examination and final adjustment, where they were examined by the Auditor of the Treasury, and \$2,411 80 of the suspended items admitted to the credit of James Thomas, leaving a balance due by him to the United States of \$130,676 04. The principles settled by the Accountant of the War Department were not changed by the admission aforesaid. The accounts were reported to the late Comptroller of the Treasury on the 8th day of August, 1814, by the Auditor. It appears that the accounts were examined by the late Comptroller, and that he did not alter the balance, or change the principles settled at the War Department; he was, in the opinion of the committee, prevented from deciding finally on the case by a protest filed in his office by James Thomas on the 12th of August, 1814, alleging, amongst other things, that his accounts, since they were rendered to the Accountant of the War Department, had been mutilated and robbed of documents and vouchers belonging thereto. The committee deem it proper to state that this charge of mutilation and robbery is not supported by *any* evidence yet disclosed.

On the 5th day of April, 1815, James Thomas requested the present Comptroller of the Treasury to permit him to withdraw his appeal, and to submit his case again to the present Accountant of the War Department, together with evidence not before rendered in support of the suspended items in his account. This request was granted, and the accounts were sent to the present Accountant of the War Department on the 6th day of April, 1815. James Thomas filed with the Accountant of the War Department copies of several letters and certificates, which are on the files,

relating to the suspended items, and supposed to contain evidence of a contract between Michael T. Simpson and James Thomas as to the flour, and the prices thereof. With regard to these letters and certificates, the committee have sought in vain for the originals, which are not now to be found in the public offices, and the copies obtained by the committee are extracts taken from a pamphlet written by James Thomas in defence of himself.

The Accountant of the War Department restated the account, and admitted the suspended items, for payments made to Michael T. Simpson, to the credit of James Thomas, on the following grounds: 1st. The charge for 2,205 barrels of flour, commission, and transportation, was admitted, because, in the opinion of the Accountant, the evidence aforesaid establishes a contract between Simpson and Thomas for the flour at a specified price. 2d. The residue of the suspended items are admitted to the credit of James Thomas, except \$201 10, charged as commission, because it does not appear that Michael T. Simpson, was the acknowledged agent of James Thomas.

The foregoing is, in substance, a correct statement of the settlement of the accounts of James Thomas, and the principles established in the settlement. So far only as relates to the disbursements made by Michael T. Simpson, there are many accounts settled on principles which seem to the committee objectionable, but which must now be admitted. Without entering at all into the question whether or not the copies of letters and certificates filed establish a contract between James Thomas and Michael T. Simpson, the committee will only say that, if the evidence is considered authentic, and sufficient to prove the existence of a contract, it is certainly competent also to prove that Michael T. Simpson misrepresented the state of the market with a view to his advantage and the public injury. But the committee cannot regard any contract made by a public agent charged with providing supplies for the public, however formal, which is fulfilled by means of the public funds in his hands, in any other light than as a badge of fraud. If such contracts are countenanced and drawn into practice, it must supersede the necessity as well as the propriety of requiring any public agent to render receipts (from those persons who have the articles wanted for public use, procured by their industry, with their own funds, and at their own risk) as evidence of price and payment, because this rule imposes much labor on honest agents, without affording any barrier against fraud and dishonesty. For what is more easy of accomplishment than for a public agent, inclined to defraud the public, to enter into a formal contract with a friend (whose moral feelings suit the occasion) to deliver property suited to the public wants, at a specific price, exceeding the market price, and then, by means of the public funds in his hands, to enable his friend to fulfil the contract for their mutual benefit? Cases may be supposed, and may occur in practice, where contracts made by a public agent to furnish supplies, with the aid of the public funds, which it is the agent's duty to furnish, may be right; but those possible cases must be accompanied with peculiar circumstances, and on those circumstances their justification must rest.

It cannot be doubted that Michael T. Simpson purchased the 2,205 barrels of flour with the aid of the public funds in the hands of James Thomas; and it is worthy of remark that there is no conflict between the depositions filed by Mr. Porter and the copies of certificates furnished by James Thomas: they relate to different parcels of flour—the first are specific as to quantity and price, the latter are general.

The committee, therefore, cannot but regard the principle on which the suspended item for \$32,403 87 was allowed as erroneous, and destructive of all accountability. The principle on which the residue of the suspended items were allowed seems to the committee to be equally or more objectionable.

It is evident that the supplies were purchased by means of the public funds in the hands of James Thomas, and intended for the public use, to which they were alone suited. No man in the right use of his reason would have possessed himself of the articles in the prosecution of any ordinary business; and to consider Mr. Simpson unconnected in some way with the public officer is absurd, especially after he had charged a commission on part of his purchases. The receipts of those persons who were the original owners of the property, or who have acquired it at their own risk, is the only good evidence of price and payment, and, in the opinion of the committee, ought, in all ordinary cases, to be required as evidence of disbursement.

SIR:

WASHINGTON, *April 12, 1816.*

I learn that a committee has been appointed by the House of Representatives to examine my accounts with the United States, in consequence of allegations made by William Simmons, late Accountant of the War Department, that fraudulent charges to a considerable amount had been made by me, and allowed, under the special directions of the officers of the Treasury.

As these accounts had already been before a committee of Congress on the representations of this person, and as they had been referred by that committee to the accounting officers of the Treasury for settlement, and had been settled accordingly, I might have expected that such allegations would not have been repeated, at least until the legal tribunals of the country had decided on my complaints for similar calumnies propagated by him with so much boldness and industry by means of the public press.

Conscious, however, that my conduct has been in all respects honorable, I can have no objection to any inquiry, howsoever rigid; on the contrary, I am happy to have any opportunity to bring these accusations to the test of truth. I hope the result will set them forever at rest; for, so highly do I value the good opinion of the community, that even the consciousness of rectitude does not render me indifferent to aspersions which strike at my reputation. I trust, however, that the inquiry will be complete, and I am sure it is foreign from the wish of any member of your honorable body to decide on a question which, through life, will affect the character of one of their fellow-citizens, without a full and fair investigation. I ask, therefore, to go before the committee, to know the specific act of criminality with which I am charged, and to be allowed the means which justice demands of substantiating my innocence.

In order that the true situation in which I stand towards the public, whether as debtor or creditor, may be known, I ask, further, that the whole of my claims connected with the discharge of my public duties may be placed before the view of the committee: these are contained in the letters and accounts presented by me to the War Department in the months of December and February last. It will then be seen that, so far from having profited by fraud and imposition on the public, I am, after seven years of active military duty, a sufferer through arduous and laborious exertions in the public service.

I have the honor to be, sir, your obedient servant,

JAMES THOMAS.

To the Hon. the SPEAKER of the House of Representatives.

SIR:

WASHINGTON CITY, *April 15, 1816.*

You have applied to the committee to whom your accounts have been referred for a postponement of any decision or report thereon until the next session of Congress, on the general ground that time or opportunity has

not been afforded you to procure testimony, explaining such parts of your accounts as seem to be mysterious, and rebutting the evidence tending to charge the accounts with unfairness or fraud. That the committee may have the means of deciding on your application, I am instructed by them to state to you the cases in your accounts most liable to exception, and to request you to say, in answer, whether you can (if time is allowed you) obtain evidence to explain and remove the mystery in which the cases are involved.

1st. The depositions on file (which are numbered progressively from 1 to 16, with the exception of No. 10, which is not with the documents referred to the committee, and Nos. 12 and 13, which relate to your defence,) go to prove that Michael T. Simpson purchased nearly fifteen hundred barrels of flour, at a price averaging about \$8 78 per barrel; that those purchases were made before the 12th of December, 1812; and Michael T. Simpson, in effecting those purchases, represented himself as your agent, and purchased with the aid of the public money or credit, and not on his own money or credit, or at his risk.

2d. On the 12th day of December, 1812, Michael T. Simpson renders an account against the United States for \$32,403 87, composed of the following items, to wit: 2,205 barrels of flour, \$29,155; commission, \$728 87; and \$2,520 for transporting 630 barrels of flour from Caledonia to Buffalo, making an average price of \$13 54 per barrel, including commission, and excluding the transportation; and \$4 per barrel for transportation from Caledonia to Buffalo, when it appears by document No. 16 that transportation was offered to you from Caledonia to Buffalo for any quantity of flour at \$2 per barrel.

3d. You have introduced copies of letters purporting to have been written by Michael T. Simpson to you, and dated the 28th of November, the 4th, 7th, and 12th of December, 1812, and your answer of the 6th of December, 1812, as evidence of a contract with Mr. Simpson. The original letters are not with the papers referred to the committee, who have been unable to obtain them from the War or Treasury Department. The copies of the letters of the 28th of November and 4th of December, 1812, are in your handwriting: can the original letters be produced?

4th. Michael T. Simpson purchased other articles, to wit, corn, hay, oats, &c., amounting, inclusive of his flour account, to \$61,192; and it is alleged, but not yet in proof, that one of the articles, to wit, the corn, was purchased by him for much less than the prices charged by him.

5th. You have produced two receipts from Daniel Mowry, one for \$509 60, dated 5th of December, 1812, and one for \$382 20, dated the 20th of December, 1812; and it appears, by reference to the settlement made by the wagonmaster of General Tannehill's brigade of Pennsylvania militia, that Daniel Mowry was attached to the said brigade as a teamster, and was paid by the public at the rate of \$4 per day up to the 20th of December, 1812; and from a letter written by General Tannehill, and addressed to the late Accountant of the War Department, the correctness of the whole transaction may be questioned.

6th. You charge the United States with \$276, paid to Michael T. Simpson for the hire of three large wagons from the 9th to the 31st of March, both days inclusive, and \$216, as paid to said Simpson for the hire of three large teams from the 1st to the 18th of April, 1813, both days inclusive; and by Morgan Lewis's letter to you of the 2d of March, 1813, in answer to a letter acknowledged to have been received from you of the 24th of the preceding month, it appears that the same teams were purchased by you at \$1,715, in February, 1813, from Michael T. Simpson.

7th. In the settlement of your accounts, you protested against the late Comptroller of the Treasury proceeding to a decision on your accounts, because, as you state in your protest, your papers are irregularly rendered, were mutilated, and robbed of part of the documents. This charge made by you is not supported by evidence, or accompanied by any specification of the documents alleged to have been mutilated or taken away.

You will say whether or not a postponement to the next session of Congress will enable you to introduce evidence explaining these points, and specify what evidence you expect to be able to procure in explanation of each point.

Your most obedient servant,

To JAMES THOMAS, Esq.

SAMUEL MCKEE.

SIR:

WASHINGTON, April 17, 1816.

In answer to your letter of the 15th instant, I have to state to you that if, from the partial testimony which may be before the committee, or from the misrepresentations of those who are interested in calumniating me, the transactions to which you have referred should be involved in any mystery, I can produce abundant evidence to remove it. But, as all my papers relating to those transactions are now in the district of Maine, (the place of my residence,) whither they were sent on the final adjustment of my accounts with the Government, and as it may be necessary to call persons who were on the spot and acquainted with the facts to give information on such points as may appear doubtful, it is impossible that a full investigation can be had during the present session of Congress. I pledge myself, however, if time and opportunity be allowed me, to disprove completely every charge of fraud or unfairness which may be alleged or insinuated against me.

With respect to the original letters for which you inquire, I have to inform you that I can prove them to have been exhibited at the offices of the Accountant of the War Department and the Comptroller of the Treasury. Indeed, no copies were produced by me of which the originals were not also exhibited. But, if the originals in question cannot now be found, I can prove satisfactorily the correctness of the copies. On this occasion it may be proper to call your attention to the fact, that, since the calumnies against me have been abroad, my accusers and others interested have had access to all the papers relating to my accounts, &c. in the Register's office.

The complaint to which you allude as having been made by me to the late Comptroller of the Treasury of the mutilation of my accounts, I can substantiate.

Your letter contains, I presume, all the subjects on which the committee require any evidence or explanation. But, as Mr. Simmons has endeavored to give the impression that his decision on my accounts was sanctioned by the Treasury, I do most unequivocally deny that my accounts were, as he asserts, ever finally or conclusively settled by the late officers of the Treasury on any appeal from me, or that any balance was struck against me by them. On the contrary, my accounts remained open, in consequence of the suspensions made by Mr. Simmons, until they were finally settled by his successor, whose decision was confirmed by the Comptroller.

I have already told you that, when I first heard of the appointment of your committee, I was at Pittsburg, on my way from the lakes to this city, on business connected with the contract in which I am engaged with the Government for subsisting the troops, &c. in the Michigan country, and which requires my speedy return. Since my arrival, I have lost no time in presenting myself before you, and making such representations as appeared necessary. And it remains for the committee to determine whether they will proceed at once in the inquiry with the imperfect evidence which can now be had, or will defer it until all the testimony which the case admits may be laid before them.

I am, sir, your obedient servant,

JAMES THOMAS.

The Hon. SAMUEL MCKEE, *Chairman of a Committee of H. R.*

SIR:

WASHINGTON CITY, April 18, 1816.

Your letter of the 17th instant was this morning laid before the committee to whom your accounts have been referred, and I am instructed by the committee to request you to inform the committee whether or not you have any papers or other evidence relating to the points stated in my letter of the 15th instant which has not been produced to the War or Treasury Department, and, if you have, then I have to request you to state specifically what that evidence is.

From your answer to my letter of the 15th instant, you pledge yourself to prove the mutilation of your accounts, and the robbery committed on them in part, as stated in your protest filed with the late Comptroller of the Treasury. You also state that the original letters which passed between you and Michael T. Simpson were filed with the accounting officers of the War and Treasury Departments. As the evidence relating to these points must be in the city, the committee will hear any testimony you may think proper to introduce to them this evening at 6 o'clock, in their committee room, where you will attend.

Your most obedient,

SAMUEL MCKEE.

N. B. Will you return to me the original letter to you of the 15th instant, and this letter also, as I have not time to copy them?

S. MCKEE.

JAMES THOMAS, Esq.

Interrogatories stated to James Thomas by the committee to whom his accounts were referred, on his application for a postponement of a decision by the committee to the next session of Congress.

Question 1. If time is allowed you, do you believe you can show that the 2,205 barrels of flour delivered to you by Michael T. Simpson at Caledonia and Batavia did actually cost said Simpson, delivered at the places aforesaid, more than \$8 78 per barrel, and that the cost to Simpson was near or about the prices charged by said Simpson; and do you expect to establish the facts aforesaid by the receipts or testimony of the persons from whom Simpson made the purchases of the flour?

Answer by James Thomas. I expect to show that much of it was delivered at Caledonia and Batavia to me, by Michael T. Simpson, at or near the price which it cost him delivered at Caledonia and Batavia; and I expect to prove these facts by the testimony of persons from whom said Simpson purchased the flour, and that the transaction was a fair one.

Question 2. Can you show that the rate of \$4 per barrel, charged for transporting 630 barrels of flour from Caledonia to Buffalo, was not higher than the usual price at the time it was effected?

Answer. I can.

Question 3. Can you show that the teams purchased from Michael T. Simpson were actually and *bona fide* purchased by you on the 19th day of April, 1813, and not on the 24th of February, as it would seem they were by the letter of Morgan Lewis of the 2d of March, 1813?

Answer. I can show that the teams were actually and *bona fide* purchased on the 19th of April, 1813, and not before that time, when I paid for them.

Question 4. Can you make it appear that the account rendered by Michael T. Simpson for hay, oats, corn, and other articles delivered to you, cost him about the prices which he charges the United States for the same, and which is paid by you; and that the prices of the said articles, at the time of their delivery to you, were reasonable?

Answer. I can make it appear that the articles mentioned were delivered at or near the cost to said Simpson, and that the prices charged for them were reasonable.

Question 5. Can you account for the public property so purchased and paid for?

Answer. I can, with correctness and ease.

Question 6. Can you make it appear that the money received for by Daniel Mowry was actually paid to him for services performed by him?

Answer. I can make it appear that I employed teams of Philip and Daniel Mowry to transport the flour mentioned in the receipt, and that the service was performed; and the receipt is itself the evidence of payment. And with regard to Mowry's receiving pay at the same time from the United States, I can only say I knew nothing of the fact.

JAMES THOMAS.

WASHINGTON, April 20, 1816.

Requisition for twelve pieces of muslin and ten gallons of brandy for the use of the general hospital.

12 pieces muslin.
10 gallons brandy.

(Duplicate.)

SIR: GENERAL HOSPITAL, BURLINGTON, VT., September 11, 1814.

The sick and wounded are hourly coming in from Plattsburg, and I am destitute of bandages to dress their wounds, and of funds to purchase. Although this request may be out of the ordinary course of application, you would render an indispensable service by furnishing the above articles.

HENRY HUNT, Hospital Surgeon.

Col. JAMES THOMAS, Quartermaster General.

BURLINGTON, VT., September 12, 1814.

Received the within twelve pieces of muslin and ten gallons of brandy, for the use of general hospital.

HENRY HUNT, Hospital Surgeon.

The United States, to Nathan B. Haswell.

| | DR. |
|---|---------|
| 1814. For 10 pieces India cotton, at \$5, - - - | \$50 00 |
| For 2 pieces India cotton, at \$6, - - - | 12 00 |
| For 10 gallons Cognac brandy, at \$3, - - - | 30 00 |
| | \$92 00 |

BURLINGTON, September 10, 1814.

Received of James Thomas, colonel and quartermaster general, ninety-two dollars, in full for the above account, having signed duplicate receipts therefor.

N. B. HASWELL.

14th CONGRESS.]

No. 318.

[2d SESSION.]

REVISION OF THE ACT AUTHORIZING PAYMENT FOR PROPERTY DESTROYED BY
THE ENEMY DURING THE WAR WITH GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 6, 1816.

[The following written message was received from the President of the United States, by Mr. Todd, his secretary.]

To the Senate and House of Representatives of the United States:

DECEMBER 6, 1816.

The ninth section of the act passed at the last session of Congress, "to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," having received a construction giving to it a scope of great and uncertain extent, I thought it proper that proceedings relative to claims under that part of the act should be suspended until Congress should have an opportunity of defining more precisely the cases contemplated by them. With that view I now recommend the subject to their consideration. They will have an opportunity, at the same time, of considering how far other provisions of the act may be rendered more clear and precise in their import.

JAMES MADISON.

14th CONGRESS.]

No. 319.

[2d SESSION.]

LOSS OF THE SHIP LIBERTY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1816.

Mr. YANCEY, from the Committee of Claims, to whom was referred the report of the Secretary of State upon the petition and documents of William Haslett, of Philadelphia, reported:

That the circumstances of this case and its merits are briefly detailed in the annexed report from the Secretary of State, which the committee adopt as part of their report.

The Committee of Claims concur in opinion with the Secretary of State, so far as regards the value of the ship Liberty, and therefore report a bill to that effect.

The SECRETARY OF STATE, to whom was referred, by an order of the House of Representatives, the petition of William Haslett, has the honor to report:

That it appears, from documents deposited in the Department of State, that the ship Liberty, belonging to the said William Haslett, was captured in the month of December, 1809, on a voyage from Cagliari to Gibraltar, by a French cruiser, and carried into Tunis, where she was sold at public auction, under a decision of the French consul at that place, on the 8th of January following. That the minister of the Bey became the purchaser. That this Department possesses no information by which a correct opinion can be formed of the circumstances connected with this voyage, or of the grounds on which the French consul proceeded to sell the vessel. That, shortly after the sale, the vessel departed from Tunis to Malta under Tunisian colors, and was there attached, at the instance of the American consul, acting as agent for the original owners, by an order of the Consolato del Mare, the British vice-admiralty court in the island having declined to interfere. That the Bey of Tunis, being apprized of this interposition of the American consul at Malta, ordered the citizens of the United States then at Tunis to be arrested, and all the American property there, amounting to about two hundred and fifty thousand dollars, to be sequestered. That Charles D. Coxe, the agent of the United States at Tunis, remonstrated against this proceeding, but was told by the Bey that he would not release the citizens of the United States or their property until the ship which sailed under his flag was restored. That Mr. Coxe thereupon hastened to Malta, with the view of obtaining the restoration of this vessel to the Tunisian claimant, and succeeded by prevailing on the American consul at that place, and the former supercargo of the vessel, who was then there, to relinquish their claim at a time when there was good reason to believe that she would have been restored to them by the decree of the court, as will more fully appear from the accompanying papers, marked A, B, and C.

On a full consideration of these circumstances, the Secretary of State is of opinion that the said William Haslett has an equitable claim on the United States for indemnity for the loss which he sustained by the relinquishment of his claim to the ship Liberty, at the instance of the agent of the United States.

All which is respectfully submitted.

JAS. MONROE.

DEPARTMENT OF STATE, WASHINGTON, April 10, 1816.

A.

Extracts of letters from C. D. Coxe, Esq., American Consul for Tunis, to the Secretary of State, bearing date

MALTA, August 26, 1810.

I arrived at this place on the 22d instant, in the schooner Hamilton, Captain Whitlock, as a flag of truce from Tunis, in consequence of an unfavorable change in the situation of our affairs in that Regency, with the expectation of making some arrangement whereby the difficulty which has taken place may be amicably adjusted,

On the 14th instant his excellency the Bey sent a messenger to request my presence at the palace. I accordingly presented myself, and he informed me that, in consequence of the seizure of a vessel belonging to him, and bearing his flag, through the interference of Mr. Pulis, the American consul at Malta, he had given orders to arrest all the Americans, and to sequester all their property in the kingdom of Tunis, which he would hold until he received full satisfaction from the United States, considering them responsible for the acts of their public agents.

The vessel alluded to was the ship *Liberty*, of Philadelphia, belonging to William Haslett, of that place, which had been taken by a French privateer, brought to Tunis, and sold by order of the French consul at public auction. The first minister of the Bey was the purchaser; and she afterwards proceeded to Malta under Tunisian colors, where she arrived, without interruption, in the month of May last. Mr. Pulis, the American consul, applied to the Maltese court, or *Consolato del Mare*, (as the British vice-admiralty court would not interfere,) and claimed the ship for the original American owners. His excellency the Bey, on being informed of this, took the measures before related. He not only regards this as a loss of property, but as an insult offered to his flag, and will view it as a declaration of war if the ship should not be restored to him, with damages for detention. He insists on the right of purchasing prize vessels at auction, or any others offered for sale in his kingdom, and that his flag shall protect them.

AUGUST 28, 1810.

On my arrival here I found Mr. Forsyth, the supercargo of the ship *Liberty*, had proceeded so far in his suit against the Tunisian holders of that vessel as to render a decision in his favor highly probable, which would infallibly have involved the United States in a war with Tunis. I therefore thought it my duty to get over the embarrassment on the best terms in my power; and, after considerable difficulty, succeeded in persuading Mr. Forsyth to relinquish his claim, which he at length agreed to, on my reimbursing him for the expenses he had actually incurred in prosecuting the suit, amounting to \$400, and on my giving him a letter to the honorable the Secretary of State, relating the circumstances and the merit of his giving up his claim, to which he was in a great measure induced from the laudable motive of good to his country.

Before I left Tunis I had the solemn assurance of his excellency the Bey, that, in case the vessel was restored to him, he would immediately release the Americans and their property from arrest, and we should be again on the same favorable terms as before; but that he would reserve the right of demanding from the United States the amount of the expenses his ambassador at Malta had been at in defending the ship.

The Maltese court grounded their proceedings on the principle that the ship was sold to the Bey's minister by the French consul, who, the judges maintained, had no legal right of either condemning or selling prize property; but I believe, in fact, their motive originated in an ancient animosity against the Barbary Powers, which they appear to have inherited from their ancestors.

B.

MALTA, August 28, 1810.

SIR:

The ship *Liberty*, belonging to Mr. William Haslett, of Philadelphia, having been captured by a French cruiser on a voyage from Cagliari to Gibraltar, in December last, and brought into Tunis, was sold at public auction, by order of the French consul at that place, on the 8th day of January following. The purchaser, it appears, was the prime minister of the Bey of Tunis. Some time in the beginning of May this vessel was despatched for and arrived at this place, under Tunisian colors, at which time William Forsyth, the supercargo, (and bearer hereof,) being on his way to Gibraltar, received advices from hence that his presence alone was wanting in order to identify the ship, and take possession of her again for account of the original concern. He accordingly came to Malta, and obtained an order to sequester the said ship *Liberty*; and, having produced documents and witnesses to identify the same in the most incontestable manner, was about to have a decision of the Maltese court, (*Consolato del Mare*,) restoring her to her original owners, in consequence of the holders having no legal document to keep possession of her.

On the 22d instant I arrived at this place from Tunis, with the expectation of being able to make some amicable arrangement, his excellency the Bey having positively assured me that if the ship was not immediately restored to the Tunisian subject, he would confiscate all the American property in his kingdom, to the amount of \$250,000, which he absolutely sequestered on the 14th instant; having also arrested the persons of the Americans who happened to be at Tunis, and further declared that, in consequence of a non-compliance with his demand, he would take such other steps as he should deem necessary.

Mr. Forsyth, therefore, in conjunction with Joseph Pulis, Esq., consul of the United States at Malta, taking the business into their most serious consideration, and in order to have the above-mentioned property under sequestration and the persons of the Americans released, and more especially, if possible, to avert a war between the two countries; and considering also the number of American vessels about to depart from this place, which would be subject to capture in case of further hostility on the part of the Bey, have jointly agreed to release the said ship, for the weighty reasons above specified, under full expectation of remuneration from the Government of the United States.

Since my arrival here, I have been fully convinced of the original claim being established in the said ship *Liberty*, which would have been recognised and confirmed by the Maltese court, had not Mr. Forsyth, together with the American consul here, withdrawn their claim and restored the vessel, which the necessity of the case absolutely required, it being the only alternative whereby a very heavy calamity has been prevented, which otherwise would inevitably have ensued.

You will, no doubt, sir, under all the circumstances attending this case, see the propriety of reimbursing the concern of the *Liberty*; and I beg leave to repeat that, if that ship had not been restored to the Tunisians, the whole of the American property at Tunis would have been immediately confiscated, and further acts of hostility on the part of that Regency [committed.] I have, therefore, in consequence, promised much on the part of the United States, and beg leave to conclude, with a full confidence that ample justice may be done to the concern of the *Liberty* for their compromising this business, which has thus enabled me to restore the good understanding and friendly intercourse between the United States and his excellency the Bey and Regency of Tunis.

With the highest respect and esteem, I have the honor to be, sir, your most obedient, humble servant,
C. D. COXE.

C.

I, Joseph Pulis, Esquire, consul for the United States of America at the island of Malta, Gozo, &c. &c. &c., do hereby certify that, in pursuance of a letter received from William Forsyth, supercargo of the ship *Liberty*, of

Philadelphia, bearing date the 4th of July last past, I commenced a suit, in conjunction with him, the said William Forsyth, in the court of the Consolato del Mare of this place, for the recovery of the ship Liberty aforesaid, recently arrived in this port under Tunisian colors, in behalf of the former owner thereof, William Haslett, a citizen of the United States of America, and resident merchant of Philadelphia aforesaid, and whilst there was every appearance that a decision of the court was soon to take place in favor of our claim, (in consequence of the holder of the Liberty having no legal documents to keep possession of her,) having arrived in this island Charles D. Coxe, Esq., chargé d'affaires for the United States near his excellency the Bey and Regency of Tunis, and having by his official letter, dated 22d August, 1810, informed me that, in consequence of the proceedings which were thus instituted at Malta against the said ship, the Bey of Tunis had given orders to arrest all the Americans, and sequester all their property in his kingdom, which amounted to about \$250,000, and that he would view it as a declaration of war on the part of the United States, if the ship was not immediately restored to him, I, in order to preserve the friendship and good understanding that has hitherto subsisted between the two Governments, and particularly to have the persons and property of the American citizens under arrest and sequestration liberated, and to avert a war, of which there was every appearance, did (by the consent of said William Forsyth) withdraw my claim, and, in consequence of which, the vessel in question was restored and given up to the Tunisian owners.

In witness whereof, I have hereunto set my hand, and caused the seal of the consulate of the United States of America at this island to be affixed hereto. Given at Malta, the twenty-second day of September, one thousand eight hundred and ten.

JOSEPH PULIS.

14th CONGRESS.]

No. 320.

[2d SESSION.]

REVISION OF THE ACT AUTHORIZING PAYMENT FOR PROPERTY DESTROYED BY THE ENEMY DURING THE WAR WITH GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 17TH DECEMBER, 1816.

Mr. YANCEY submitted the following report:

The Committee of Claims, to whom was referred the message of the President of the United States of the 6th of December, 1816, recommending a revision and amendment of the act of Congress passed on the 9th day of April last, "authorizing the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," have had the same under consideration, and report:

To enable the committee to decide on the necessity of an alteration in any of the provisions of the act, it was necessary first to understand the construction which it had received from the commissioner appointed to carry it into effect. For this purpose the chairman of the committee, under their instructions, addressed a letter to Richard Bland Lee, Esq., requesting his attendance before them, to give them such information upon the subject of their inquiry as his experience under the act could afford. Mr. Lee accordingly attended; and from a conversation with him, generally, upon the provisions of the act, the committee were decidedly of opinion that he had given, and was still disposed to give, to the law, an extension of construction not contemplated by Congress at the time of its passage, and not warranted by its object. Among the adjudications made by the commissioner, there are several which have been examined by the committee, and, in their opinion, not authorized by the law. The first case to which their attention was called was the case of Daniel Carroll of Duddington, who, together with others, owned a house in the city of Washington, called Tomlinson's hotel. A part of this house was occupied by two families on the evening of the 23d of August, 1814, at which time the remainder of the house, being unoccupied, was taken possession of by a troop of cavalry, and some militia from Virginia, on their way to join that part of the army commanded by General Winder, and then in the vicinity of the city. Some of the militia continued in possession of that part of the house, unoccupied by any family, until 11 or 12 o'clock on the 24th. On that evening the British army, commanded by General Ross, entered the city; and it is proved, by some men who say they then belonged to the British army, that, in consequence of its appearing to the officers that troops had occupied the house, it was burnt. No other person who lived in the house or about it has proved the cause of its destruction. It is believed that, under a rigid and proper construction of the law, this claim ought not to have been allowed. The ninth section of the act authorizes payment for a house or building destroyed by the enemy while the same was occupied as a *military deposit*, under the authority of an officer or agent of the United States, if it shall appear that such occupation was the cause of its destruction. A mere temporary occupation of the house for one night and a part of the next day, by one or two companies of militia, cannot impart to the house even the character of barracks, but much less that of a military deposit. It is not for the committee to decide upon this occasion upon the merits of Mr. Carroll's claim, or of what would have been its fate upon an application to Congress; but they are fully persuaded that a sound construction of the act would not authorize its payment. The amount of the claim is \$27,093 50; the most objectionable part of which is a charge for rent of the house from the 24th of August, 1814, to the 24th of August, 1816, at \$3,200.

The second, was the case of Tench Ringgold & Co. Mr. Ringgold, W. and C. Smith, and Philip B. Key, owned an extensive ropewalk, with a house on the same lot, and not far distant from the walk, in the city of Washington. It appears, from evidence filed with the commissioner, that the owners of the ropewalk had been in the habit of manufacturing cordage for the navy of the United States upon contracts made with the Secretary of the Navy. In the year 1811 a cable belonging to the United States, then lying in the navy yard, had one of its strands accidentally cut by a carpenter; it was taken to the ropewalk to have it cut, and a new one put to each end. One end of the cable was afterwards, in the latter part of the year 1811, removed to the navy yard, and the other continued in or about the walks. On the 25th of August, a British officer and a party of men went to the ropewalk, broke open one of the doors, and the officer ordered one of the men to set fire to some yarns which were stretched in the walks, and which the master workman states were to have been manufactured into

cables for the Government. The person who had care of the ropewalks remonstrated against the conduct of the officer, and assured him that it was the property of a private citizen; to which he replied that he did not wish individuals to suffer, but that he should destroy all houses and property which were engaged in public work, and that he knew or believed the yarns in the ropewalks were intended for public use, and that the walks at that time were employed in public work. At the same time he ordered the house not far distant to be fired, but, upon examination, finding that it was occupied by the master workman of the walks, and not occupied as a storehouse, it was not fired at that time; while the walk, however, was burning, the house caught fire and was destroyed. The value of the ropewalk, and the property that was in it, and the house, amounting to \$17,612 39, has been awarded to the owners, upon the ground that the ropewalk and house constituted a *military deposite*—an adjudication, in the opinion of the committee, most erroneous and improper.

Another decision which has been made by the commissioner, the committee are of opinion is much more erroneous and improper than either of the two which have been mentioned. It is the case of William O'Neale and Robert Taylor. The evidence before the commissioner, and which he has submitted to the committee, was the *certificate* of Solomon Frazier, stating that he was a lieutenant in the flotilla service under the command of Commodore Barney, and that, pursuant to the commander's orders to him, he ordered the schooner Islet, belonging to O'Neale and Taylor, to be sunk in the Patuxent, to prevent her falling into the possession of the enemy, on the 22d of August, 1814, she then having on board property of the United States. The owners of this vessel are allowed \$4,000, that being the valuation according to affidavits filed with the commissioners. According to the adjudication, this claim was allowed, under the third section of the act which authorizes payment for property *only* in those cases where the injury has been produced by capture, destruction, or loss *by the enemy*.

The case of O'Neale and Taylor was before the Committee of Claims of the last session of Congress, and by them reported to the House of Representatives. That report, together with the evidence upon which it was made, except the official statement of Commodore Barney, (which, according to the letter of the Secretary of the Navy of the 16th of December, 1816, is now in the possession of William O'Neale,) is annexed to this report. [See report of committee, No. 281, p. 454.]

Considering the extended construction which has been given to the law, and the erroneous decisions made under it, the committee are of opinion that the act should be so amended as to repeal a part of its provisions, and transfer the settlement of claims under it to the War Department. They are the more induced to recommend this course, because the cases provided for will there be determined, according to uniform principles observed in the settlement of claims under the control and responsibility of the head of that Department, and will pass through the several offices in the usual way of transacting business, and subject to the usual checks known to be so salutary in the settlement of accounts. They therefore report a bill to that effect.

SIR:

NAVY DEPARTMENT, *December 16, 1816.*

In compliance with your request of the 13th instant, I have the honor of transmitting to you copies of letters, &c. numbered 1 to 5,* in relation to the claim of William O'Neale and Robert Taylor.

The report made during the last session was suspended several days, in order to obtain the statement from Commodore Barney; and, at the time it reached the Department, other business pressed so urgently that the original statement of the commodore was sent, with the other papers, without having taken a copy; and this particular document is known to be at this time in the possession of William O'Neale.

The original proposition of Mr. O'Neale to hire his vessel was at twelve dollars per day, he to find men and provisions, and to run all risks. The agreement was concluded verbally with Commodore Barney at ten dollars per day; and the confusion existing at that time prevented its being committed to writing.

The orders of Commodore Barney to Lieutenant Frazier of the flotilla were, upon a particular contingency, to burn the barges, &c. under his charge; no allusion was made to the schooner Islet, that vessel being considered from the beginning at the sole and exclusive risk of the owner; and the certificate obtained from Lieutenant Frazier forms the only pretence for O'Neale and Taylor's claim.

The vessel cannot be fairly considered as discharged from the service previously to being sunk, as there were then, and are now, some ordnance, shot, &c. on board; but the whole time of said vessel's being used, estimated at forty-six days, has been paid for by this Department, and no further demand was then suggested.

I have the honor to be, with great respect, sir, your obedient servant,

B. W. CROWNINSHIELD.

HON. BARTLETT YANCEY, *Chairman of the Committee of Claims.*

SIR:

NAVY DEPARTMENT, *December 30, 1815.*

I have the honor to submit the following statement, with papers numbered 1 to 5*, in answer to the request of the Committee of Claims, by your letter of the 19th instant, relative to the claim of William O'Neale and Robert Taylor.

The statement of Commodore Barney was deemed necessary to explain the precise terms of agreement, which was made verbally, on account of the extreme pressure of the time. When the British squadron entered the river Patuxent, and blockaded the flotilla under the command of Commodore Barney, the schooner Islet, Captain Taylor, being then in the river, was exposed to capture and destruction by the enemy; and, to avoid these as well as to find employment and protection for the schooner, Mr. O'Neale made an offer of his vessel for the temporary service of the Navy Department. The letter of Mr. Secretary Jones (No. 2) will explain this, and the subsequent transactions are fully explained by Commodore Barney, in paper No. 3. In consequence of some stores, shot, &c. having been sunk in this vessel, orders were given to Captain Spence, (see paper No. 4,*) to have the vessel raised; which circumstances prevented being done last summer, and no definite report upon that subject has been received from Captain Spence. If the vessel can be raised next season, further orders will be given to that effect; but it will be previously ascertained whether the expense may not exceed the value of the United States property on board. The Navy Department considers itself *not bound* to raise the vessel for Mr. O'Neale; the inducement will be the value of the naval stores on board.

All which is respectfully submitted.

B. W. CROWNINSHIELD.

HON. B. YANCEY, *Chairman of the Committee of Claims.*

* Nos. 1, 4, and 5, are omitted.

No. 2.

SIR:

NAVY DEPARTMENT, June 7, 1814.

Since mine of yesterday, I have seen Mr. O'Neale and the captain of the schooner you wish to hire for a store-ship.

The captain will hand you this letter, and you will hire the vessel of him, by the month, for such time as you may require her service, and on the best terms you can agree for.

Mr. O'Neale has offered her to me at the rate of twelve dollars per day, free of all other charge and responsibility on the part of the United States; the same captain to command her, and the vessel to be navigated by a sufficient number of hands to your satisfaction, and at the sole expense and charge of her owners. I preferred leaving the contract to you, and you will act accordingly.

I am, respectfully, your obedient servant,

W. JONES.

Captain JOSHUA BARNEY, *Commanding U. S. flotilla, Patuxent river.*

No. 3.

United States Navy Department, for the use of the flotilla, to O'Neale and Taylor.

DR.

JULY 7, 1814.

To forty-six days of service for the schooner Islet, Captain Robert Taylor, from the 7th day of July
till the 22d of August, inclusive, at \$10 per day, - - - - - \$460 00

Approved:

JOSHUA BARNEY.

Received, September 26th, 1814, a warrant on the Treasurer of the United States, No. 4,673, for \$460, in payment of the within account.

W. O'NEALE & TAYLOR.

SIR:

OFFICE OF CLAIMS, &c., WASHINGTON, October 2, 1816.

Having adjudged to Messrs. William O'Neale and Robert Taylor, the owners of the schooner Islet, sunk in the Patuxent, by orders of Commodore Barney, during the late war, while in the service of the United States, the value of the said vessel, I consider it my duty to apprise you of the circumstance, as from this date the said vessel in her present condition must be regarded as the property of the nation.

Mr. O'Neale informs me that he has been informed that there are in her hold from twenty to thirty tons of cannon ball, and one or two cannon.

It will rest with you to decide whether any attempt should be made to save the vessel and the articles in her hold.

I am, with great consideration and respect, your most obedient servant,

RICHARD BLAND LEE.

Hon. BENJAMIN CROWNINSHIELD, *Secretary of the Navy.*

SIR:

NAVY DEPARTMENT, October 4, 1816.

I have the honor to acknowledge the receipt of your letter of the 2d instant, notifying the Secretary of the Navy of your having awarded the value of the schooner Islet to William O'Neale and Robert Taylor, the owners, as having been sunk in the Patuxent, by order of Commodore Barney, during the late war. In the absence of the honorable Secretary of the Navy, I deem it to be my duty to transmit to you the enclosed copy of a report made to a committee of Congress at the last session upon the subject of the above claim, and to state to you that the sum of \$480* was paid for the hire of said schooner since she was sunk. I presume, sir, you have been put in possession of all the documents relating to this case, upon which to found the award mentioned in your communication to this Department.

I am, very respectfully, &c.

BENJAMIN HOMANS, *for the Secretary of the Navy.*

RICHARD BLAND LEE, Esq.

Commissioner of Claims, Washington.

14th CONGRESS.]

No. 321.

[2d SESSION.]

MONEY LOST BY A RECRUITING OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 20TH DECEMBER, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of John A. Thomas, of New Haven, in the State of Connecticut, reported:

That the petitioner was a captain in the army of the United States during the late war, and, in that capacity, several thousand dollars were advanced to him for his own pay and the recruiting service. On the 28th of December, 1814, while attempting, as he states upon oath, to enlist some recruits in the ship of one John Anthony in New Haven, some person, as he supposes, stole from his pocket his pocket-book containing a number of papers and the

* The original account not being at hand when this letter was written, a mistake was made in the number of days, which caused this sum to be overstated twenty dollars.

sum of \$650, which has been retained by the Government out of his pay upon a settlement of his account. He prays that Congress would allow him that sum.

The committee are of opinion that there are no particular circumstances in this case which would warrant a departure from that rule heretofore established by Congress in regard to officers and agents of the Government who have received public money. It is a rule founded in public policy, and without which the United States would be always subject to imposition and fraud. In many instances it operates hardship and inconvenience on particular individuals, but in general it is productive of more *good* than injury. The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 322.

[2d SESSION.]

LOSSES OF AN ASSISTANT COLLECTOR OF INTERNAL DUTIES AND DIRECT TAX IN MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 20, 1816.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of James Goddard, of the State of Maryland, reported:

That, in the year 1814, the petitioner was an assistant collector in the fifth collection district of the State of Maryland, and at that time resided in Upper Marlborough. He states that, for the necessary and convenient management of the duties of his appointment, he usually kept in his house a number of papers belonging to the office of the collector; and that, upon the approach of the enemy to the town in the month of August, 1814, he took the precaution to convey to a place of safety, about eight miles distant, all the papers relating to the revenue, except some stamp paper, which was closely and secretly locked up in his desk at home. When the enemy came to Upper Marlborough, they destroyed his house and property, and the petitioner states that he believes it was in consequence of his being a collector of the revenue. He prays that Congress would pay him the value of his property.

This case involves the same principle which has often been decided by Congress. The property of the petitioner was *private* property, and, according to the usages of civilized warfare, entitled to protection. Upon this ground, the committee are of opinion that, according to decisions heretofore made by Congress, the petitioner is not entitled to relief, and, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be allowed.

14th CONGRESS.]

No. 323.

[2d SESSION.]

COMMISSIONS OF A COLLECTOR OF INTERNAL DUTIES AND DIRECT TAX IN PENNSYLVANIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1816.

Mr. LOWNDES, from the Committee of Ways and Means, to whom had been referred the petition of James Humes, reported:

That the petitioner has been for some years the collector of the revenue for the sixth collection district of Pennsylvania. The commissions charged by him on the internal duties which he received in the year ending on the 31st of December, 1814, amounted, exclusive of official expenditures, to \$1,716. From this charge \$1,142 have been deducted by the Comptroller, on the ground of the money on which it was charged not having been accounted for (although certainly received) in the year 1814. The Comptroller's construction of the law is undoubtedly correct, and the only question for the Legislature to determine is, whether it will relax the rigor of the rule in behalf of the petitioner. In favor of such a measure two reasons seem to be suggested: 1st. That the commissions ought in fairness to accrue on the receipt of the money; but the law has provided that they shall accrue only upon the money accounted for, (and properly so, in the opinion of the committee,) in order to encourage promptness in the rendering of accounts. 2d. That the reason which prevented the accounts being completed was, an attention to the convenience of the district, and to the interest of the United States; but the rule would lose all its value if the suggestion of these considerations were enough to induce the House to relax it. The inadequacy of his emoluments, unless this relaxation take place, is strongly urged by the petitioner, who probably received for the year 1815 about \$2,700, (the amount is not exactly stated,) while for equal labor in the preceding year his commissions have not exceeded in their clear amount \$574. But the commissions on the money accounted for must be considered as the compensation allowed for receiving and accounting, and the labor of the collector for the year 1814 received its compensation in part from the commissions of 1815. The committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 324.

[2d Session.]

PROCEEDINGS OF THE COMMISSIONER APPOINTED UNDER THE ACT FOR THE PAYMENT FOR PROPERTY TAKEN OR DESTROYED BY THE ENEMY DURING THE WAR WITH GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1816.

To the House of Representatives of the United States:

DECEMBER 21, 1816.

In compliance with the resolution of the House of Representatives of the 6th instant, I transmit to them the proceedings of the commissioner appointed under the "act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," as reported by the commissioner to the Department of War.

JAMES MADISON.

DECEMBER 20, 1816.

The Acting Secretary of War has the honor to submit to the President the report made by the commissioner of claims relative to his proceedings under the act "authorizing the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes."

GEO. GRAHAM.

OFFICE OF CLAIMS, &c., WASHINGTON, *December 17, 1816.*

The commissioner appointed pursuant to the law entitled "An act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," in obedience to a letter from the Acting Secretary of War, enclosing a resolution of the House of Representatives passed on the 6th instant, in the following words: "*Resolved*, That the President of the United States be, and he is hereby, requested to lay before this House the proceedings of the commissioner appointed under the act passed at the last session, entitled 'An act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes,'" respectfully reports:

That, as soon as he received from the President a notification of his appointment, he proceeded to the execution of the initiative duties required from him, by preparing such rules and regulations relative to the mode of presenting claims and taking and authenticating evidence as appeared to him to be necessary; which rules and regulations, having been approved by the President, were published in the form of notices, as enjoined by the said act, on the 3d and 24th of June last.

In forming these rules and regulations, the commissioner endeavored to enter into the views of the Legislature, by giving such an interpretation to the provisions of the said act as might secure substantial justice to the sufferers intended to be relieved, and, at the same time, guard against fraud and imposition. On this part of the subject he begs leave to refer to a copy of the said notices, in paper marked A.

The multifarious losses which it appears to have been the intention of the Legislature to provide for, required no little attention to separate and define. The first section of the act being confined to "volunteers or draughted militiamen, whether of cavalry, mounted riflemen, or infantry," and limited to the payment for horses only, admitted of an easy interpretation; as did also the second section, confined to "cavalry, mounted militia, or volunteers," which the commissioner construed also solely to apply to persons belonging to corps not in the regular service, though the word "cavalry," used in contradistinction to "mounted militia or volunteers," may, at first view, seem to indicate a different meaning, and to be intended to extend also to cavalry in the regular service. This section too relates solely to the loss of horses.

The third section taking a larger scope, and involving a variety of cases, he found it more difficult to satisfy himself as to its true import. The words of this section are, "that any person who, in the late war aforesaid, has sustained damage by the loss, capture, or destruction by an enemy of any horse, mule, or ox, wagon, cart, boat, sleigh, or harness, while such property was in the military service of the United States, either by impressment or contract, except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner, if it shall appear that such loss, capture, or destruction was without any fault or negligence on the part of the owner, and any person who, during the time aforesaid, has sustained damage by the death of any such horse, mule, or ox, in consequence of failure on the part of the United States to furnish the same with sufficient forage while in the service aforesaid, shall be allowed and paid the value thereof."

The commissioner was at first disposed to consider the first clause of this section as providing only for such injuries as proceeded from the acts of an enemy. But inasmuch as damage by an enemy must almost universally happen in two ways, either "by capture or destruction," and as there were many other losses sustained by our citizens, "without any fault or negligence on the part of the owner," such, for instance, as wagons and teams lost by being forced to attempt to pass streams not fordable, contrary to the opinion of the owners, by the compulsive orders of military commanders, on further reflection, he was inclined to give this clause a more extended meaning, and to consider the word "loss" as intended to be contradistinguished from the words "capture or destruction by an enemy," and to denote such injuries as might have happened in a manner other than "by the capture and destruction of an enemy," but "without any fault or negligence on the part of the owner." But the opinion of the Executive Government being in favor of adhering to the first interpretation, the commissioner has felt it his duty to conform his adjudications thereto. (See paper marked B.)

The two first sections of the act being strictly confined to military corps other than regulars, the change of expression in the third section, in which the broad words "any person" are used, seemed to denote that its provisions were intended to apply to every description of citizens, whether they belonged to the regular army, or to the militia, or volunteers; and inasmuch as the militia and volunteers, while in actual service, received the pay and emoluments of regulars, the commissioner ultimately inclined to the opinion that losses happening under similar circumstances to persons engaged in either service were intended to be provided for. The word "contract" appeared to him to be of extensive import; and in every case as well in the regular as in the militia or volunteer service, in which the

rank of the officer required that he should furnish himself with a horse; that, by accepting of his appointment, he entered "into a contract" with the Government to do so; and having done so, provided such horse died in consequence of a failure on the part of Government to furnish sufficient forage, or was taken by the enemy, that a regular officer ought to be paid for his horse in the same manner as if he had belonged to the militia or volunteer corps. But on this point the Executive Government having considered the regular officer as excluded from this benefit, the commissioner has felt it also his duty to adapt his adjudications to that opinion. (See paper marked B.)

The fourth section admitted of an easy interpretation, applying solely to the loss of "arms and military accoutrements" of volunteers or draughted militiamen who had furnished themselves with the same.

The fifth section is in these words: "That, where any property has been impressed or taken by public authority, for the use or subsistence of the army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof, deducting therefrom the amount which has been paid for the use and risk of the same while in the service aforesaid."

This section has been construed to apply to all property, real, personal, or mixed, which has been impressed or taken by public authority, without the consent of the owner. (See papers marked A and B.)

The ninth section of the law providing for losses of greater magnitude, and necessarily involving the payment of large sums of money, the commissioner endeavored to avail himself of every assistance which appeared to be within his reach, to enable him to give it a fair, a reasonable, and a just interpretation. With this view, erroneously supposing that he had a right to do so, he addressed to the Attorney General, the great law officer of the Government, the letter marked C; in reply to which he received the answer marked D.

Having been disappointed in obtaining this important aid, the commissioner, regarding the office which he filled as a kind of appendage to the Department of War, addressed to the Secretary thereof the letter marked E, enclosing copies of his correspondence with the Attorney General.

From this officer the commissioner indulged the hope that he should receive such an exposition as would enable him to fulfil the views of the Legislature, by affording a just redress to the sufferers intended to be relieved. Nor was this expectation disappointed, when the Secretary, after due consideration, and no doubt consulting the best opinions, addressed to him on the 7th of September a note in the following words:

Sir:

DEPARTMENT OF WAR, *September 7, 1816:*

The President has been pleased to direct that the occupation of houses and buildings by the military force of the United States is embraced by the ninth section of the act "to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," and that compensation shall be allowed for damage sustained in consequence of such occupancy, in the same manner as if such houses and buildings had been occupied as a military deposite, under the authority of an officer or agent of the United States.

I have the honor to be your most obedient and very humble servant,

WM. H. CRAWFORD.

RICHARD BLAND LEE, Esq.

Commissioner for settling claims for property lost, &c.

The commissioner considered this letter as sanctioning his own interpretation of the ninth section of the said law; and it was not till after he received this note, that he felt himself authorized to give to it a practical construction by a formal adjudication.

On the 21st of October the commissioner received from the Department of War, as the organ of the Executive Government, a more general interpretation of the law, in the following words:

WAR DEPARTMENT, *October 21, 1816.*

Pursuant to the eleventh section of the act making provision for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes, the President has been pleased to direct—

That the first and second sections of the said act do not embrace the case of officers of the regular army, and that the property which a regular officer may have taken with him in the service, or which he may have been required by law to keep, is not comprehended by the terms "impressed or by contract," used in the third section.

That the provisions of the third section extend only to losses resulting from the acts of the enemy, or from the failure of the Government to supply the necessary forage.

That the ninth section of the act extends only to cases of destruction of property by the enemy, which are justifiable by the laws of civilized warfare. The occupation of houses or buildings as places of military deposite, or by an armed force, must be continued up to the time of the destruction. That the occupation of houses or buildings by an armed force for a night upon a march, is not within the meaning of the said section, unless in the immediate presence of an enemy. That no compensation by way of interest, rent, or damage, can be allowed, under the act, for the time which elapses between the destruction of the property and the decision of the commissioner.

That the act does not extend to the case of consequential injury resulting from the destruction of houses or buildings under the ninth section.

No compensation can, therefore, be allowed for the destruction of houses or buildings not occupied as a military deposite or by a military force.

That, in all cases of doubt, or of great importance, the commissioner shall submit the evidence to the Executive before any decision is made.

WILLIAM H. CRAWFORD.

RICHARD BLAND LEE, Esq., *Commissioner, &c.*

The commissioner will close this subject, by referring to his correspondence with the Department of War, marked F.

The number of adjudications made and entered by him since the 1st July, under special acts, and under the general law of the 9th of April last, amount to eight hundred and fifty; the total sum awarded, to \$229,693 15.

The proofs, in every case decided by the commissioner, are put into a trunk, the key of which will be delivered to the Acting Secretary of War; which papers are so sent in conformity to the direction of the President, and pursuant to a letter from the Acting Secretary of War, bearing date on the 16th instant; a copy of which letter is referred to in paper marked G.

In the office a record of all the adjudications was made, and the evidence in each particular claim was filed with it. The office was at all times open, and free liberty allowed to every citizen to examine either the adjudications or the evidence.

All which is most respectfully submitted.

RICHARD BLAND LEE, *Commissioner, &c.*

P. S. The commissioner thinks proper to send a copy of his letter to the Secretary of the Navy, in the case of William O'Neale and Robert Taylor, dated on the 2d of October* last, marked H.

He also begs leave to refer to certain acts passed at the last session of Congress; many, if not all, of which he considered as contemporaneous expositions of the law which created this office:

An act for the relief of William Flood.

An act for the relief of the supervisors of the county of Clinton, in the State of New York.

An act for the relief of Joseph Wilson.

An act for the relief of Asher Palmer.

An act authorizing the payment for the court-house of Hamilton, in the State of Ohio.

An act for the relief of the president and directors of the Washington Bridge Company.

An act for the relief of Charles Todd.

An act for the relief of Paul D. Butler.

An act for the relief of Charles Ross and Samuel Breck, surviving executors of John Ross, deceased.

A.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.

WASHINGTON, June 3, 1816.

Notice is hereby given, pursuant to the act of the United States passed the 9th of April last, entitled "An act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," that all claims provided for by the said act must be presented at this office on or before the 9th day of April, in the year 1818, as, if not presented within that period, they cannot be received, examined, and decided on at this office.

First class of cases.

The claims provided for by the said act are, first: "Any volunteer or draughted militiaman, whether of cavalry, mounted riflemen, or infantry, who, in the late war between the United States and Great Britain, has sustained damage by the loss of any horse which was killed in battle, or which has died in consequence of a wound therein received, or in consequence of failure on the part of the United States to furnish such horse with sufficient forage while in the service of the United States, shall be allowed and paid the value of such horse." This provision comprehends three descriptions of cases:

1. A horse killed in battle.

2. A horse dying in consequence of a wound received in battle.

3. A horse dying in consequence of not being furnished with sufficient forage by the United States.

To substantiate a claim of either description:

1. The order of the Government authorizing the employment of the corps to which the original claimant belonged, or the subsequent acceptance of such corps, or approbation of its employment, must be produced.

2. The certificate of the officer, or surviving officer, commanding the claimant at the time of the accident on which the claim is founded, which certificate, if not given while the officer was in the service of the United States, must be sworn to; and in every case it must, if practicable, state the then value of the horse so killed or dying. Before any other evidence will be received, the claimant must make oath that it is not in his power to procure that which is above specified; and that the evidence which he shall produce in lieu thereof is the best which he is able to obtain. In every case the evidence must be on oath, and the value of the horse so killed or dying ascertained. All evidence offered must be taken and authenticated in the manner hereinafter directed; and in all these cases the claimant must declare on oath that he has not received another horse from any officer or agent of the Government in lieu of the one lost.

Second class of cases.

"Any person, whether of cavalry or mounted riflemen, or volunteers, who, in the late war aforesaid, has sustained damage by the loss of a horse, in consequence of the owner thereof being dismounted, or separated and detached from the same, by order of the commanding officer, or in consequence of the rider being killed or wounded in battle, shall be allowed and paid the value of such horse at the time he was received into the public service." This class comprehends two descriptions of cases:

1. When the owner has been dismounted, or separated from and detached from such horse, by order of the commanding officer.

2. When the rider has been killed or wounded in battle, and the horse lost in consequence thereof.

The same evidence, in all respects, which is required in the first class of cases, will be required in this.

Third class of cases.

"Any person who, in the late war aforesaid, has sustained damage by the loss, capture, or destruction by an enemy of any horse, mule, or ox, wagon, cart, boat, sleigh, or harness, while such property was employed in the military service of the United States, either by impressment or by contract, except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner, if it shall appear that such loss, capture, or destruction was without any fault or negligence of the owner, and any person during the time aforesaid, who has sustained damage by the death of such horse, mule, or ox, in consequence of failure on the part of the United States to furnish sufficient forage while in the service aforesaid, shall be allowed and paid the value thereof." This class comprehends two cases:

1. The loss or destruction of property by an enemy, taken by impressment, or engaged by contract, in the military service of the United States, being either a horse, a mule, an ox, wagon, cart, boat, sleigh, or harness, excepting articles for which the owners had agreed to run all risks, or which were lost or destroyed by the fault or negligence of the owners.

2. When a horse, mule, or ox, so taken or employed, has died from the failure of the United States to furnish sufficient forage.

In the first of these cases, the claimant must produce the certificate of the officer or agent of the United States who impressed or contracted for the property above mentioned, and of the officer or surviving officer under whose immediate command it was taken or destroyed by an enemy. Such certificates, if such officers or agents at the time of giving them be not in the military service of the United States, must be sworn to, and must positively state that the property was not lost or destroyed through the fault or negligence of the owner, and that the owner did not agree to run all risks. Furthermore, the usual rate of hire of the articles so impressed or contracted for in the country in which they were employed must be stated.

In the second case, the certificate of the officer or agent of the United States, under whose command such horse, mule, or ox was employed at the time of his death, must be produced.

Before any other evidence will be received, the claimant must make oath that it is not in his power to produce that which is above specified; and, further, that the evidence which he offers in lieu thereof is the best which he is able to obtain. In every case the evidence must state distinctly the time, place, and manner of the loss, and the value thereof.

Fourth class of cases.

"Any person who, during the late war, has acted in the military service of the United States as a volunteer or draughted militiaman, and who has furnished himself with arms or accoutrements, and has sustained loss by the capture or destruction of them, without any fault or negligence on his part, shall be allowed and paid the value thereof."

This class comprehends two cases:

1. The loss of such arms or accoutrements by the enemy.

2. The loss of the same articles in any other way, without the fault or negligence of the owner.

This provision does not include the clothing of soldiers, or the clothing and arms of officers who, in all services, furnish at their own risk their own. The same evidence, in all respects, is required in this as in the first class, and, moreover, that the loss did not happen from the fault or negligence of the owner.

Fifth class of cases.

"When any property has been impressed or taken by public authority for the use or subsistence of the army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof, deducting therefrom the amount which has been paid, or may be claimed, for the use and risk of the same while in the service aforesaid."

This provision relates to every species of property taken or impressed for the use and subsistence of the army, not comprehended in any of the preceding classes, and which shall have been in any manner destroyed, lost, or consumed by the army, including in its scope all kinds of provisions, forage, fuel, articles for clothing, blankets, arms, and ammunition; in fact, every thing for the use and equipment of an army.

In all these cases, the certificates of the officers or agents of the United States taking or impressing any of the aforesaid articles, authenticated by the officer commanding the corps for whose use they were taken or impressed, and, furthermore, of the officers and agents under whose command the same were destroyed, lost, or consumed, specifying the value of the articles so taken or impressed, and destroyed, lost, or consumed, and, if any payment has been made for the use of the same, and the amount of such payment, [must be furnished;] and if no payment has been made, the certificate must state that none has been made.

Before any other evidence will be received, the claimant must make oath that it is not in his power to procure that which is above specified; and, further, that the evidence which he offers in lieu thereof is the best which he is able to obtain.

Under this provision, no claim can be admitted for any article which has not been taken by the orders of the commandant of the corps for whose use it may be stated to have been taken. For any taking not so authorized, the party's redress is against the person committing it.

Sixth (and last) class of cases.

"Where any person, during the late war, has sustained damage by the destruction of his house or building by the enemy while the same was occupied as a military deposite under the authority of an officer or agent of the United States, he shall be allowed or paid the amount of such damage, provided it shall appear that such occupation was the cause of its destruction."

In this case the certificate of the officer or agent of the United States under whose authority any such house or building was occupied must be furnished. Before any other evidence as to this fact will be received, the claimant must make oath that it is not in his power to procure such certificate, and that the evidence which he shall offer in lieu thereof is the best which he is able to obtain.

Furthermore, in all the cases submitted to this office, every claim must be accompanied by a statement, on oath, by every claimant, of all sums which he may have received on account of such claim from any officer, agent, or department of the Government of the United States; and where he has received nothing, that fact also must be stated, on oath, by him.

It will be particularly noted by claimants that the preceding rules of evidence generally, and more especially, apply to claims which shall not exceed in amount two hundred dollars, and that, in all cases in which the claims in amount shall exceed two hundred dollars, a special commissioner will be employed to take testimony; but in these cases, as far as it shall be practicable, the same rules of evidence will be observed.

In all cases in which the officers or agents of the United States shall have taken or impressed property for the military service of the United States, which property, so taken or impressed, shall have been paid for by them out of their private funds, or the value thereof recovered from them in due course of law, such officers or agents are entitled to the same remuneration to which the original owners of the property would be entitled if such payment or recovery had not been made, and can settle their claims at this office, producing authentic vouchers for such payment or recovery. Nor will any original claimants be paid through this office till they release all claims against such officers or agents of the United States on account of such taking or impressment.

In every case, no claim will be paid but to the persons originally entitled to receive the same; or in case of his death, to his legal representative, or, in either event, attorney duly appointed. When attorneys shall be employed, it is recommended to the parties interested to have their powers executed in due form.

All evidence offered must be sworn to, except the certificates of officers who, at the time of giving them, shall be in the military service of the United States, before some judge of the United States, or of the States or Terri-

tories of the United States, or mayor or chief magistrate of any city, town, or borough, within the same, or a justice of the peace of any State or Territory of the United States duly authorized to administer oaths; of which authority proof must be furnished either by a certificate under the seal of any State or Territory, or the clerk or prothonotary of any court within the same. But the seal of any city, town, or borough, or the attestation of any judge of the United States, will require no further authentication.

An office is opened on Capitol hill, in the city of Washington, in the building occupied by Congress during its last session, for the reception of the foregoing claims.

The printers in the United States, or Territories thereof, who are employed to print the laws of the United States, are requested to publish this notice for eight weeks successively, once a week, and send their bills to this office for payment.

All persons who have business with this office are requested to address their letters to the subscriber, as commissioner, which will be transmitted free of postage.

RICHARD BLAND LEE, *Commissioner of Claims, &c.*

Explanatory supplemental rule.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.

WASHINGTON, June 24, 1816.

In all the cases comprised in the notice from this office of the 3d instant, the following supplemental regulation must be observed by every claimant, viz:

Whenever the evidence, on oath, of any officer of the late army of the United States shall be taken, or the certificate of any officer in service at the time of giving it shall be obtained, such evidence or such certificate must expressly state whether any certificate or other voucher, in relation to the claim in question, has been given within the knowledge of such officer. The claimant must also declare, on oath, that he has never received from any person any such certificate or voucher, or, if received, must state the cause of its non-production. In every case the name of the officer furnishing such certificate or voucher, together with its date, as near as can be ascertained, will also be required.

RICHARD BLAND LEE, *Commissioner of Claims, &c.*

B.

Copy of a letter from the Hon. William H. Crawford, Secretary of War, to the Commissioner.

WAR DEPARTMENT, October 21, 1816.

Pursuant to the eleventh section of the act "making provision for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," the President has been pleased to direct—

That the first and second sections of the said act do not embrace the cases of officers of the regular army; and that the property which a regular officer may have taken with him in the service, or which he may have been required by law to keep, is not comprehended by the terms "impressed or by contract" used in the third section.

That the provisions of the third section extend only to losses resulting from the acts of the enemy, or from the failure of the Government to supply the necessary forage.

That the ninth section of the act extends only to cases of destruction of property by the enemy which are justifiable by the laws of civilized warfare. The occupation of houses or buildings as places of military deposite, or by an armed force, must be continued up to the time of the destruction.

That the occupation of houses or buildings by an armed force for a night upon a march is not within the meaning of the said section, unless in the immediate presence of an enemy.

That no compensation, by way of interest, rent, or damage, can be allowed under the act for the time which elapses between the destruction of the property and the decision of the commissioner.

That the act does not extend to the case of consequential injury resulting from the destruction of houses or buildings under the ninth section. No compensation can, therefore, be allowed for the destruction of houses or buildings not occupied as a military deposite, or by a military force.

That, in all cases of doubt or of great importance, the commissioner shall submit the evidence to the Executive before any decision is made.

WILLIAM H. CRAWFORD.

RICHARD BLAND LEE, Esq., *Commissioner, &c.*

C.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.

WASHINGTON, July 1, 1816.

SIR:

Several claims have been submitted to me as provided for by the ninth section of the law of the United States entitled "An act to authorize the payment for property lost, captured, or destroyed while in the military service of the United States, and for other purposes." The words of the law are: "Where any person, during the late war, has sustained damage by the destruction of his or her house or building by the enemy, while the same was occupied as a military deposite under the authority of an officer or agent of the United States, he shall be allowed and paid the amount of such damage, provided it shall appear that such occupation was the cause of its destruction."

I find a difficulty in determining what shall be deemed "a military deposite" in the meaning of the law.

1. Must the term be limited to the storing of munitions of war?

2. Can it be extended to a military occupation, however transient, as quarters for soldiers for a month, a week, a day, or a less time?

3. In a day of battle, if soldiers retire to a house to use it as a fortress from which to annoy the enemy, without the order of an officer, will such occupation be within the meaning of the law?

4. In a day of battle, if soldiers occupy a house for such purposes by order of an officer, however inferior may be his grade, will such occupation be within the meaning of the law?

Your official answers to the foregoing questions will very much oblige your obedient servant,

RICHARD BLAND LEE.

The Hon. RICHARD RUSH, *Attorney General.*

D.

Copy of a letter from the Hon. Richard Rush, Attorney General, to the Commissioner.

SIR:

WASHINGTON, July 3, 1816.

I have had the honor to receive your letter dated the 1st of this month.

The thirty-fifth section of the act of Congress of the 24th of September, 1789, is the only law marking down the public duties to be performed by the Attorney General, and I have never felt myself at liberty to assume the responsibility of official opinions not enjoined by the terms or scope of that law.

I beg you, sir, to be assured that nothing but an unwillingness to depart from this rule (which has also, I believe, governed those who have heretofore been Attorney General) leads me to decline giving answers to the questions which your letter has propounded for my consideration.

With great respect, I am your most obedient servant,

R. B. LEE, Esq.

RICHARD RUSH.

E.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.

WASHINGTON, July 5, 1816.

SIR:

I enclose to you a copy of my letter of the 1st instant to the honorable Attorney General, and a copy of his reply of the 3d. Inasmuch as he declines answering the questions propounded to him, I must request from you such opinions and instructions on the subject as you may deem pertinent.

I have the honor to be, with the highest consideration, your most obedient servant,

RICHARD BLAND LEE.

The Hon. SECRETARY OF WAR.

F.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.

WASHINGTON, October 28, 1816.

SIR:

As I find, from conversation with Mr. Graham, chief clerk of the War Department, that a doubt is entertained by him whether the claims of the inhabitants of Buffalo, whose houses were destroyed by the enemy on the 30th of December, 1813, and on the 1st of January, 1814, come within the provisions of the ninth section of the law of the 9th of April last, under which I act, I deem it proper to submit to the consideration of the President the testimony in the case of Gilman Fulsom before I definitively decide. This case does not rest on such strong evidence as the few in which I have made awards. From my conversation with Mr. Graham, the principal objection to the Buffalo claims is derived, as I understand, from the official declaration of the enemy to our Government that the village of Buffalo was burnt by way of retaliation. I will observe, that I have not been furnished with this information in an official form, or received any intimation from the Executive Government how far it must be regarded in opposition to the testimony of our own citizens, taken in pursuance of the directions of the aforesaid law of the 9th of April last.

It is certain that this office has not the power of going out of the limits of the United States to take testimony; and the most natural place to obtain the best testimony which the nature of the case may admit of appeared to be where the destruction was made. In selecting persons to take this testimony, I have sought out such as stood high in the confidence of the Government of New York, and who held respectable judicial stations. I have endeavored, in every instance, both in the regulations concerning the mode of taking and authenticating the testimony, and examining that testimony when furnished, to fulfil the injunction of the law, by "paying a due respect as well to the claims of individual justice as to the interest of the United States," which, in my opinion, will be more certainly promoted and permanently established by acts of justice and retribution to its citizens who have innocently suffered in a war waged for the common benefit, than consigning them to undeserved misery and want, in imitation of Governments which are created and supported by military force, and do not rest, like ours, on the basis of justice and equality of rights.

I am very sensible that, in the adjudications which I am bound to make, it will be extremely difficult always to hit precisely the middle course of rendering a reasonable justice to the claimant without in any degree trenching upon the interest of the nation. But here humanity, considering the relative situation of the parties, will excuse (if any should be discovered) a bearing to the side of poverty and wretchedness. Enclosed I send also a newspaper, which exhibits the course which the British Government has pursued relative to the losses sustained by their Canadian subjects during the late war, as well from the acts of their enemy as their own army.

I shall be happy to receive from the President his instructions relative to the case herewith sent, which I shall consider it my duty to obey. Till then, I shall suspend all adjudications under the ninth section of the law. I am confidently impressed that the awards, in all the cases which I have hitherto decided, relative to buildings destroyed by the enemy during the late war, will be found in conformity to the interpretation and instructions which I have received from him, unless the Buffalo cases shall be excluded by the official declaration of the enemy.

I have the honor to be, with great consideration and respect, your obedient servant,

RICHARD BLAND LEE.

The Hon. SECRETARY OF WAR.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.

WASHINGTON, November 1, 1816.

SIR:

I have received your note of to-day, and beg you to inform the President that I feel it my duty to conform strictly to any interpretation which he may please to give to the law of the 9th of April last, to authorize "the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," and that no decision shall be made on any case depending on the ninth section of the said law till I receive his further instructions.

I have the honor to be, with very great respect and consideration, your most obedient servant,

RICHARD BLAND LEE.

Hon. GEORGE GRAHAM, *Acting Secretary of War.*

Copy of a letter from the Hon. George Graham to the Commissioner.

SIR:

WAR DEPARTMENT, November 1, 1816.

Your communications dated the 25th and 28th of last month have been submitted to the President, who has instructed me to say that the third section of the act "to authorize the payment for property lost, captured, or destroyed," &c., will not justify the payment of claims for partial injuries to oxen or horses.

I am also instructed by the President to request that you will suspend all *decisions* under the ninth section of the above-mentioned act until further advised.

I have the honor to be, with great respect, your most obedient servant,

GEORGE GRAHAM.

RICHARD BLAND LEE, Esq., *Commissioner, &c.**Copy of a letter from the Hon. William H. Crawford to the Commissioner.*

SIR:

DEPARTMENT OF WAR, September 7, 1816.

The President has been pleased to direct that the occupation of houses and buildings by the military force of the United States is embraced by the ninth section of the act "to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," and that compensation shall be allowed for damage sustained in consequence of such occupancy, in the same manner as if such houses and buildings had been occupied as a military deposite, under the authority of an officer or agent of the United States.

I have the honor to be your most obedient and very humble servant,

WILLIAM H. CRAWFORD.

RICHARD BLAND LEE, Esq., *Commissioner for settling claims for property lost, &c.*

G.

Copy of a letter from the Hon. George Graham, Secretary of War, to the Commissioner.

SIR:

DEPARTMENT OF WAR, December 16, 1816.

I am directed by the President to inform you that, under existing circumstances, it is thought proper that no final decision be made on any case now depending, or that may be exhibited under the act "to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," passed the 9th of April, 1816. You will, however, proceed to prepare and arrange all such cases for decision when it shall be deemed proper.

I have to request, also, that you immediately prepare and furnish the report called for by the resolution of the House of Representatives, with which you have been furnished; and, in order to avoid the delay of making copies, the original proceedings may be furnished.

I have the honor to be, with great respect, your obedient servant,

GEORGE GRAHAM.

RICHARD BLAND LEE, Esq., *Commissioner of Claims, &c.*

14th CONGRESS.]

No. 325.

[2d SESSION.]

LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 26, 1816.

Mr. TALLMADGE, from the committee to whom was referred the petition of John Delafield, reported:

That the petitioner states that he is the proprietor of forty-three loan office certificates of the United States, of \$400 each, nominal amount, which, according to the scale of depreciation established by Congress, amount to the sum of \$12,128 $\frac{2}{3}$ principal; which, with the interest that remains unpaid, he prays may be funded for his benefit, according to law. The petitioner further states that the certificates aforesaid have been lodged in the Treasury Department, and there have remained, so that his claim has never been affected by any statute of limitation.

In examining and deciding the question under consideration, the committee have had recourse to various public documents, to private sources of information, as well as to the detailed report of the committee which was made to Congress on this same petition at their last session. [See No. 296, page 463.] In the view of your committee, the merits of the present claim may be reduced to three points, viz:

1st. Are the loan office certificates in question genuine and without fraud, as issued by the United States?

2d. Have they been so countersigned and put into circulation as to become binding upon the Government to provide for the payment of the same? And,

3d. Were they issued for public purposes, and expended for the use and benefit of the United States?

Under the first head, your committee conceive that little need be said, inasmuch as all the officers of the Treasury Department who have reported upon this subject fully admit the fact that they are genuine, as they came from the loan office of the United States. But when we find that a fund was provided in France, by a special resolution of Congress, for the purpose of paying the interest on this species of the debt of the United States, and that the same was paid for four years, and endorsed on said certificates, every doubt on this head must be removed.

On the second point, your committee have had more difficulty in collecting the materials from which they could form a decided opinion. This has arisen principally from the circumstance that all the executive papers of the State of Georgia, relating to the early part of the revolutionary war, have been consumed by fire; so that no appointment of commissioner of loans for that State can be traced from that source for the period in question. Other sources of information have been resorted to, which have enabled your committee to come to the following result. From the resolutions of Congress, as well as by various letters from the most respectable authority in the State of Georgia, it appears that, in the year 1777, (John A. Treutlen being then Governor of Georgia,) three continental battalions were authorized to be raised for the defence of that State in the revolutionary war; and that funds were forwarded by the United States to Governor Treutlen, for the purpose of raising, clothing, and subsisting those troops, as well as to fit out a small naval armament. These funds consisted of loan office certificates, which were forwarded to Governor Treutlen on the 24th of September, 1777, and which, when duly countersigned, were to be issued on public account. The Secretary of the Treasury, in his report of December 23d, 1795, supposes that O'Bryan and Wade were the loan officers for the State of Georgia when these certificates were forwarded from the general loan office of the United States; but no further evidence of this fact appears, either from the Department of the Treasury, or from information derived from the State of Georgia.

The Register of the Treasury, by his certificate bearing date the 5th of February, 1816, informs the committee that, on the 4th of September, 1780, he inserted the names of O'Bryan and Wade in the account current which had been opened by his predecessor, William Gevott, as auditor of accounts, in which account the names of the commissioners of loans had been omitted. This insertion being thus made so long subsequent to the issue of these certificates, (which was in 1777,) and no accounts or documents whatever being on record to prove that O'Bryan and Wade were commissioners of loans for the State of Georgia in the year 1777, (except the Treasury report of 1792,) the committee feel constrained to believe that they were not commissioners as aforesaid, and that the Secretary of the Treasury was led into the error of reporting them to be in commission from the circumstance of their names having been so inserted as before stated. As no record evidence can now be procured to show who was the commissioner of loans for the State of Georgia at the period when those certificates were issued, other information has been received from such respectable quarters as satisfies your committee that Edward Davies did at that time execute the office, and perform the duties of commissioner of loans. Hugh McCall, Esq., of Savannah, having consulted the best authority he could find, expresses his full belief that O'Bryan and Wade were not in commission as loan officers when these certificates were issued, but that Edward Davies was; and Mr. Shefall, who was an active officer in the revolution, and who appears to have been particularly acquainted with the pecuniary transactions of the Government in the year 1777-'78, entertains no doubt as to the appointment and authority of Edward Davies to countersign and issue those certificates. In his certificate, bearing date the 7th of November, 1816, [see No. 426,] he asserts that he was deputy commissary general of the continental troops under his father, Mordecai Shefall, from the month of July, 1777, to the 29th of December, 1778; and that, in the latter part of the year 1777, Edward Davies received from Governor Treutlen an appointment similar to that of commissioner of loans, and countersigned a number of the certificates of the United States, several of which were paid by him (Edward Davies) to his father, and these again paid out by his father to James Rae, commissioner of purchases, for the subsistence and other uses of the continental army. If this certificate can be credited, (and nothing appears to your committee why it should not be entitled to full belief,) there appears to be no room to doubt as to the appointment of Edward Davies as commissioner of loans in the year 1777.

The third inquiry only remains to be considered, viz: Were the certificates in question issued for public purposes, and expended for the use of the United States?

All the records for the State of Georgia, relating to that period of the war, having been destroyed by two conflagrations, and the papers of the Treasury Department of the United States having suffered a similar fate, [see Major Deveaux' and the Register's certificates, Nos. 296 and 426,] no evidence can be derived from those quarters. The Register, however, certifies that the loan officers for the State of Georgia were charged with the certificates remitted to them; and that a credit was also obtained for them to about the same amount. But Mr. Shefall decides the point as to their application. His certificate, corroborated by letters from others, affords the strongest reason to believe that the avails of the certificates in question were appropriated in prosecuting the revolutionary war.

As to the deposit of the certificates in the Treasury Department, so as not to be barred by the statute of limitations, they find them to have been regularly entered, and returned to the Auditor of the Treasury on the 18th of April, 1794, where they have remained to this time.

Your committee would further remark that they have examined the report of the select committee, made on this petition on the 19th of February, 1816, which, being much in detail, they adopt as part of this report. [See No. 296, page 463.]

Being convinced that the loan office certificates in question are true and genuine certificates; that E. Davies was duly authorized to countersign and issue the same; and that their proceeds were expended in prosecuting the revolutionary war, your committee are constrained to report as their opinion that provision ought to be made by the Government for the redemption and payment of the same. They, therefore, ask leave to report a bill for that purpose.

ARREARS OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1816.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Susannah Machin, reported:

That the petitioner states that, in the year 1808, her late husband, Captain Thomas Machin, applied to Congress for a pension; that the Secretary of War reported on his case, and recommended him to be placed on the pension roll of the United States at the rate of twenty dollars per month; but that the physician who certified his

disability committed a mistake, *purely unintentional*, by reason of which he was placed on the roll at only ten dollars, instead of twenty dollars per month; that, in the year 1814, he applied again, and was placed on the pension roll at twenty dollars per month, but that, from some reason unknown to her, the increase of pension did not relate back to the date of the first pension. She states that her husband is since dead; that she is old and nearly destitute. She asks Congress to allow her the difference between the two sums from 1808 till 1814, namely, ten dollars per month.

On application to the proper Department, it has been found that the certificates and evidence taken in the first case have been destroyed, so that the committee cannot say whether there should have been a greater allowance made than there was; but they presume that justice was done him, and that he received the full amount to which he was entitled. The certificates, &c. in the second case establish a total disability, and he was accordingly placed on the roll as a full pensioner.

The rule prescribed, and the one which it is believed has been uniformly pursued, is, to allow the pension to commence from the time at which the evidence is closed, by which the right is established, and not before. In this case, the committee see no reason to deviate from it. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought to be rejected.

14th CONGRESS.]

No. 327.

[2d SESSION

LOSS OF PROPERTY BY THE BURNING OF THE UNITED STATES SHIP ADAMS IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of James Caze and John Richaud, of the city of New York, reported:

That, at the sale of a prize-ship, called the Victory, by the marshal of the district of Maine, on the 25th of May, in the year 1814, the petitioners became the purchasers; and, for the purpose of keeping safely the sails of the vessel, they were deposited in the store-house of John Crosby, of Hampden, in the county of Hancock. In the month of September, when the British forces invaded Castine, it was deemed prudent by Captain Morris, who commanded the United States ship Adams, to set her on fire, to prevent her falling into the hands of the enemy, and from the ship the fire communicated itself to the store of Mr. Crosby, and burnt it, together with the sails of the ship Victory.

At the same time the British naval force took possession of the ship, and, after the peace, carried her off. The petitioners request of Congress such relief as they may think just and proper.

The committee are of opinion that, so far as regards the destruction of the sails of the vessel, the petitioners are entitled to relief, and therefore report a bill to that effect.

14th CONGRESS.]

No. 328.

[2d SESSION.

REVISION OF THE ACT GRANTING BOUNTIES IN LAND AND EXTRA PAY TO CERTAIN CANADIAN VOLUNTEERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1817.

Mr. Brooks, from the committee appointed to inquire whether any amendments are necessary to the law of the last session, entitled "An act granting bounties in land and extra pay to certain Canadian volunteers," reported:

In examining the act, it appears that no specific term of service is required to entitle the applicant to the benefit of the bounty; that the law is vague and defective, affording an opportunity for numerous claims upon the Government, when no essential services have been rendered.

It appears by the documents in the War Department, compared with other evidence, that frauds have been and are attempted to be practised by officers and soldiers in support of claims, which had occasioned a partial suspension of the execution of the law, as appears by a communication from the Secretary of War, to which reference is had.

The law will admit of an extension to, and embrace, cases far beyond what could have been contemplated at the time it was enacted, and such as justice and policy do not demand.

In referring to the muster-rolls of the corps called the Canadian volunteers, it appears to have consisted of nearly the full number of field and staff officers for a regiment, with a very small number of privates, not at any time exceeding thirty-eight mustered as present, and that very little service could have been rendered by them to the Government.

In pointing out the defects of this act, we would not lose sight of the object intended by it. It has given relief to some brave men who had suffered a total loss of property; and there are still others belonging to various corps in service in the late war, who are equally meritorious, and who have not yet received the intended relief.

Your committee are of opinion that an amendment is necessary, and have reported a bill for that purpose.

SIR:

DEPARTMENT OF WAR, *December 26, 1816.*

In answer to your letter of the 18th instant, I have the honor to state that, immediately after the passage of the law of the last session granting bounty land and extra pay to certain Canadian volunteers, rules were adopted prescribing the evidence which was necessary to entitle the parties interested to the benefits of the act.

Under these regulations, warrants were regularly issued where the evidence was conformable to the rules which had been prescribed, until late in the summer. About that time information was received from various quarters, stating that frauds had been practised in obtaining evidence in support of several claims which had been allowed.

Claims to a considerable extent were presented from Detroit, and others were understood to have been preparing from Lake Champlain and the St. Lawrence; to the latter of which fraud was also imputed. Under these circumstances, it was determined to postpone the decision of all claims until after the meeting of Congress, except those whose names were found on the muster-rolls of Colonel Wilcock's corps.

It appears to be necessary, to guard the public against imposition, that the term of service entitling the volunteer to the benefits of the act should be defined. As the law now stands, one week's voluntary service will entitle the party to land bounty and pay, if the engagement was only for that term.

It appears to be impolitic to permit the parties to locate their warrants before the lands have been exposed to public sale. Much inconvenience and loss to the public has been sustained by omitting that restriction.

I have also the honor to enclose copies of communications to this Department and to the paymaster general in relation to frauds attempted to be practised in obtaining testimony.

I have the honor to be your most obedient servant,

GEORGE GRAHAM, *Acting Secretary of War.*

Honorable M. BROOKS, *Chairman, &c.*

14th CONGRESS.]

No. 329.

[2d SESSION.

PROPERTY DESTROYED AT VINCENNES IN 1786, BY GENERAL GEORGE CLARK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Laurent Bezedone, of Vincennes, in the State of Indiana, reported:

That, in the year 1786, the petitioner resided at Vincennes, then a military post in the Northwestern Territory, and was employed, among other things, in retailing merchandise. In the same year, General George Clark, of Kentucky, with a military force, had the command of and was stationed at that post. While he commanded at the place, and during the aforesaid year, he caused possession to be taken of the storehouse and merchandise of the petitioner, without any good reason or authority, as is alleged by the petitioner, but because, as is stated in one of the documents accompanying the petition, he was suspected of being a Spanish spy. The petitioner states he commenced suit against General Clark in the State of Kentucky, where he was nonsuited; and that since that time he commenced suit in the Northwestern Territory by attachment, upon which he succeeded in obtaining judgment, which has since been taken to the Supreme Court of the United States by the defendant, and that, in consequence of the advice of able counsel, he has abandoned his suit. He prays of Congress to pay him the value of his property, which he alleges was taken and destroyed by General Clark.

The documents which are attached to the petition do not show under what circumstances or for what cause the property was seized. If the statement of the petitioner be correct, the act on the part of the officer was a trespass for which he would be liable to the petitioner, but can constitute no claim to indemnity from the Government. The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 330.

[2d SESSION.

MONEY LOST BY THE COMMANDER OF A COMPANY OF VOLUNTEERS IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Joseph Wescott, of Penobscot, in the county of Hancock and State of Massachusetts, reported:

That, in the year 1813, the petitioner commanded a volunteer company then in the service of the United States, and stationed at Castine. In the month of March, there being no paymaster to the regiment to which he belonged, it was agreed by himself, his officers, and men, that he should go to Portland, where the district

paymaster resided, to obtain the wages due them from the Government for their services. He accordingly received of the paymaster, Joseph C. Boyd, the sum of thirteen hundred and seventy-four dollars and thirty-five cents, it being the sum due the company up to the 1st of March. In returning from Portland to Castine, the petitioner took a passage on board the sloop *Harriet*, commanded by Jacob Orcutt, jun., and, while on his passage, he states upon oath that a bundle of paper, which contained all the money he had received, except twenty-four dollars and thirty-five cents, dropped from a pocket in the left breast of his coat into the water, and that, in consequence of the violence of the wind and the difficulty of stopping the vessel immediately, the bundle containing the money was lost. Attached to the petition are documents which show that, at the time the petitioner alleges the money was lost, he called out to the helmsman to stop the vessel, and discovered much solicitude to regain it, but that he was not able to succeed. The affidavits of two persons state that they saw *something like* a bundle of paper, but could not say positively whether it was or not, floating on the water. On the evening of the same day they left Portland, the vessel ran into Herring Gut, and the petitioner then left the vessel and went by land to Castine, having, before he left it, been searched by the captain and others, at his request, in order, as he declares, that no suspicion should attach to his conduct or character. He requests that Congress would indemnify him against the loss, by giving him a credit in his account with the Government to the amount of the sum lost.

The committee can perceive no circumstances in the present case (as regards the petitioner) sufficient to form an exception to a general rule as to the accountability of officers in the application of public money. They are of opinion the petitioner is not entitled to relief, and recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be allowed.

14th CONGRESS.]

No. 331.

[2d SESSION.]

INCREASE OF AN ANNUITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1817.

Mr. CHAPPELL, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of John Paulding, reported:

That the petitioner states that he was one of the three persons who arrested Major John André, the adjutant general of the British army, during the revolutionary war. That for this patriotic service they received the approbation of General Washington and the Congress, and also an annuity of two hundred dollars each. He states that he is now old, has a large family, some of whom are infants; that he is very infirm, and incapable of hard labor; that his annuity is his greatest dependance to maintain himself and family; and asks Congress to increase the allowance which he now has, or to grant him such further assistance as his faithful and patriotic services, and his infirmity and advanced age, may demand.

The petitioner did his duty faithfully, and for it he has been liberally rewarded. However, he did nothing more than his duty; the country expects this much, at least, from every one, and yet it is not expected that she is to support all who have done so. The committee, without disparaging the services of the petitioner, can conceive of many individuals, both in the revolutionary and late war, who rendered services of the highest character, if not equal to those of the petitioner, and who, so far from being so highly favored with the public liberality as he has been, have received nothing, and who have asked nothing. Good policy warns us against adopting such measures as may excite invidious remarks and create jealousies. The petitioner was a private soldier when he rendered the services for which he has been thus liberally rewarded; he was neither wounded, nor in any way injured, nor even exposed to a greater degree of hardship than thousands of soldiers who were then in the service; and yet for those brave men who then fought our battles, and who had the misfortune to lose an arm or a leg, or who became otherwise wounded or disabled, and who have dragged out a tardy, and melancholy, and perhaps miserable existence, no greater provision was made than an allowance of sixty dollars per year, until the last session of Congress, when it was increased to ninety-six. His provision was a far more liberal one. He does not now suggest that his annuity is not sufficient to support *himself*; but he wishes to be enabled out of the public bounty to support *himself and his family too*. This is a request which is not granted to those who were disabled in the service of the country, nor to the widows and orphans of those who were slain. It can therefore hardly be proper to grant it to the petitioner. He has no cause of complaint against the Government, and ought to be satisfied; therefore,

Resolved, That the prayer of the petitioner is unreasonable, and ought not to be granted.

14th CONGRESS.]

No. 332.

[2d SESSION.]

LOSS OF THE SHIP ALLEGANY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1817.

Mr. HARDIN, from the Committee of Claims, to whom was referred the memorial of Messrs. Bowie & Kurtz, having had the same under consideration, together with the accompanying documents, reported:

That, on the 20th of January, 1812, the memorialists chartered to the Government of the United States their ship *Allegany*, to carry from the United States, agreeably to treaty stipulations, naval stores, &c. for the Dey of Algiers, consigned to the address of Colonel Lear, the American consul general resident near that court.

The Government was to pay the said Bowie & Kurtz the sum of \$9,500; part, to wit, \$7,500, to be paid at the city of Washington, when the vessel cleared from the port of Georgetown; the balance at Algiers, when she delivered her cargo. The owners incurred all the risk of the vessel from the place of departure to Algiers. Some time after the ship was chartered, at the request of the said Bowie & Kurtz, the agent of the United States permitted them to put on board said vessel about \$10,000 worth of goods on their own account; in consideration therefor the Government had the privilege to pay \$2,000, the remaining part of the freightage, at the city of Washington, instead of at Algiers, as originally agreed on. It appears also to the committee that Bowie & Kurtz addressed a letter to Colonel Lear, on their own account, requesting him to take the interest of their house under his care, and direct the future destination of the vessel after her arrival at Algiers, to enable her to dispose of her cargo to the best advantage, and advise them of the same, that they might, if needful, have her insured. The vessel was loaded, sailed, and arrived at Algiers agreeably to contract, on the 17th of July, 1812; that, about the 21st of the same month, after part of her cargo was taken out of the vessel, and arrangements made to unload the balance, the Dey, having learned of what kind of articles the cargo was composed, to what amount, and also that private property was adventured in the same vessel for mercantile speculations, became enraged, declaring that the naval stores were not of the kind and description agreed to be sent, and, also, that an indignity had been offered his Government in loading part of the vessel which brought out his naval stores, &c. with private property. The Dey ordered the stores which had been taken out of the vessel again to be put on board, detained the vessel in port, and threatened immediate hostilities, with all the calamities attending a war with that Power, unless the American consul would pay him, in three days, the sum of \$27,000 in specie, and depart his Government. Colonel Lear, after making every effort in his power to adjust the matter in an amicable manner, had to comply with the demand of the Dey, however unjust, and, at great sacrifices to the Government, raised the sum demanded, and then went on board the ship Allegany, expecting an immediate commencement of hostilities on the part of the Dey against the American Government.

The American consul, dreading the consequences of such a war to the American citizens, and their property then afloat in the Mediterranean, particularly if they had no previous notice thereof, directed the master of the vessel to carry her into the port of Gibraltar, where he would be the better enabled to sell the property of the United States then on board, and also to communicate to the American consuls resident in the different ports on the Mediterranean, and also the American vessels about to enter that sea, the intelligence of the expected war between the Government of the United States and the Dey of Algiers. The master agreed to comply with the request of Colonel Lear; no formal protest was then entered by the master against the proceedings of Colonel Lear, and declaring an abandonment of the vessel by the owners; nor was any bargain made respecting the price of freight from that place to Gibraltar; but that, on account of the hurry and confusion attendant upon the then state of things, and their departure from Algiers, was left to future adjustment. The master of the vessel obeyed in every particular the directions of Colonel Lear, and carried the ship Allegany into the port of Gibraltar on the 4th of August, 1812; and on the 8th of the same month, in consequence of the declaration of war on the part of the United States against Great Britain, the vessel and cargo were seized by the officer commanding at that port as prize for His Britannic Majesty; that, at the time the vessel entered the port of Gibraltar, neither Colonel Lear nor the commanding officer at Gibraltar had received intelligence of the war between the United States and Great Britain. On the 30th of December, 1812, the vessel and cargo were condemned by the British court of admiralty at Gibraltar, and sold; and that on the 14th of May, 1813, before the notary public in Georgetown, District of Columbia, the master of said vessel entered his protest, therein declaring that when the ship was taken possession of by Colonel Lear, in the port of Algiers, for the purpose of sailing to Gibraltar, he then abandoned the ship to the Government of the United States, and at the same time informed Colonel Lear that the ship and entire cargo were at the risk of the Government. That abandonment, made with the solemnities stated by the captain of the vessel, is not confirmed by the American consul. He states that himself and family went on board the vessel; he informed the master where he wished to go; that the master declared his willingness to obey his instructions; and that no bargain was then made respecting the price of freightage from thence to Gibraltar, but that was left to future arrangement; he never heard of the protest as stated by the master, above.

The committee are of opinion, from the whole circumstances of the case, as above detailed, that the object of Colonel Lear was to secure himself, family, and the American citizens at Algiers; to secure the vessel and her cargo, as well that which belonged to the owners as that which belonged to the United States, and also to get a market for the naval stores on board. It appears evident to the committee that Colonel Lear, who had the management of the future destination of the vessel after her arrival at Algiers, by express authority from the owners, in the then existing state of things, upon the eve of an expected war between the Dey of Algiers and the United States, would not have sent the vessel on a trading voyage up the Mediterranean, but [would have] run her into the port of some friendly Power, and there waited for further information respecting what course the Dey intended to pursue towards the United States; and that, at the time he directed the master of the vessel to sail to Gibraltar, he was doing the best he could for all concerned, and at that time it seemed the most judicious course he could adopt. The subsequent seizure and condemnation of the vessel and cargo was an event not at that time to be anticipated, either by Colonel Lear or the sailingmaster; and from the want at that time of being able to anticipate even the probable loss of either vessel or cargo, the committee are of opinion that the protest was not made, as stated by the captain, and that Colonel Lear's statement, which appears simple, plain, and to harmonize with the nature of the transaction, is correct.

The committee are of opinion that the Government of the United States, from the facts above stated, did not thereby become bound to incur the risk of the vessel and that part of the cargo belonging to her owners, and that it is only responsible for the reasonable price of freight from Algiers to Gibraltar, and that each party is bound to sustain its respective losses; and as the owners have already refused from the Department of State a partial indemnification, and claim in their memorial compensation for the full value of the vessel and their adventure on board, which claim the committee deem unreasonable, and not warranted by the circumstances of the case, they therefore respectfully submit the following resolution:

Resolved, That the claim of the memorialists ought to be rejected.

[NOTE.—See Nos. 251, 312, 448.]

14th CONGRESS.]

No. 333.

[2d SESSION.]

CANADIAN REFUGEES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 14, 1817.

Mr. CLARK, of New York, from the committee to whom were referred the petitions of Samuel Thompson and John Dailey, Canadian refugees, reported:

That they have had the said petitions under consideration, and report the following statement of facts: That it appears from the documents accompanying the petitions that the petitioners were both men of extensive property in and contiguous to the village of Newark, in Upper Canada; that, after the taking possession of that place by the United States army under the command of General Dearborn, the petitioners were active and zealous in their endeavors to promote the success of our arms, and were solicitous to add all in their power to the comfort and convenience of our troops; that they gave up their houses for quarters for our officers and soldiers, and on all occasions manifested so strong an attachment to the American cause that their disloyalty to the British Government was so apparent and notorious that they deemed it unsafe for them to remain in Canada after the evacuation by our army, and they threw themselves under the protection of the American Government: in consequence of which (although there is no direct proof of the fact) there is little doubt but their property has been confiscated; and the petitioners are now far advanced in life, and destitute of the means to enable them to live comfortably. The committee, not knowing how far the House would go towards remunerating persons of this description, without giving any opinion, and with a view to bring the subject direct before the House, submit the following resolution:

Resolved, That the committee be instructed to bring in a bill for the relief of the said Samuel Thompson and John Dailey.

14th CONGRESS.]

No. 334.

[2d SESSION.]

LOSS OF A ROPEWALK IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 17, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Daniel Renner and Nathaniel H. Heath, of the District of Columbia, reported:

That, in the year 1814, the petitioners owned a ropewalk in the city of Washington, in which was contained a large quantity of spun yarns and navy cordage, all of which was destroyed by burning by the British forces at the time they invaded the city of Washington, on the 24th of August in that year. On or about the 20th of July, 1814, one of the petitioners, Mr. Heath, applied to Mr. Southerlin, the owner of some large boats then lying in the Potomac, and engaged five of them to transport his cordage and yarns up the river if the enemy should invade the city. On the 18th or 19th of August, it was deemed expedient by General Winder to impress the boats of Mr. Southerlin for the purpose of transporting troops across the Potomac, and they were kept in the employment of the Government until after the 24th of August. On the 20th of August the petitioners applied for the boats, according to contract, for the purpose of removing their property, when they were informed that the boats were impressed. It also appears to the committee that, on the 22d of August, the petitioners employed a wagon and nine or ten carts for the purpose of removing the property in the ropewalk, but the wagon and two or three of the carts were impressed by the officers of the Departments to remove the public papers and property; and that seven of the carts employed, after taking loads from the ropewalk out of the city to the place directed, refused to return to haul any more for the petitioners, apprehending, as is stated in the petition, that if they did they would be impressed into the employment of the Government.

It is also stated and believed that, after that day, and before the enemy entered the city, carriages were not to be had to remove the property. The loss of the petitioners, exclusive of the price of the ropewalk, amounts, according to the estimate of the petitioners, to about \$24,800, and they pray that Congress would reimburse them the amount of their loss.

The committee are of opinion that the Government is under no obligation to indemnify the claimants. The ropewalk, and the yarns and cordage deposited in it, were all the property of private citizens, and, according to the usages of modern warfare, entitled to protection. It is true that the cordage manufactured in the walk might have been purchased and used in the naval service of the United States, but, if so used, it was first the subject of contract between the owner and Government. The mere circumstance that the cordage made in the walk might, under a contract with the owner, be applied to public purposes, does not impart to the property the character of public property, and thereby exclude it from that respect and safety which, in the progress of civilized warfare, has been extended to private property. Upon this ground, therefore, it is considered that, according to uniform decisions made by the House of Representatives, the petitioners are not entitled to relief.

Admitting, however, that the property was of that public character which would have authorized its destruction by the enemy, it does not appear in this case that the petitioners were prevented from saving such of their property as they could have removed by the impressments made by the officers of the Government. It appears that, on the 22d of August, of the ten carts employed by the claimants seven were not impressed, but took, each of them, one load from the walks, and afterwards, of their own accord, left the service of the petitioners. Had that number of carts continued to haul the cordage and yarn till the enemy came into the city on the evening of the 24th, there can be no doubt it would have been removed.

The committee are of opinion the petitioners are not entitled to relief, and therefore recommend to the House the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

14th CONGRESS.]

No. 335.

[2d SESSION.

PROPERTY PLUNDERED BY THE ENEMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Alexander McCormick, of the District of Columbia, reported:

That the petitioner resides in the city of Washington, and at this time, and for several years past, has kept a retail store. At the time the British forces invaded the city, (on the 24th August, 1814,) the petitioner was a lieutenant in the artillery company of militia, commanded by Captain Benjamin Burch, and then in service. On the evening of the 24th, about eight or nine o'clock, a party of British soldiers, in company with an officer, broke and entered the house of the petitioner, and took from his store a large quantity of merchandise, stated to be of the value of eight or ten thousand dollars.

It appears by the affidavit of Captain Carter, of the Maryland militia, that on the night of the 23d he and his company lodged at the house of Mr. McCormick, and that they also halted at his house on their retreat on the 24th. The petitioner requests of Congress to pay him the value of his property plundered by the British soldiery.

The committee are of opinion that this is a common case of the wanton sacrifice and plunder of private property by the British forces during the late war. The circumstance of the claimant being in the military service of the country at the time did not change the character of his property, nor did it authorize its capture or destruction. Like the private property of every other citizen, it was entitled to protection, though it shared the same fate as the property of many others.

The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 336.

[2d SESSION.

LOSS OF THE PRIVATE ARMED BRIG GENERAL ARMSTRONG, AT FAYAL, IN 1814.

COMMUNICATED TO THE SENATE, JANUARY 20, 1817.

Mr. TAFT, from the Naval Committee of the Senate, to whom had been referred the memorial of Frederick Jenkins and Rensselaer Havens, in behalf of the owners, officers, and crew of the late private armed brig General Armstrong, reported:

The memorialists state that, on the 26th of September, in the year 1814, while the private armed brig General Armstrong was lying at anchor in the port of Fayal, she was attacked by a superior British force, and, after a brave resistance by her commander, Samuel C. Reed, and his valiant crew, the brig was destroyed. They also state that the vessel and armament cost forty-two thousand dollars, and pray that such relief, indemnity, or compensation may be extended to the owners, officers, and crew of the privateer, as, under the peculiar circumstances attending her destruction, may be deemed by Congress just and equitable.

The committee are left to conjecture the grounds on which the memorialists rely for a remuneration or indemnity from their own Government. It is presumed, however, that the claim must be supported, if supported at all, on one of two grounds: 1st. Because the vessel and armament were destroyed by the public enemy in a *neutral port, in violation of the laws of nations*; or, 2dly. Because the brave and gallant defence of Captain Reed, his officers, and crew, entitles them to the bounty of the Government.

The committee are unable to perceive what right of indemnity the citizens of the United States can acquire against their own Government for losses sustained in consequence of the violated rights of a third party. It is the duty, no doubt, of all Governments to extend to the person and property of the citizen all the protection in their power. It is the end of all Governments to do so. It is the right of the citizen to make known his wrongs to his Government, and it is the duty of the Government to seek redress by such means as it may deem expedient. The neutrality of Portugal was grossly violated in the case of the private armed ship General Armstrong. It was the duty of that Government to preserve her neutral character, and to protect the brig and all on board from any hostile attack while in her port. Either from want of ability or inclination, she failed to do so. But can this failure to support its own rights and perform its duty towards us vest a right in an individual to come on his own Government for indemnity on account of a pecuniary loss? The United States, it is believed, have done, or will do, what comports with their rights and their character. That indemnity from Portugal for the loss of this property should be insisted on as an affair of state, is perhaps highly proper; but the committee cannot perceive how the weakness or the delinquency of Portugal can impose on the United States the duty of indemnifying the memorialists for the loss of the brig and her armament.

The committee believe that this opinion is in conformity with the practice of this Government, and perhaps of all Governments. Antecedent to the year 1802, much property belonging to citizens of the United States had been wrongfully seized by the cruisers of France. In no case known to the committee did this Government indemnify its citizens from its own treasury. Indemnity was sought from France by negotiation, and obtained in the Louisiana convention. Citizens of the United States at this moment have claims to a vast amount against the Governments of France, Spain, and Naples, for property seized in violation of all right. On principle, all these claimants have the same right to demand indemnity from their own Government as the memorialists in the present case; for, in principle, the committee can see no distinction between a private armed ship and a merchant ship; nor between property captured and converted to the use of the captors, and property destroyed by a third party omitting to do its duty.

If this is a mere appeal to the liberality of Congress; if the memorialists rely for the success of their application on the bravery, gallantry, and good conduct of Captain Reed, his officers, and crew, in the defence of the vessel, then the committee are sensible that a stronger case of the *kind* could not present itself. The stubborn bravery, the cool intrepidity, and presence of mind displayed by Captain Reed and his associates in the defence of the ship, were perhaps never equalled, certainly never surpassed, by any private armed vessel in the annals of naval warfare. It has excited the admiration of the nation, and cannot fail to immortalize those concerned. If actions like this are to be rewarded with money, too much could not be given. But Government is but the trustee of the nation, and is bound deliberately to examine into the principle on which the treasure of the nation is bestowed, and the extent of the precedent which is set in bestowing it. It is unknown to the committee that Congress, as yet, has ever dispensed its bounty, or in any way bestowed a gratuity for any achievement, except to its own peculiar force, nor in any case except there was *victory*. The committee are of opinion that it would be inexpedient to do so. It would open the treasury to a class of cases arising out of the last war which would be extensive and onerous. The effects of such a measure must be counted on, for they would be felt in all future wars.

The case of the *Essex*, attacked also in a neutral situation, was a strong one. The defence there, too, was valiant, persevering, and highly honorable to all on board, as well as to the nation; yet Congress has done nothing, for the essential quality of victory was wanting to the transaction. The committee, therefore, in whatever aspect they view the application of the memorialists, are of opinion that it would be unsafe and inexpedient to grant it, and recommend the following resolution:

Resolved, That the Committee on Naval Affairs be discharged from the further consideration of the memorial of Frederick Jenkins and Rensselaer Havens.

14th CONGRESS.]

No. 337.

[2d SESSION.]

LOSS OF A LEG IN THE PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 20TH JANUARY, 1817.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of James Ware, a citizen of the State of New York, reported:

That the petitioner states that he was a seafaring man, and accustomed to get his living by that profession until the 10th day of January, 1815; that at that time he was employed by the United States naval storekeeper at New York, at the daily wages of one dollar and a half, in unloading heavy cannon from on board the sloop *General Washington*, and then loading them on teams, for the purpose of transportation to the lakes; that while executing this duty, and on the day above mentioned, he was caught under a 32-pounder cannon, which fell on his leg by the breaking of a runner, and so injured it that he was compelled to have it amputated; that he is unable to pursue his calling of a seafaring man, and is destitute of the means of support, and prays to be placed on the list of navy pensioners, or to be provided for in some other way.

The committee, on due consideration of this subject, are of opinion that neither precedent nor principle would authorize the petitioner to be placed on the navy pension fund, that fund having been constituted in a particular way, for special purposes, within the purview of which the case of the petitioner does not come. On the question of providing for the case of the petitioner in some other mode, this committee are not as well qualified to judge as another committee of this body. From examination and reflection, however, they are of opinion that no provision, by way of pension or in any other mode, has been made by the United States for persons similarly situated with the petitioner. They therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

14th CONGRESS.]

No. 338.

[2d SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE SENATE, ON THE 21ST JANUARY, 1817.

Mr. ROBERTS, from the Committee of Claims, to whom was referred a resolution instructing them to inquire into the expediency of authorizing, by law, the payment of certain claims of the State of Georgia for the services of the militia called out under the authority of the United States during the years 1792 and 1793, for the defence of the said State against Indian invasion, reported:

That a letter was addressed, by their order, to the Secretary of War, enclosing the resolution referred to them, and requesting such information as the vouchers lodged in that Department might furnish, and any other views that might be material, in his opinion, in enabling the committee correctly to discharge their duty. The Secretary's answer is herewith reported, (marked No. 1.) In this letter, it is stated that the correspondence with the Governor of Georgia on this subject cannot now be furnished, as it was consumed, with the office, in 1800. The Secretary

accompanies his letter with the copy of a report made by the Secretary of the Department of War on the 3d of February, 1803, in obedience to a resolution of the House of Representatives touching this claim, to which he refers the committee for further information. [See No. 139, page 277.] It is further remarked by the Secretary, that the pay and muster-rolls, referred to in said report as having been returned by Colonel Freeman, were deposited with the Accountant of the War Department, and were destroyed in the conflagration of 1814, except the abstracts of estimates and pay, copies of which he transmitted to the committee, and which accompany this report, (marked Nos. 2, 3, and 4.) The committee, having been prevented from an inspection of the correspondence and vouchers relating to this claim, from the casualties above enumerated, have been led to predicate their report upon that of the Secretary of 1803. That report minutely traces the claim through its whole progress, apparently on a view of the best documentary evidence, and concludes approbatory to the whole extent of the claim referred to your committee. The Secretary's report of 1803, and the abstracts, &c. herewith reported, embrace a later period. But it is not pretended by the State of Georgia that the services performed posterior to 1793 were done under the authority of the United States, though necessary to the defence of that State. The duties of the committee do not involve this later inquiry by the resolution referred to them, and they notice it only as a necessary explanation. The amount of \$13,159 42 appears to be clearly due for services rendered under the special orders of the Executive of the United States, and the further sum of \$95,971 23 appears to be due for services performed under the orders of the Executive of Georgia, in execution of a discretion intrusted to him by the Executive of the United States, making a sum of \$109,130 65, which sum the committee are of opinion it is expedient to pay. They respectfully submit the following resolution, to wit:

Resolved, That a committee be appointed to draught and report a bill appropriating \$109,130 65 for the payment of the said claim to the State of Georgia.

No. 1.

SIR:

DEPARTMENT OF WAR, *January 11, 1817.*

In answer to your letter of the 9th instant, requesting such information as the records of this office may afford touching certain claims of the State of Georgia for the services of militia called out under the authority of the United States, during the years 1793 and 1794, for the defence of the said State against Indian invasion, I have the honor to state that the records of this Department having been burnt in the year 1800, a copy of the correspondence with the Governor of Georgia in relation to this subject cannot now be furnished. It appears, however, that a report on this subject was made on the 3d of February, 1803, [see page 277,] by General Dearborn, then Secretary of War, a copy of which is herewith transmitted, and to which I beg leave to refer you. The pay and muster-rolls, and other papers referred to in that report as having been returned by Colonel Freeman, were deposited with the Accountant of this Department; and it appears that, in the late conflagration of the public buildings, they were all burnt, except the abstracts of the estimates of pay, &c. due to the militia of Georgia; copies of which are herewith transmitted.

I have the honor to be, with great respect, your obedient servant,

GEORGE GRAHAM, *Acting Secretary of War.*

HON. JONATHAN ROBERTS,

Chairman of the Committee of Claims in Senate of the United States.

No. 2.

Abstract from an estimate of pay due to certain companies and detachments of militia who have been called into service by the Government of Georgia, for the protection of the frontiers thereof, and for which no appropriations have been made by the United States.

| No. of the roll. | Counties, &c. | Species of troops. | Commencement of service. | Expiration of service. |
|------------------|--------------------------------|--------------------|--------------------------|------------------------|
| GREENE. | | | | |
| 1 | Major Thomas Lamar, - | Cavalry, - | June 1, 1793, - | June 14, 1793. |
| 2 | Captain Jonas Fauche, - | Do - | April 23, " - | December 31, " |
| 2a | Captain Jonas Fauche, - | Do - | January 1, 1794, - | January 31, 1794. |
| 2b | Lieutenant Allan Stewart, - | Do - | February 1, " - | February 28, " |
| 2c | Lieutenant Allan Stewart, - | Do - | March 1, " - | March 31, " |
| 3 | Captain Robert Melton, - | Do - | August 23, 1793, - | October 18, 1793. |
| 4 | Captain Robert Melton, - | Infantry, - | November 1, " - | December 31, " |
| 5 | Captain Robert Melton, - | Do - | January 1, 1794, - | January 15, 1794. |
| 6 | Captain Charles Dougherty, - | Do - | April 22, 1793, - | December 31, 1793. |
| 7 | Captain Charles Dougherty, - | Cavalry, - | May 5, " - | June 15, " |
| 8 | Captain Charles Dougherty, - | Infantry, - | January 1, 1794, - | January 31, 1794. |
| 9 | Captain William Rayburn, - | Do - | May 10, 1793, - | May 21, 1793. |
| 10 | Captain William Rayburn, - | Do - | May 22, " - | June 4, " |
| 11 | Captain William Rayburn, - | Do - | June 5, " - | June 16, " |
| 12 | Captain William Rayburn, - | Do - | June 17, " - | June 24, " |
| 13 | Captain Francis Lawson, - | Do - | May 11, " - | May 19, " |
| 14 | Captain Francis Lawson, - | Do - | May 18, " - | May 27, " |
| 15 | Captain Francis Lawson, - | Do - | May 27, " - | June 9, " |
| 16 | Captain Francis Lawson, - | Do - | June 9, " - | June 19, " |
| 17 | Captain Benjamin Whitefield, - | Do - | May 10, " - | May 18, " |
| 18 | Captain Benjamin Whitefield, - | Do - | May 18, " - | May 23, " |
| 19 | Captain Benjamin Whitefield, - | Do - | June 2, " - | June 10, " |
| 20 | Captain John Thomas, - | Do - | May 11, " - | May 18, " |
| 21 | Captain John Thomas, - | Do - | May 18, " - | May 26, " |
| 22 | Captain John Thomas, - | Do - | May 27, " - | June 3, " |
| 23 | Captain John Thomas, - | Do - | June 4, " - | June 11, " |
| 24 | Captain John Kimborough, - | Do - | May 11, " - | June 30, " |
| 25 | Captain Abrm. Heard, - | Cavalry, - | June 1, " - | June 28, " |
| 26 | Captain Abrm. Heard, - | Infantry, - | June 3, " - | June 30, " |
| 27 | Sergeant John Samson, - | Do - | May 1, " - | July 31, " |
| 28 | Ensign David Peoples, - | Do - | September 24, " - | December 31, " |
| 29 | Sergeant William Finley, - | Do - | October 1, " - | October 31, " |
| 30 | Sergeant John Reid, - | Do - | October 15, " - | October 31, " |

ESTIMATE—Continued.

| No. of the roll. | Counties, &c. | Species of troops. | Commencement of service. | Expiration of service. |
|------------------|----------------------------------|--------------------|--------------------------|------------------------|
| 31 | Lieutenant John Stroud, - | Infantry, - | November 1, 1793, - | December 31, 1793. |
| 32 | Lieutenant John Stroud, - | Do - | January 1, 1794, - | January 31, 1794. |
| 33 | Lieutenant John Stroud, - | Do - | February 1, " - | February 28, " |
| 34 | Lieutenant John Stroud, - | Do - | March 1, " - | March 18, " |
| 35 | Colonel Thomas Lamar, - | Cavalry, - | September 7, 1793, - | Sept. 23, 1793. |
| 36 | Field and staff, - | - - | 1793, - | 1793. |
| 37 | Field and staff, - | - - | 1794, - | 1794. |
| WILKES. | | | | |
| 38 | Captain Ferdinand Phinzy, - | Cavalry, - | April 26, 1793, - | June 24, 1793. |
| 39 | Captain Charles Williamson, - | Do - | June 20, " - | October 29, " |
| 40 | Captain Alexander Norris, - | Do - | January 13, 1794, - | February 15, 1794. |
| 41 | Captain Alexander Norris, - | Do - | February 16, " - | March 17, " |
| HANCOCK. | | | | |
| 42 | Lieutenant D. Hamilton, - | Do - | August 25, 1793, - | September 5, 1793. |
| 43 | Captain R. Raines, - | Do - | January 24, 1794, - | March 24, 1794. |
| LIBERTY. | | | | |
| 44 | Lieut. Col. Comdt. D. Stewart, - | Field and staff, - | May 7, 1793, - | August 3, 1793. |
| 45 | Captain Brownson, - | Cavalry, - | May 7, " - | May 11, " |
| 46 | Captain Joseph Way, - | Do - | May 2, " - | August 2, " |
| 47 | Captain Joseph Way, - | Do - | August 3, " - | November 22, " |
| 48 | Sergeant Joseph Austin, - | Do - | April 3, " - | April 6, " |
| 49 | Lieutenant William Peacock, - | Do - | August 10, " - | August 14, " |
| 50 | Captain Jonathan Fabian, - | Infantry, - | May 7, " - | May 27, " |
| 51 | Lieutenant Joseph Law, - | Do - | May 28, " - | May 16, " |
| 52 | Ensign John Peacock, - | Do - | June 16, " - | July 5, " |
| 53 | Lieutenant John Gardiner, - | Do - | June 16, " - | July 8, " |
| 54 | Lieutenant John Jones, - | Do - | May 7, " - | May 26, " |
| 55 | Captain Galen Brownson, - | Do - | May 26, " - | June 15, " |
| GLYNN. | | | | |
| 56 | Captain William Williams, - | Cavalry, - | May 1, " - | September 30, " |
| 57 | Lieutenant John Burnett, - | Do - | October 1, " - | December 31, " |
| 58 | Captain John Braddock, - | Do - | January 1, 1794, - | January 31, 1794. |
| 59 | Captain John Braddock, - | Do - | February 1, " - | February 28, " |
| 60 | Lieutenant Martin Palmer, - | Do - | March 1, " - | March 31, " |
| 61 | Captain Farr Williams, - | Infantry, - | March 13, 1793, - | May 20, 1793. |
| 62 | Captain Farr Williams, - | Do - | March 20, " - | July 19, " |
| 63 | Ensign William Harris, - | Do - | August 21, " - | September 30, " |
| 64 | Captain Moses Burnett, - | Do - | April 20, " - | May 20, " |
| 65 | Captain Moses Burnett, - | Do - | May 20, " - | June 20, " |
| 66 | Captain Moses Burnett, - | Do - | June 20, " - | July 20, " |
| 67 | Captain Moses Burnett, - | Do - | July 20, " - | August 24, " |
| 68 | Captain Moses Burnett, - | Do - | October 4, " - | November 4, " |
| 69 | Captain Moses Burnett, - | Do - | November 4, " - | December 4, " |
| 70 | Captain Moses Burnett, - | Do - | December 4, " - | January 4, 1794. |
| CAMDEN. | | | | |
| 71 | Captain John Brown, - | Cavalry, - | March 13, " - | May 31, 1793. |
| 72 | Captain Abner Hammond, - | Do - | March 14, " - | May 25, " |
| 73 | Captain William Dawson, - | Do - | September 15, " - | November 2, " |
| 74 | Captain William Dawson, - | Do - | November 3, " - | January 27, 1794. |
| 75 | Captain John F. Randolph, - | Do - | March 13, " - | December 31, 1793. |
| 76 | Captain John F. Randolph, - | Do - | January 1, 1794, - | January 31, 1794. |
| 77 | Captain John F. Randolph, - | Do - | February 1, " - | February 28, " |
| 78 | Captain John F. Randolph, - | Do - | March 1, " - | March 31, " |
| 79 | Captain Elisha Hebbard, - | Infantry, - | May 24, 1793, - | August 1, 1793. |
| 80 | Captain William Dawson, - | Do - | May 25, " - | August 12, " |
| 81 | Ensign John Hardie, - | Do - | June 1, " - | August 30, " |
| 82 | Ensign John Hardie, - | Do - | September 1, " - | October 6, " |
| 83 | Lieutenant John Gray, - | Do - | July 1, " - | August 31, " |
| RICHMOND. | | | | |
| 84 | Captain R. Coleman, - | Cavalry, - | June 1, " - | June 16, " |

[For abstract of estimate No. 3, see No. 651.]

No. 4.

Abstract of the estimates of pay due to militia infantry, and scouts or spies ordered into service by his excellency the Governor of Georgia, under the authority of the President of the United States, for which no appropriations have been made.

| No. | Date. | Species of troops. | Amount of the pay of the infantry. | Amount of the pay of the spies. | Amount of each estimate. |
|--|---------------------|-------------------------|------------------------------------|---------------------------------|--------------------------------------|
| 1 | December 8, 1796, | Infantry, - Spies, - | \$1,603 71 $\frac{1}{2}$ | \$913 33 $\frac{1}{2}$ | \$2,517 05 4,921 78 $\frac{1}{2}$ |
| 2 | March 24, 1797, - | Infantry, - | 4,921 78 $\frac{1}{2}$ | - | 4,921 78 $\frac{1}{2}$ |
| 3 | July 11, 1798, - | Infantry, - Spies, - | 2,050 63 $\frac{1}{2}$ | 2,717 49 $\frac{1}{2}$ | 4,768 13 |
| 4 | January 12, 1799, - | Infantry, - Spies, - | 187 00 | 518 33 $\frac{1}{2}$ | 705 33 |
| | | | | | 12,912 29 $\frac{1}{2}$ |
| Add infantry: Lt. Lewis Harris's detachment, commencing 8th November, 1794, and ending 9th February, 1795, - - - | | | 247 33 $\frac{1}{2}$ | - | 247 33 $\frac{1}{2}$ |
| Total, - - - | | | \$9,010 46 $\frac{1}{2}$ | \$4,149 16 $\frac{1}{2}$ | \$13,159 63 |

14th CONGRESS.]

No. 339.

[2d SESSION.]

LOSSES AT BUFFALO AND ON THE NIAGARA FRONTIER, IN NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 23, 1817.

Mr. CLARK, of New York, from the committee to whom were referred the memorials of the inhabitants of Buffalo and the Niagara frontier, in the State of New York, praying to be remunerated for property destroyed by the enemy during the invasion of that frontier in December, 1813, respectfully reported:

That they have investigated the evidence adduced by the memorialists, and, on full examination, find that the most of the houses on the Niagara frontier were used by the Government as public stores, hospitals, or barracks. The public having no buildings of their own, were compelled from necessity to convert those of individuals to their own use, without, in many instances, consulting the feelings of the proprietors. It further appears to the committee, that the citizens, in some instances, fearing what might be the consequences, remonstrated against the military occupation of their houses, and that assurances were given by American officers that if they were, in consequence, destroyed, Government would remunerate the sufferers. Without deciding the question how far the usages of war would justify the destruction of private buildings occupied in the manner above described, your committee are unanimously of opinion that it is one of those cases in which a generous and enlightened Government would step forward in aid of the sufferers. In what mode this aid is to be administered, has also been a subject of deliberation with the committee. The military occupation was at different times nearly universal, and they are of opinion that no discrimination ought to be made between those whose houses happened at the moment to be in the occupation of Government, and others who were equally sufferers, and recommend that a gross sum be distributed among the whole, in proportion to their respective losses. They therefore recommend that the sum of \$340,000 be appropriated for this purpose. The amount of losses returned to the commissioner, under the act of the last session, is \$654,832 90, which may be assumed as the actual losses sustained. The Government has already paid for losses on that frontier \$65,666 50, which, being subtracted, leaves \$589,166 40. The committee are of opinion that, on many considerations which need not be stated, it would be improper to vote the whole amount of the actual losses sustained, and have therefore assumed the sum which they recommend to the House.

14th CONGRESS.]

No. 340.

[2d SESSION.]

PROPERTY LOST AT PLATTSBURG IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 27, 1817.

Mr. ALEXANDER, from the Committee of Claims, to whom were referred the petition and documents of Caleb Nicholls, of Plattsburg, in the State of New York, reported:

That, in the month of September, in the year 1814, the village of Plattsburg was invaded and taken possession of by the British forces, then under the command of Sir George Prevost, and that they remained in possession thereof for several days; that Plattsburg is within cannon-shot of Fort Moreau; and that the commanding officer of

that fort, under the orders of the commanding general of the American army then at that place, did order the artillery from the fort to play upon the houses near the court-house in Plattsburg, for the purpose of dislodging the enemy; and that a firing was accordingly kept up from the fort for several days, between the 5th and 12th of September, 1814.

The petitioner states that his store and office stood immediately under the guns of the fort, (Moreau,) and were fired upon from the 6th to the 11th of September, 1814; and that a cannon ball from the fort passed through a punchon of St. Croix spirits, which then stood in the store, containing about one hundred gallons, which, in his estimation, was worth \$250, and which was all lost. He asks relief from Congress in the premises *generally*.

There is no evidence whatever before the committee of the loss of the spirits as stated by the petitioner; but the committee are perfectly satisfied that the store and another house of the petitioner, both standing near the court-house, were materially injured by cold shot fired from the fort. They therefore report a bill for his relief.

14th CONGRESS.]

No. 341.

[2d Session.]

ANNUITIES TO THE WIDOW AND CHILDREN OF ARNOLD HENRY DOHRMAN, DECEASED.

COMMUNICATED TO THE SENATE, JANUARY 27, 1817.

The Committee of Claims, to whom was referred the petition of Rachael Dohrman, report:

That, in the documents accompanying the petition, the committee find very satisfactory evidence that the late husband of the petitioner, Arnold Henry Dohrman, rendered important services to the United States during the Revolution by acts of exalted beneficence and liberality towards American seamen thrown captive on the shores of Portugal by a vindictive enemy, where the said Dohrman then resided. The sense of obligation which prevailed in this country for those meritorious services, in the year 1780, may be estimated from original letters from President Adams, President Jefferson, and Governor Henry, of Virginia. By a resolve of Congress, on the 21st of June, 1780, said Dohrman was appointed agent for the United States at the court of Lisbon. In a report preceding the resolve, the committee state they "are assured said Dohrman wishes for no salary or emolument for his services, but simply a repayment of his advances, when it shall be most convenient." Original letters are also exhibited from General Washington and Archibald Cassey, Speaker of the Virginia Senate, written in 1785, and bearing the strongest testimony to the merits of said Dohrman.

About this period Arnold Henry Dohrman appears to have petitioned Congress for a settlement of his accounts, and for an allowance of a reasonable compensation for his services as agent, which the derangement of his private affairs, arising out of his connexion with and attention to the business of the United States, had made necessary.

On the 1st of October, 1787, Congress resolved to reimburse said Dohrman upwards of \$5,000, with interest from the time of expenditure, such sum having been admitted to be due on settlement at the Treasury; and for a further claim of upwards of \$20,000, for which documents were offered of too general a nature to admit of settlement by the rules of the Treasury, it was further resolved unanimously "that said Dohrman, for his faithful and generous services as agent of the United States at the court of Lisbon, should be allowed \$1,600 per annum, to be computed from the time his expenditures commenced;" and that he should select a township, at his option, out of the three last ranges surveyed in the Western Territory, free from all charges of survey, after the Secretary of War had drawn the proportionate quantity assigned to the late army; and that the payments and grant of land so made should be in full for all claims of said Dohrman against the United States. Mr. Dohrman appears to have been extremely unfortunate, without fault, in the selection of his township, as is fully set forth in letters from David Hogg and James Ross.

Mr. Dohrman died at Steubenville in 1813, leaving a widow, the petitioner, and eleven minor children, in extreme penury, who now prefer their petition for relief. Instances exist in the opinion of the committee, where benefits have been extended by Congress of not stronger equity or materially dissimilar principles. The committee conceive the very liberal adjustment of this claim by the Congress in 1787 is the highest proof of Mr. Dohrman's distinguished merits. As he has failed to realize the benefit intended for him by the grant of his township, through real misfortune the committee apprehend, the principles of equity admit of an equivalent being extended to his helpless family, especially as it is believed the United States have received the value of the land he might have selected, but which not to have done was his misfortune. The committee therefore respectfully submit the following resolution, to wit:

Resolved, That a committee be appointed to draught and report a bill allowing \$—— annually to Rachael Dohrman, widow of Arnold Henry Dohrman, during such time as she may remain a widow, payable quarterly; and \$—— annually to each of the minor children of said Dohrman until they shall respectively arrive at the age of twenty-one years; which benefits shall be received and applied under the superintendance of the orphans' court of the proper county.

To the honorable the Senate and House of Representatives of the United States in Congress assembled: The petition of Rachael Dohrman, widow of Arnold Henry Dohrman, Esquire, deceased, humbly sheweth:

That the said Arnold Henry Dohrman died at Steubenville, in the State of Ohio, early in the year 1813, leaving your petitioner and eleven minor children without any means whatever for their subsistence and protection; that, for almost four years, your petitioner has struggled with the hard vicissitudes which attend the maintenance and education of a large family of infant and helpless children, without any resource other than that which her hands afforded her, and the charitable aid which she has received from her kind and beneficent neighbors. From the first of these, age and sickness admonish her to expect but little in future; to the second, she feels that she has already been too often a suppliant, and too long a debtor; that the overwhelming reflection which her future prospect presents, of seeing her children, the offspring of Arnold Henry Dohrman, not only deprived of the substantial comforts and necessities of life, but stepping upon the stage of active life and business, destitute of all the intellectual

acquirements which their father enjoyed, has induced your petitioner to overcome her prejudices of education and finer sensibilities on the subject, and present herself and her children, with their wants and distresses, before the guardian powers of that country for whose interest and independence, in the hour of peril, Mr. Dohrman exposed his life and sacrificed his fortune.

It is due to your honorable legislative bodies that your petitioner suggest the reasons wherefore she ventures to supplicate the consideration of Congress to her distresses; she therefore very respectfully appeals to the journals of the American Legislature of the years A. D. 1785, '6, and '7, from which it will appear that, during the struggle of the United States for liberty and independence, Mr. Dohrman's "own house in Portugal was frequently the asylum of whole crews of captive American seamen, who were fed, clothed, and relieved in sickness through his benevolence, and that at a time when his attachment to the cause of America was dangerous both to his person and property;" that, while an entire stranger to every citizen of these then colonies, he ventured to be their only friend in a kingdom in alliance with and under the influence of their powerful enemy; that he was afterwards selected as the agent and consul of these then United Colonies to the kingdom of Portugal, and discharged that trust in such a manner as to have received, not only from the Congress the approbation of the nation, but also the voluntary testimonials of respect and thanks from the Governments of the several States. Your petitioner also appeals to the memories of many living worthies of those bright days of American glory, and flatters herself she may be excused for dwelling with a grateful and pleasing thought on the testimony of Mr. Dohrman's services, voluntarily recorded of him by the illustrious founders of American independence, General Washington, Hon. Patrick Henry, President Adams, President Jefferson, and many others; some of whom, though she forbears to mention their names, she knows were the warm and active friends of Mr. Dohrman, and on whom she now rests a fond hope, knowing that they yet live ornaments of their country, and intrusted with its welfare and its honor.

Your petitioner is not unadvised that Mr. Dohrman received a compensation for his services as agent of the United States at Portugal, and also a donation in lands as a remuneration for his sacrifices and services in favor of American seamen; nor does she complain of the want of munificence or gratitude on the part of the United States towards Mr. Dohrman, but, on the contrary, she bears witness of the liberal spirit with which Mr. Dohrman was treated, not only by the worthy personages before named and alluded to, but also by the national councils of this his adopted country; but she feels that she may be permitted to remind the guardians of this great and happy people that the services of "one who," in the language of Governor Henry of Virginia, "unallied to them by any ties of kindred or country, opened his purse to their distressed captive countrymen, and took them to his bosom as his brethren," are not to be estimated by any weight or measure; and that the reward which the Congress of the United States intended in their donation of lands for Mr. Dohrman was not (on account of an unfortunate selection of a township) realized by Mr. Dohrman to one-half of its supposed extent. Mr. Dohrman was entirely ignorant of land himself, and, confiding in erroneous information of others, or misled by false representations of its quality and situation, instead of a township of even an average worth or quality, he chose one worth less than any other out of which he was entitled to make his selection. And though in this he could have no cause of complaint against the United States, yet, inasmuch as Congress designed for him a greater remuneration than he realized, and the United States treasury has profited by his unfavorable selection, your petitioner humbly conceives she may well be excused if she has formed too sanguine hopes of a further consideration of the subject by the National Legislature; and even then she trusts that, if noble deeds of patriotism, valor, virtue, or humanity, will anywhere on earth rescue the offspring of the actor from penury and distress, the children of Mr. Dohrman have yet a pledge of promise in the hearts of the American people.

Your petitioner prays to be indulged in the further humble representation that a continued series of misfortunes and disappointments had pursued Mr. Dohrman from the first moment his own house became the asylum of distressed American captives in Portugal until his death, in 1813, in Steubenville, Ohio. Educated in European manners, and indulged in early life in the lap of fortune, he was but too little prepared to meet and buffet the stubborn realities and busytoils of an American merchant or agriculturist. He was, therefore, disappointed in his expectations; embarrassed in his circumstances; his soul was too great to murmur; education had taught him not to supplicate; the little value and dead capital of his land rendered his estate insolvent, and he died the child and victim of despair and sorrow, consoled in his last moments by the animating and pleasing reflection that though his wife and children were about to become the objects of an eleemosynary subsistence, he left them free in the land he had sought for his home and his sepulchre, and for whose political happiness, though he had sacrificed his own, and depauperated his children, yet they were left to be cherished by those whom he, in his turn, had "fed, clothed, and relieved from sickness." Your petitioner forbears further to relate, but throws herself and children upon the bounty and liberal protection of an enlightened people, and will ever pray.

RACHAEL DOHRMAN.

STEUBENVILLE, OHIO, *January 6, A. D. 1817.*

BY THE UNITED STATES IN CONGRESS ASSEMBLED, *June 21, 1780.*

The Committee of Foreign Affairs, to whom was referred a letter of 23d May from Mr. P. Henry, late Governor of Virginia, report:

That, from the said letter and other papers laid before them, as well as from the information of Mr. G. Anderson, they find that Mr. Arnold Henry Dohrman, merchant of Lisbon, hath, from the commencement of the present war, manifested a warm and steady attachment to the cause and interests of the United States: that he hath expended large sums of money in carrying into practice schemes projected by him for assisting them with clothing and warlike stores, as well as in supplying great numbers of American prisoners carried into the ports of the kingdom of Portugal with money and all other necessaries for their comfortable subsistence while there, and for their return to their own country by such routes as they preferred: that, from the great wealth and influence and the favorable disposition of the said Arnold Henry Dohrman, many benefits might be derived to these States by enabling him to be more publicly and extensively useful under the sanction of authority from Congress: that the committee are assured the said Mr. Dohrman wishes for no salary or emolument for his services, but simply a repayment of his advances when it shall be most convenient: whereupon,

Resolved, That Arnold Henry Dohrman, of the city of Lisbon, merchant, be appointed agent for the United States in the kingdom of Portugal, for the transaction of such affairs of the said States as may be committed to his direction.

CHARLES THOMSON, *Secretary.*

To the honorable the United States of America in Congress assembled: The memorial and petition of Arnold Henry Dohrman, of Lisbon, in the kingdom of Portugal, agent for the said United States, respectfully show:

That your memorialist (by birth a subject of the Netherlands) was, at the commencement of the late war between the United States and Great Britain, a resident at Lisbon, in the kingdom of Portugal, possessed of handsome property, and in full credit as a merchant.

That, having imbibed from early life a strong attachment to the principles of liberty, he saw with anxious and affectionate concern the first efforts of this country to defend and secure the rights of human nature; and carried along by a desire to espouse its cause unsolicited, and without hope or expectation of reward, at a period, too, when European prejudices and opinions wished and predicted the ruin of that cause, he resolved to devote himself to it by the best services his situation would permit.

That the object which presented itself to him as the one in which he could best execute this resolution with advantage to America, was the preservation and relief of captive seamen whom the fortune of war should throw within his reach. These in considerable numbers, at different times, as well in Spain and in the Western islands as throughout the kingdom of Portugal, he assisted with supplies of food, medicine, care, clothing, and the means of transporting themselves back to America. His own house frequently received whole crews from the prison-ships, from whence the sick and wounded were sent to hospitals, and where the well were entertained and supported till opportunities could be found for their return home; for which purpose they were supplied with every necessary.

That the execution of this plan was attended with great hazard as well as great expense and loss to your memorialist, who soon became an object of the resentment and persecution of the court of London; upon whose instances with the court of Portugal, * * * * * your memorialist was forbidden, on pain of banishment, from continuing his assistance to the Americans; but his attachment to their cause would not suffer him to be deterred by menaces or dangers from persisting in what he considered as a duty he owed to the cause of humanity and liberty.

That, happily for him, the events of war favoring the hopes of America, and procuring the countenance of some of the most respectable Powers of Europe, prevented the execution of these menaces; and your honorable body, some time in the year 1780, having been informed of the good-will of your memorialist, and having been pleased, unasked by him, to reward him with the appointment of agent at the court of Lisbon, your memorialist had the satisfaction (though not recognised by that court till after the peace) to continue his zealous endeavors for their service under the authority and sanction of the United States.

That too much of your memorialist's time, attention, and money was employed in the prosecution of these views to consist with the prosperity of his private affairs. The diminution of his funds, the disgusts and fears of his friends on account of the part he took, the critical position in which he for a long time stood with the Government, concurred in the ruin of his mercantile credit and interest. The consequence is, that he now stands in need of the bounty of Congress for what he hopes he has deserved, but never intended, till urged by necessity, and invited by the complete success of the revolution to ask—a reimbursement of his expenses, and a reasonable compensation for his services.

That, actuated by a strong desire of visiting that land of liberty he has so long loved, admired, and served, and of manifesting upon the spot his respect for that august body whose wisdom has founded the American republic, and at the same time hoping that his presence would enable him to give a more satisfactory explanation of his services and pretensions, your memorialist some time since communicated to Congress his intention to embark for America; which he has since done, leaving his brother, Jacob Dohrman, his substitute at the court of Lisbon, who has been accordingly received in that capacity, and whose abilities and influence will more than supply the absence of your memorialist.

That your memorialist, being now arrived at the seat of Congress, is happy in the opportunity it affords him of renewing to your honorable body the assurances of his unalterable respect and veneration.

That your memorialist, confident he may expect from the justice and generosity of the country in whose fate he has so warmly interested himself not only a proper indemnity for his expenses, losses, and sacrifices, but also an adequate compensation for his services, has only to regret that the circumstances under which those expenses were incurred, and those services performed, do not permit him to offer to Congress vouchers for many of the articles which compose his claim. Your memorialist cannot, however, but flatter himself that indulgent allowances will be made for his situation; to entitle him to which, he begs leave to suggest the following facts:

That a great part of the time he kept no regular accounts; that a considerable proportion of the expense was incurred under his own roof, and confounded with other family disbursements for the subsistence of the prisoners whom he from time to time received in his house; that much of what he did was done in a secret manner, to elude public observation, and of course under pretenses and appearances which would not admit of vouchers of the facts; and, in the last place, that he was often obliged, for his own security, to deposit his papers out of his possession; by which means many of them were at different times lost.

Your memorialist, therefore, to supply any deficiencies which may appear, must rely on the notoriety of his sacrifices and services, and must appeal to the accounts received by some of the members of your own body, and to the testimony of respectable individuals now on this continent, which, in the progress of the business, your memorialist, if required, will endeavor to produce.

That your memorialist, having little more in his power than to exhibit a general sketch of the objects of his expenditures, begs leave herewith to submit the same to the consideration of your honorable body, recalling to the attention of Congress the time and circumstances under which he first gave proofs of his attachment to the American cause, the peculiarity of those proofs, the voluntary and disinterested manner in which they were given, by a stranger to the country, and no otherwise allied to its interests than by the sympathy of common principles; the actual sacrifices and personal danger with which they were attended; the instrumentality of your memorialist in preserving to the United States many valuable subjects, part of whom would have lost their lives for want of proper assistance, and others would have been compelled by their necessities to engage in the service of the enemy; the singular situation to which his unsought interference would have reduced him had the revolution failed; and, in the last place, to the distress and embarrassment which he in fact experienced in consequence of the application of his funds and time to its advancement, &c.

And your petitioner, as in duty bound, will pray, &c.

[Presented to Congress, July 19, 1786.]

ARNOLD HENRY DOHRMAN.

SIR:

PARIS, *May* 16, 1780.

I have received the letter which you did me the honor of writing to me the 11th of April, in which you inform me that more than six hundred of my unfortunate countrymen have received succors from you, without which they must have been reduced to despair, or forced to engage on board the vessels of their enemies.

In this, sir, you have distinguished yourself by efforts of humanity, which do you great honor, and which deserve more imitation in countries where it is a pity there is so much occasion for them. There would not be so much occasion for them in Portugal, give me leave to say, if it were not for the free admission of British men-of-war and privateers into their harbors, and for the rigorous and impolitic, and I must add unjust, exclusion of American men-of-war and privateers from those parts. Americans have done no injury to Portugal, to deserve a treatment so partial; on the contrary, the long and free intercourse of commerce between America and that kingdom gives them a right to have expected a treatment less hostile. My countrymen, however, ought not to be less thankful to you for your generosity; on the contrary, they ought to prize it the higher. You will please to accept of my thanks as an individual who feels himself obliged to every gentleman, of whatever country, who is good enough to assist his unfortunate countrymen.

I shall take the liberty to enclose your letter to Congress, or a copy of it; but, lest mine should miscarry, I should advise you to write to the President of Congress yourself, and send your letter by some of the Americans who may be at Lisbon.

I am very sorry for Captain Cunningham's captivity, who has deserved well of his country. I was informed of it by a letter from Lisbon before from Mr. Calf, to whom I would write if I did not suppose him gone from Lisbon. I waited on his excellency Dr. Franklin immediately, to inform him, who tells me he has taken such measures as were in his power for the relief of Captain Cunningham.

I am, with much respect, your obliged and obedient humble servant,

JOHN ADAMS.

Mr. ARNOLD HENRY DOHRMAN.

SIR:

VIRGINIA, *May 24, 1780.*

The many kindnesses which you have shown to our captive countrymen whom the fortune of war has carried within the reach of your inquiries do great honor to your humanity, and must forever interest us in your welfare. I beg leave, on behalf of my countrymen, to assure you that these attentions are felt with sensibility, and that any occasion which shall offer of rendering you service will be cheerfully embraced. Should future events open an intercourse between your country and ours, for the exchange of productions yielded by the one and wanted by the other, your actions have pointed out the friend to whose negotiations we may safely confide our interests and necessities.

I beg leave to subscribe myself, with the greatest esteem and respect, sir,

Your most obedient and most humble servant,

TH: JEFFERSON.

To ARNOLD HENRY DOHRMAN, Esq.

DEAR AND WORTHY SIR:

RICHMOND TOWN, IN VIRGINIA, *December 12, 1780.*

Understanding that there is a conveyance to you by a vessel just about to sail, I sit down, in great hurry of business, to write you this letter. I know not if you have received those already written and sent, and perhaps may repeat some things formerly mentioned, which the uncertainty of conveyances, I hope, will excuse. I must again present my best acknowledgments and thanks for the generous present you ordered to me. Mr. Anderson informs me of it; and, although the accidents of war deprived me of receiving the articles your undeserved generosity intended for me, yet the enemy could not take from me that which your liberality designed—I mean your esteem and regard. Of these I am happy to find myself in possession; and I can assure you that, in return, I give you mine, with all the sincerity and warmth a high sense of gratitude for benefits conferred on my suffering and distressed countrymen can inspire. These benefits can only be equalled by the noble and disinterested manner in which they are conferred; and I hope I shall not be charged with flattery when I say that, among the transactions of this interesting time, some friend to virtue I hope will be found who may record the fact, and inform the world that there lives a man who turned his eyes from scenes of grandeur, dissipation, and the allurements of wealth and pleasure, to behold the virtuous sons of America struggling for the rights of human nature; and, although unallied to them by any ties of country or kindred, he opened his purse to them as distressed captives, and took them to his bosom as brethren. As an American, I thank you, sir; and, as a lover of those virtues that adorn our nature, I congratulate myself to see it thus rescued from the general charge of degeneracy. I know how little valuable, in general, empty praises are, especially those that come from this distant part of the world; but they are all we have to give at present. For the present, therefore, accept from me this only tribute which I can give to your merit. Perhaps time may furnish the means of something more substantial in return.

I took the liberty to mention you to Congress. They have been pleased to appoint you agent for the United American States in your country. I wished this to be done, as a mark of regard to you, and beg your excuse if you wished it not to be done. Perhaps, after this appointment, nothing which this particular State could do would be worth attending to of a similar nature.

Your friend, Mr. George Anderson, has often mentioned to me the case of Captain Felt, and I have given him the best assistance in my power in that and every other matter. Indeed, his diligence, assiduity, and alertness are so great that I am confident he will omit nothing for your interest. I can assure you I am happy that I was instrumental in ushering him into your notice and regard, because I am sure he will do your business well and effectually, and he possesses uncommon diligence, joined to capacity and integrity; and be assured I will lend him my assistance and best advice for your interest.

I am at present in private life, except that I am chosen a representative in our Legislative Assembly. The first part of this war I spent in public life; and, from the excessive load of business, I was glad to see the end of three years, to which my office was limited by law. My dwelling is far inland, in the county of Henry, to which place letters to me will be addressed.

At present, the war is changed from the northern to the southern part of the continent. The capture of Charleston has raised our enemy's spirits, although it is of not so great consequence as they affect to believe. Very lately we killed and took prisoners the whole of a party of eleven hundred and odd, that advanced up into the country supposed to be conquered, and none of the party escaped to tell the news. This exploit was achieved by Colonel William Campbell, my brother-in-law, with nine hundred militia, armed only with rifles, and no hand weapons, while the enemy were posted on the top of a mountain, behind their defences. It is accounted one of the greatest exploits performed in America during this war, and has disconcerted the enemy greatly. However, they are preparing to act against us in the south with vigor, and we are preparing for the event of another campaign. It will be pretty obstinate, I believe. The northern States I consider as quite given up by Great Britain, and their only

remaining hopes fixed on the southern, where the people are not so warlike, and, from their smaller numbers, not able to resist so effectually; but our forces will march from the north, and, I trust, continue the contest with effect.

It will give me great pleasure to correspond with you, and, on all occasions, to show you that, with the most sincere regard and esteem,

I am, dear sir, your affectionate friend and very humble servant,

PATRICK HENRY.

ARNOLD HENRY DOHRMAN, Esq.

SIR:

RICHMOND, *January 1, 1785.*

It was not before yesterday that the Senate of Virginia had official knowledge of you, sir, and therefore could not have been acquainted with your conduct in respect to our unhappy countrymen (as well as to others of our sister States) carried prisoners into Lisbon by our cruel and unnatural enemies the British. Struck with surprise on having in proof the numberless instances of your unparalleled acts of generosity to them, and the dangers you run at a time when your court had shown no open act by which we had reason to expect friendship from her, and when she was in close alliance with our enemies, we cannot tell which most to admire, your Christian virtues, or your fortitude in exposing your person and fortune to the machinations of our enemies, then in high interest with the august house who governs your country, and with whom we think ourselves extremely happy in having formed, since our independence has been established, a connexion, which we most heartily pray may be continued on the most enlarged and liberal principles. It is with pleasure, sir, we know you are admitted at your court to act in a public character by commission from the honorable Congress of the United States of America, as it gives us a prospect that, by your abilities, a more open and free commercial system will be adopted between the kingdom of Portugal and the United States of America.

It is, sir, with the utmost pleasure to myself that, as Speaker of the honorable body the Senate of my country, I have their orders to return you their grateful and warmest acknowledgments for the numberless acts of favors our citizens, as well as others of our sister States, have received from you.

I am, sir, with the highest esteem and respect, your most obedient, humble servant,

ARCHIBALD CASEY,
Speaker of the Senate of Virginia.

ARNOLD HENRY DOHRMAN, Esq.

DEAR SIR:

MOUNT VERNON, *July 9, 1785.*

I take the liberty of introducing Mr. Dohrman to your friendly notice and civilities. He is represented to me as a gentleman of great merit, and one who, at an early period of the war, (when our affairs were rather overshadowed,) advanced his money very liberally to support our suffering countrymen in activity.

He has some matter to submit to Congress, which he can explain better than I. I am persuaded he will offer nothing which is inconsistent with the strictest rules of propriety, and, of course, that it will merit your patronage.

With very great esteem and regard, I am, dear sir, your most obedient, humble servant,

G. WASHINGTON.

The Hon. SAMUEL CHASE.

BY THE UNITED STATES IN CONGRESS ASSEMBLED, *Monday, October 1, 1787.*

On a report of the Board of Treasury, to whom was recommended their report on the memorial of Arnold Henry Dohrman:

Resolved, That Arnold Henry Dohrman be reimbursed the sum of five thousand eight hundred and six dollars and seventy-two ninetieths of a dollar, with interest on the same from the time of expenditure, being the amount of sundry disbursements by him made for the relief of American prisoners, agreeably to vouchers examined and admitted by the proper officers of the Treasury.

And whereas the claims of the said Arnold Henry Dohrman against the United States amount to twenty thousand two hundred and seventy-seven dollars and forty ninetieths, over and above the sum of five thousand eight hundred and six dollars and seventy-two ninetieths, as above stated, in support of which various and important documents are offered, though of a nature too general to be admitted agreeably to the rules of the Treasury: and whereas this deficiency of vouchers appears to arise from the nature of the disbursements made by Mr. Dohrman, whose own house was frequently the asylum of whole crews of captive American seamen, who were fed, clothed, and relieved in sickness through his benevolence, and that at a time when his attachment to the cause of America was dangerous both to his person and property: and whereas Congress are disposed to acknowledge in the most honorable manner the eminent services rendered by Mr. Dohrman, and to make him further compensation:

Resolved unanimously, That the said Arnold Henry Dohrman be allowed, in consideration of his faithful and generous services as agent from the United States at the court of Lisbon, the sum of sixteen hundred dollars per annum, and that the said salary be computed from the period at which his expenditures commenced, to the present day.

Resolved unanimously, That one complete and entire township, subject to the reservations as in the other townships, agreeably to the ordinance of the 20th May, 1785, out of the three last ranges surveyed in the western territory of the United States, be, and hereby is, granted to the said Arnold Henry Dohrman, free from all charges of survey; and that the said Arnold Henry Dohrman be allowed to make choice of the aforesaid township of land out of any of the said three ranges last surveyed, after the Secretary at War shall have drawn for the proportionate quantity of land assigned to the late army, agreeably to the said ordinance of the 20th May, 1785.

Resolved unanimously, That the above payments be made in such manner as the present state of the finances will best admit of, and that the same, together with the grant of land as aforesaid, be in full of Mr. Dohrman's claims against the United States.

CHARLES THOMSON, *Secretary.*

SIR:

STEBENVILLE, *January 8, 1817.*

I have seen and read the petition of Mrs. Dohrman forwarded to you by last mail, and take the liberty of stating that I believe the facts contained therein, so far as I have had any opportunity of ascertaining them, to be

true. I have, from time to time, made particular inquiries as to the value of the land which Mr. Dohrman received as a donation, and have no hesitation in saying that I consider it as the worst township in the three western ranges of this district out of which Mr. Dohrman had the right of selection. He was undoubtedly imposed on by his agent, who most probably made the selection from a mere inspection of the map, without an actual view of the land. The loss sustained by Mr. Dohrman in the selection has been gained by the United States; so that, on this ground alone, Mrs. Dohrman would appear to have a fair claim.

Whether the donation made to Mr. Dohrman, if it had been realized to its full amount, was an adequate compensation, you will be better able to decide on a view of the documents accompanying the petition. I must confess that, to me, it always appeared a very inadequate return for services so disinterested, and so far transcending the common limits of benevolence. The grant was made in the year 1787. At that time the country not being settled, the land would not have sold for fifty cents per acre. If, as I believe it was, the expenditure was made more than eight years before that time, the land, at the time of the grant, would not have sold for the interest of the sum actually advanced by Mr. Dohrman, and acknowledged by Congress to be justly due. It will be recollected that the adjoining lands were not offered for sale for thirteen years afterwards, viz. in 1800, when this office opened, and few sales were made so far west as Mr. Dohrman's township for several years after that period. It is probable, therefore, that no sale could have been effected prior to 1800; and I am convinced that neither at that time, nor at any period since the grant, could the township granted to Mr. Dohrman have been sold for the interest which would at the same period have been due on the sum expended by him, if I am correct as to the date of that expenditure. I do not believe it would now sell for half that amount, and I am well assured that it did not, in fact, produce half that amount to Mr. Dohrman.

On every view, then, that I can take of the subject, considered merely as a money transaction, the compensation appears to have been very inadequate. But, on this occasion, it is to be hoped that a great and generous people will not confine themselves to a mere counting-house cent and dime calculation of debit and credit. By what scale can you measure the benevolence of heart that prompted to such generous disinterested humanity as Mr. Dohrman evinced towards our suffering countrymen! By what rule can you estimate the wounded sensibilities of a generous and cultivated mind, reduced from affluence, from having the power of dispensing bounty and relieving distress, to a state of dependance and want—to need, though he disdained to ask, that charity which he had, in better days, been so prompt to bestow.

Mr. Dohrman, sir, died two doors from me, literally of a broken heart, without one ray of hope, as to this world, to cheer the gloom, but what arose from the expectation that this his adopted country, whose friend he had been in her hour of peril and distress, would not, in her day of prosperity, abandon his now helpless family.

I indulge the hope that Mrs. Dohrman's petition will meet a favorable reception; and that we may not see in our streets, earning a scanty subsistence by the labor of their hands, friendless and uneducated, the children of this early and warm friend of our country, whose heart, whose house, and whose purse were so promptly and kindly opened to our distressed and suffering countrymen.

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

DAVID HOGG.

P. S. I will thank you to communicate this, or the substance of it, to Mr. Morrow. I would have written to him also, but that I have not the pleasure of a personal acquaintance with him.

D. H.

The Hon. BENJAMIN RUGGLES, *Washington City.*

DEAR SIR:

PITTSBURG, *January 13, 1817.*

A petition will be presented to Congress this session by the widow and children of Arnold Henry Dohrman, stating their present distressed condition, and praying relief in some shape from Congress.

Mr. Dohrman's meritorious claims were considered and settled by the old Congress on the 1st of October, 1787, as appears by the journals of that date. You were then a member, and may recollect Mr. Dohrman, who lived long in the city of New York, where his dwelling was twice destroyed by fire. Owing to these and other misfortunes, he was obliged to abandon mercantile pursuits; and, as a last resource, he removed to the western country, in the hope that he might derive subsistence for his family from the township allotted to him in the seven ranges by the resolution of Congress. Antecedent to his removal hither, he was obliged to mortgage his township to some of his creditors in New York, and this disabled him from making the best of it by subdivision or improvement.

He was in deplorable embarrassment when he reached this place, and, on examination, I found that he had unfortunately selected one of the worst townships in all the ranges, having been misled by the information of a surveyor who traced two outlines of it, where the land happened to be good, but who never had examined the land of the interior. Indeed, at that time the country was little known even to the surveyors, who were obliged to employ guards to protect them against the savages, while they marked the boundaries of the townships, without exploring any of the lands further than this operation required. The whole of his township is hilly, broken with gullies, remote from settlement or improvement, and would not now command \$10,000 at a public sale; whereas, had he been well informed, he might have taken one that would now produce \$100,000. He did, however, accept what was offered, on the best advice he could obtain, because he could get nothing else from Congress, who were destitute of funds to reimburse his advances. He accepted it, believing that he was taking the best land, which Congress evidently intended should be the best, but which by mistake happened to be among the worst.

He removed from this place to Steubenville, that he might live at less expense, and be nearer to his lands. His large family (chiefly females) was managed and sustained with an economy and frugality beyond any thing I ever witnessed; yet in the end his avails from the lands were exhausted, and all credit at an end, although his situation was among the best he could have chosen; for the society in which he had become resident were kind and liberal to him, and have continued their beneficence to his helpless family.

As he had numerous documents and letters showing the high opinion entertained of him by many in the old Government who are still living and in public stations, he was advised to go in person to the city of Washington, and make his condition known, in the hope that as he, in the days of his prosperity and our distress, had never permitted one of our captive seamen to suffer, but his house had been their hospital and their home, we, in our turn, would extend to him a helping hand, to redeem him from the calamities that had overwhelmed him. He prepared to take this journey, and was furnished with means for his expenses, but he sickened and died before the season allotted for leaving home.

Although he did not live to solicit relief, yet it is earnestly hoped that his family may not be forgotten. Provision may be made for them without furnishing any dangerous precedent. Their case is such as can have no parallel. Lands offered and accepted, the value of which was unknown and could not be ascertained on account of danger from

a public enemy; bad land taken, where good land was intended by Congress; the grantee a stranger, never in the western country; his services great, his subsequent misfortunes, the helpless state of his family—all combine to justify an indemnity for this mistake, either in money, or, what would appear more specific, a grant of land to trustees, with power to sell on such credits, in such portions, and by such subdivisions as they may think advisable, for the support of the family and education of the children; the accounts of the trustees to be submitted to the court of Jefferson county, Ohio, and approved by them; the court to have power to fill up vacancies occasioned by death of trustees, &c., and to compel a faithful execution of the trust as in other cases.

I am persuaded you will cheerfully co-operate in promoting any proper measure for the attainment of relief for this truly wretched family, now dependant altogether on the liberality of our country; and, if you see no fatal objection to their claim, let me ask for them not only your good offices in explaining their case to the Senate, but that you would also take the trouble of communicating to Mr. Hopkinson and Mr. J. Wilson of the House of Representatives all that you may deem useful towards forwarding the measures that may be adopted for their benefit; they will, I am sure, be ready to assist in all that ought to be granted.

Having an intimate knowledge of all Mr. Dohrman's affairs ever since he came to the western country, I can speak with certainty of the correctness of all that I have stated; and I will only add, that I have never known a family more forlorn and helpless, without any blame upon their own management of the means in their hands.

I have entreated your assistance in this charitable business the more readily as it affords me the opportunity of presenting myself again to your recollection, as well as of assuring you that I remain with the highest respect and esteem,

Dear sir, your faithful friend, and most obedient servant,

JAMES ROSS.

The Hon. RUFUS KING.

AN ACT for the relief of the widow and children of Arnold Henry Dohrman, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to Rachael Dohrman, widow of Arnold Henry Dohrman, late of Steubenville, in the State of Ohio, deceased, the sum of three hundred dollars, annually, during her life, payable quarterly from and after the 31st day of December, 1816.

SEC. 2. And be it further enacted, That there be, and hereby is, granted to each of the minor children of the said Dohrman, until they shall respectively arrive at the age of twenty-one years, the sum of one hundred dollars, payable quarterly from and after the 31st day of December, 1816; the said grants to the said minor children shall be received and applied for their support and education, and shall be accounted for in conformity to the laws that now are, or hereafter may be in force in the State of Ohio, providing for the management of the estates of orphans.

SEC. 3. And be it further enacted, That the grants herein made shall be paid out of any moneys in the treasury not otherwise appropriated. [Approved 3d March, 1817.]

14th CONGRESS.]

No. 342.

[2d SESSION.

COFFEE LOST AT ALGIERS IN 1812.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 27, 1817.

Mr. YANCEY, from the Committee of Claims, to whom was referred the petition of Jonathan S. Smith, of Philadelphia, reported:

The petitioner states that, in the year 1810, being a citizen of the United States, he shipped from St. Domingo to the island of Majorca a quantity of coffee, and that two hundred and nine bags of which he reshipped from thence to the city of Algiers. On his arrival at Algiers, being acquainted with Tobias Lear, consul general of the United States, he was invited by Mr. Lear to reside in the consular house, and consigned to Mr. Lear his coffee, who placed it in the hands of his factor. In July, 1812, the petitioner, with other American citizens, was informed by the consul that he had received orders from the Dey of Algiers immediately to leave the place; and on the 21st the petitioner applied to Colonel Lear for permission to ship his coffee on board the Allegany. He was referred to the captain of the Allegany, who refused his permission upon the ground that the ship was already laden. The petitioner and others left Algiers, and were passengers in the Allegany; and it is stated by him that he left there, undisposed of, one hundred and thirty-one bags of coffee.

In the late treaty made with Algiers the United States received ten thousand dollars as a compensation for the injuries done to its citizens in violation of the treaty of 1795; of this sum the petitioner has received of the Secretary of State the sum of two thousand dollars, which is considered his full proportion.

Upon a full consideration of this case, the committee are of opinion the petitioner is entitled to no further relief, and therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[14th CONGRESS.]

No. 343.

[2d SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 27, 1817.

Mr. TELFAIR, from the select committee to whom was referred a resolution of this House, instructing them to inquire into the claims of certain detachments of the militia of Georgia for services performed during the years 1793 and 1794, by order of the Executive of that State, under a discretionary power communicated by the War Department, reported:

That the first object which suggested itself for inquiry was, Whether the Governor of Georgia had indeed been vested with a *discretionary power* to call out any portion of the militia of that State to serve at the expense of the Union? And though, in answer to their inquiry, they learned that all the correspondence relating to this point on the files of the War Department had been consumed, still, from the documents accompanying the report to this House from that Department, dated 3d February, 1803, [see page 277,] they are satisfied that such a power was communicated to the Governor by a letter from the Secretary of War, bearing date 27th October, 1792, [see page 277;] in which he says: "If the information which you may receive shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof as may be in your power, and which the occasion may require;" that this power was not finally withdrawn until a letter was received from the Secretary, of the 19th July, 1793, though it had been suspended for the short period of ten days, viz. from the 30th May to the 10th June; that the letter of the 30th of May, which limited the Governor to the employment of one hundred horse and one hundred foot, was written in consequence of an impression at the seat of the General Government that our Indian affairs had assumed a more pacific aspect, but was countermanded, and the discretionary power restored by that of the 10th June, in consequence of information in the interim received of the State of Georgia being invaded, or in imminent danger thereof, which induced the Secretary to say: "The measures taken by your excellency may be considered as indispensable. You are the judge of the degree of danger, and of its duration, and will, undoubtedly, proportion the defence to the exigencies."

Hence arose a second inquiry: Whether the Governor had exercised the powers vested in him with a due degree of caution, by adapting the means to the end, by proportioning the force to the degree of danger to which the State was exposed? This investigation was so embarrassed by the multitude of considerations involved, by the remoteness of the period, and by other combination of circumstances, that your committee cannot pretend to have arrived at any satisfactory result, and, indeed, it is doubtful if any rule could be prescribed by which the force to be employed shall be so graduated by the danger impending as to make concurrent the estimates of those immediately exposed with others remote from the scene of aggression; hence, if a discretionary power is given to the Executive of a State to employ the militia at the expense of the General Government, that excess should indeed be great which deprives the soldier of his hard-earned pay. And when it is recollected that the then frontiers of Georgia were upwards of four hundred miles in extent; that it was thinly inhabited; that it was bordered by a most warlike tribe of Indians, arrayed in deadly hostility, your committee cannot object to the force employed, even if that amount were twelve hundred men, which is the maximum of force stated to have been in service at any one period during the year 1793. The committee, then, are of opinion that the Governor of Georgia was vested with a discretionary power to call out such force as the exigencies might seem to him to require; and they have not found any just or reasonable objection to the extent of force employed; consequently, they believe the United States bound to discharge the expenses incurred, because in them are reposed the duties and attributes of defence.

The only remaining question to which the inquiry of the committee has been directed, was, How long a time after the receipt of the letter of the 19th of July should be allowed to effect a disbandment of the troops employed? And here they are left again without any certain lights or satisfactory data other than the opinions of Colonel Freeman, who then acted as agent of the War Department, and General Dearborn, who made report to Congress upon these claims; both of whom seem to concur in opinion that the extent of country over which they were spread could not admit of an earlier disbandment than the 1st of September, 1793, if, indeed, so soon. The committee further coincide in opinion with the Secretary, just cited, that less injustice would result from an admission of the claims up to the end of the year 1793, than would arise from the rejection of those of the last three months. They therefore recommend the adoption of a bill appropriating \$95,971 23 in payment of those claims for militia service in the State of Georgia, for which pay and muster-rolls have been received up to the end of the year 1793.

[14th CONGRESS.]

No. 344.

[2d SESSION.]

INDEMNITY FOR LOSSES SUSTAINED BY FRANCIS CAZEAU, OF MONTREAL, DURING THE REVOLUTION.

COMMUNICATED TO THE SENATE, JANUARY 31, 1817.

The committee to whom was referred the petition in behalf of the representatives of Francis Cazeau, reported:

That the claim is founded on losses sustained during the American revolution; and as the history of the circumstances are considered necessary to a right understanding of the merits of the case, the committee offer this as an apology for the report being more than usually long.

Francis Cazeau, a native of France, and late a merchant at Montreal, served in the war of 1756 in Canada, under Generals Montcalm, De Levi, and De Lusignan, and returned to France in the latter part of the year 1763, where he was presented to, and had several conferences with, Monsieur de Choiseul, then Minister for Foreign Affairs at Versailles, in which that minister gave him to understand that France had yielded to necessity in the late

cession of Canada to Great Britain, and would seize the first opportunity that presented of recovering the provinces of Canada, Nova Scotia, and Newfoundland; that with this view the minister encouraged the said Cazeau to return to his usual residence and commercial pursuits at Montreal, in order that he might serve and promote the French cause and interest in the said provinces, by keeping up the attachment of the Canadians to their late sovereign the King of France, and by preserving a good understanding with the different Indian tribes. Soon after this, Mr. Cazeau returned to Montreal, where he extensively carried into effect the wishes of Monsieur de Choiseul.

In the year 1774, after some disturbance had taken place in Boston, Mr. Cazeau received a message from M. de Vergennes, French Minister for Foreign Affairs, by the hands of two messengers despatched to him at Montreal for that purpose. The object of this mission was to renew the request and instructions before given by M. de Choiseul, and to solicit Mr. Cazeau's aid in behalf of the American revolutionists; assuring him that the cause of the revolutionists was united with that of France, and would speedily receive her vigorous and cordial support. That, in the year 1775, a man by the name of Walker, authorized by Congress, then sitting in Philadelphia, delivered into the hands of Mr. Cazeau a letter addressed to the people of Canada by the American Congress; and the said Walker requested Mr. Cazeau to give this letter a speedy and extensive circulation in Canada, to promote the cause which Congress had undertaken.

In the following November of the same year, (1775,) Edward Antill, afterwards colonel of the Canadian regiment commanded by General Hazen, delivered to Mr. Cazeau the original of another letter addressed by General Washington, then commander-in-chief of the American forces, to the people of the province of Canada, which Colonel Antill requested him to circulate in like manner.

In the beginning of the year 1776, Mr. Cazeau received a third letter addressed to the people of Canada by the American Congress, for the purpose of being circulated in the same manner as before; which three letters were all distributed and made public by Mr. Cazeau as requested, and it is believed were productive of much good. It was also in November, 1775, that Generals Montgomery and Wooster, a few days after entering Montreal, applied to and solicited Mr. Cazeau, in the strongest and most pressing manner, in the name and by the express authority of the American Congress, to serve the cause of the revolted colonies, (now the United States,) through his interest and influence in Canada, *assuring Mr. Cazeau at the same time, in the name of Congress, that he should receive full and adequate compensation for any dangers, losses, and injuries he might incur from so doing.*

In November, 1778, Count d'Estaing, commander of the naval forces of France, then lately arrived at Boston, deputed Father Germain, an ex-Jesuit, to present to Mr. Cazeau a proclamation, in the name of the King of France, to his former subjects in Canada, with a request that he would give it publicity, and informed him at the same time that his conduct had received the fullest approbation of the French ministry; and repeated to Mr. Cazeau the assurance that the cause of the United States and France was the same; and that the King of France would guaranty any claims he might have upon the United States, in consequence of services rendered, or for those that he might hereafter perform.

Mr. Cazeau, though transferred with his property at Montreal, by the peace of 1763, to the British crown, still retained all his attachments to his native country, her monarch, and her interests; and, preferring the common cause of the United States and France to that of Great Britain, and urged on to act by the united solicitations of both Powers, notwithstanding the splendid hopes and rich allurements held out to him by Sir Guy Carleton, the British Governor of Canada, embarked his life and fortune in the cause of revolted America, which he faithfully served and eminently promoted.

In order that your committee may give a more comprehensive view of the manner in which Mr. Cazeau has thus served and promoted the cause of their country, they beg leave to make some selections from statements under oath, which they pray may be considered as part of their report.

In the year 1775, when Mr. Cazeau had distributed abroad the invitation of Congress to the people of Canada, he made use of his agents in the fur trade to promote dispositions favorable to the cause of America among a great number of tribes of Indians, with whom he had an extensive commercial intercourse; and he caused the Indians to dissemble with the British Governor of Canada, who, unsuspecting of the stratagem, stripped the province of his regular troops, and thus facilitated the entry of Major Brown into Canada, where he met at every place with assistance and friends, and took possession of several posts.

The reinforcement under General Montgomery, expected in the latter part of this year, and which, destitute of every necessary provision, was supplied by Mr. Cazeau, enabled him to take possession of a flotilla of Carleton's, in the river St. Lawrence, by which he entered Montreal in November of this year.

The letter of General Washington, addressed to the Canadas, being circulated by the commissaries of Mr. Cazeau, he strengthened the partisans of Congress in that quarter by gaining over the irresolute, and by engaging numbers of the inhabitants to join under the banners of Montgomery, offering, as an inducement, to many, entire absolution from the debts they owed him, and to others gave such necessary provisions and comforts as their necessities required. Of these the general formed three bodies of troops, and assigned the commands to Colonels Livingston, Dugan, and Hazen, who served with great zeal during the war. And these sacrifices do not form an item in the present claim, as they never were estimated or presented.

In 1776, in addition to the service rendered by the circulation of exhortations of Congress to the people of Canada, Mr. Cazeau procured intelligence to be given to Generals Wooster and Arnold, which disconcerted the plans of General Carleton when he considered the success of his troops most certain; and, during the blockade of Quebec, Beaujeu, the emissary of General Carleton, was prevented, by the interference of Mr. Cazeau, from recruiting at Montreal and other places, by which the blockade was continued till the spring, when eight thousand troops, under the command of General Burgoyne, came to their relief, and the capture of the post of Cedars by the American troops was facilitated through the influence of Mr. Cazeau, who prevented the inhabitants of the province from joining Captain Moore.

In 1777, new offers were made to Mr. Cazeau by General Sir Guy Carleton to win him over to the interest of Great Britain, which he again refused, and retaliated on the general by gaining over the emissaries and spies of the British party, by means of whom he unravelled the plans of their campaign, and frustrated the contemplated junction of the two armies of Clinton and Burgoyne. He contrived that the Americans should have intelligence twenty-four hours before the British of every order with which their *procured emissaries* should be charged; and by this means Colonels Solinger and Sir John Johnson were routed on Lake Ontario—an event which led the way for the celebrated victory of General Gates at Saratoga, that gave so decided a character to the hopes of the revolution.

It was owing to the fortunate intelligence given in 1778 by Mr. Cazeau to Generals Schuyler and Belley, that the capture of General Rochambeau in Rhode Island, with four thousand five hundred men, was prevented, as Admiral Howe was upon the point of landing ten thousand troops, by whom they would have been surrounded; and the surrender of Fort Mifflin to the troops of Congress, which had been negotiated between him and a British officer of distinction, would have been effected, if an American officer had arrived at the time appointed.

In the year 1779, entertaining still the hope that the promised American troops would arrive, Mr. Cazeau renewed his plans against Fort Sorrel, and, in concert with the British officer before mentioned, he sent off in July an Annoyote Indian with a letter containing the necessary information as to the state of things, and requesting troops to be immediately despatched into Canada. The failure in the execution of this plan, and the loss of this most favorable opportunity of aiding the cause of America, can, in the opinion of Mr. Cazeau, be only ascribed to the dissatisfaction of General Arnold, of which at that time he was wholly unconscious.

Understanding in the year 1780 that the town of Quebec had not more ammunition than would be equal to a siege of ten days, and that it was as ill furnished with provisions, without any hope of supply for some time, and that there were only about four thousand five hundred troops dispersed throughout the whole extent of the country, a Mr. Kenay was sent off by Mr. Cazeau, express, to give this intelligence to Congress; but, unfortunately, being imprudent in the selection of his guide, they were discovered, and this detection caused the imprisonment of Mr. Cazeau, who, still intent upon his object, though in prison, found means to send off one Mynor, another express, to carry a duplicate to Congress of the same intelligence that had been confided to Kenay; but the treachery of Arnold rendered abortive almost every plan that could be devised.

Though confined in prison for nearly two years and a half, the devotion of Mr. Cazeau to the cause of America was not lessened; and the resources of his intelligent mind were perpetually furnishing aid even in this situation. During the period of imprisonment, he gained over to his interest the spies of the British governor, and obtained from them every message they were charged with; and he procured the escape of numerous prisoners (both French and Americans) at different intervals of time, by whom he forwarded to Congress, or to the American commanders, whatever important intelligence he procured from the British spies.

Informed that a body of troops was forming at Albany under the command of the Marquis de la Fayette, for the purpose of entering into Canada, though still confined to his prison, Mr. Cazeau arranged a plan, with the before-named British officer who had undertaken to surrender Fort Sorrel, to put the British forces between two fires, and to surrender their general in case of a general action; and also to deliver up in the night one of the gates of Quebec if any American troops should present themselves before it.

Worn out with expectation, and disappointed in every scheme to procure the admission of troops into Canada, Mr. Cazeau made another and last attempt, through Mr. Rey, (a French officer,) whom he deputed to Congress for that purpose, and, though still unsuccessful, he had the satisfaction to learn that there was a coincidence of plan between him and General Washington, inasmuch as the general had, with equal earnestness, though with similar want of success, solicited both Congress and the French minister that the troops commanded by Count Rochambeau should be sent into Canada. Reduced to the last extremity, and finding that his presence in Canada could no longer, under existing prospects, be useful to the common cause of the United States and France, Mr. Cazeau effected his escape from prison, and took with him his son, Colonel Gordon, and six other prisoners, and made his way into the United States.

During the period of his captivity, from 15th April, 1780, to 23d August, 1782, Mr. Cazeau was eminently serviceable, both by the correspondence which he carried on, as well as by effecting the escape of American and French prisoners, which he did to the amount of more than 150 persons, a great portion of whom were officers, and for whom he furnished the necessary equipments, provisions, and guides to enable them to get off.

It appears that Mr. Cazeau was appointed to the rank of colonel by General Montgomery, at Montreal, in November, 1775. But, by an express agreement and understanding between them, his name was not inscribed on the list of American officers, as that would have exposed his safety, inasmuch as it was necessary that he should live among the enemy, and would have put it out of his power to render those services that were expected from him.

From the evidence laid before your committee, they believe that Mr. Cazeau was a man of very large fortune at the commencement of the American revolution, which was certainly sacrificed in consequence of his adherence to that cause, as what was not consumed by him in the service of America was confiscated and lost upon his retiring into the United States. He escaped with his son from prison, and came into the United States destitute of every thing, reduced from affluence to poverty, and stood before the American people, to whose emancipation he had been greatly instrumental, a suppliant for justice—claiming from the Government a mere indemnity for pecuniary losses incurred at their instance and in their behalf, and generously making them a gift of what was more valuable than money, viz: his toils, his perils, and his sufferings.

It appears, from evidence of the most respectable kind, that Mr. Cazeau was a man of perfect integrity, and worthy of all confidence; and that no doubt can exist but that he did render all the services here set forth.

Nothing is better calculated to show the generous and disinterested sentiment which directed him to espouse the cause of America, as well as to prove the importance of his influence, than a consideration of the magnificent offers that were made him by the British Governor of Canada to draw him over to that interest. He was offered by the British governor, in 1775, a grant of fifty-two square leagues of valuable land, containing, by estimate, about 366,912 acres. He was offered the general supply of the British army, the command of such a body of troops as he could raise, together with the commission of a brigadier general; and such was the eagerness to make the grant, that Mr. Jenkin Williams, judge of the court of common pleas and register of the secretaryship of Quebec, had been caused to sign a request for that grant, the record of which was actually made at the office.

The petition of Mr. Cazeau having been first presented to the Congress in 1783, a strong impression appears to have been entertained in that body favorable both to the merits of the claim and the worthiness of the petitioner, as they not only showed a disposition to settle and allow the claim, but seemed to have entertained the idea of granting him the island of Michilimackinac, as an additional compensation for his services. This last intention was frustrated by the retention of the post of Michilimackinac after the peace of 1783, and a small advance of money was made as an earnest of the first.

In the year 1784 the subject was again brought before Congress, and a committee, consisting of Colonel Monroe, Mr. Howell, and Mr. Sherman, made the following report, which the committee beg may be received as a part of their report:

BY THE UNITED STATES ASSEMBLED IN CONGRESS, *March 18, 1784.*

Resolved, That as the depreciation of paper currency (mentioned in Mr. Cazeau's memorial) did not arise from a voluntary act of Congress, but was an evil forced upon us by our exigencies, hath been injurious to our own citizens as well as to foreigners, and as no compensation hath been made the former for the losses they have sustained thereby, the United States in Congress assembled cannot, with justice, discriminate between them and any other class or description of men.

Resolved, That whatever stores or provisions Mr. Cazeau purchased and collected for the use of the American army, by engagement of the officer commanding the detachment, or other person duly authorized by him for that purpose, whether they reached the detachment or not, if so purchased and collected, they were destroyed, and he in

that degree injured, the United States are in honor and justice bound strictly to make good the loss he sustained thereby, provided it shall not appear, in the liquidation of his accounts, that the said stores and provisions were to have been at his risk until the delivery thereof.

Resolved, That whatever Mr. Cazeau advanced to expresses, to give necessary communications to our generals, should be repaid him.

Resolved, That the sale of his goods to the inhabitants of his province, to promote our interest upon cheaper terms than he might otherwise have obtained, was an act of benevolence not authorized on our part, and can, therefore, in justice, give him no claim for retribution.

Resolved, That an interest of six per cent. per annum, from the 1st day of May, 1777, be allowed to Mr. Cazeau on the above advances, and on the amount of the articles so purchased and collected.

Resolved, That the Superintendent of Finance be, and he is hereby, directed to advance to Mr. Cazeau the sum of \$5,000 on account, and to order his account to be adjusted, and to give him certificates for the payment of the balance at such early and convenient times as the finances of the United States will admit of.

Resolved, That, in settling the accounts of Mr. Cazeau, his *own testimony, under oath, be admitted in support of such other evidences as the circumstances of the case will admit.*

CHARLES THOMSON, *Secretary.*

BY THE UNITED STATES IN CONGRESS ASSEMBLED, *June 7, 1785.*

On the report of a committee, consisting of Mr. Ellery, Mr. Monroe, Mr. Read, Mr. Williamson, and Mr. Spaight, to whom were referred sundry applications from Canadian refugees—

Resolved, That the commissioners for settling the accounts of the State of New York with the United States be authorized and directed to examine the accounts of such Canadian refugees as have furnished the late armies of these States with any sort of supplies, and report thereon to Congress.

That the said commissioners cause the foregoing resolution to be published in Canada, and in such of the States in the Union as he may judge proper, to the end that such Canadian refugees may be duly informed thereof.

CHARLES THOMSON.

Copy of the account of the 1st of November, 1783, given to Congress.

| <i>The United States of America in account current with Francis Cazeau,</i> | | DR. |
|---|--|--------------------|
| 1777. March. | For 8000 (minoto) bushels of wheat, at \$1 a bushel, as it appears by certificates numbered, - - - - - | \$8,000 00 |
| | Expenses and commission, - - - - - | 2,633 30 |
| May. | For three boats loaded with wine, brandy, cheese, tea, shoes, hats, including the boats, as appears by certificates, - - - - - | 4,000 00 |
| | Expenses and commission, - - - - - | 1,404 43 |
| 1778. August. | For the hire of an Indian, called <i>Jean Baptiste</i> , sent to General Schuyler, the same express having been sent by the general to the honorable Congress, - - - - - | 72 00 |
| 1779. July. | For the hire of an Indian Annoyote, sent to General Schuyler, who sent him back to Congress, - - - - - | 58 00 |
| 1780. February. | Paid to Mr. Kenay and to his guide, called Trudelle, - - - - - | 74 60 |
| October. | For an express sent by Mr. Rey, - - - - - | \$48 |
| | For money paid to him by Rey at his departure, - - - - - | 16 |
| | Paid to his guide, - - - - - | 8 |
| | | <u>72 00</u> |
| | | 16,314 45 |
| Interest at 6 per cent. for six years and a half, - - - - - | | 6,357 25 |
| | Total, - - - - - | <u>\$22,671 70</u> |
| 1783. February. | Received in cash on account, upon the order of the honorable Congress, \$1,000 00 | |
| | Interest from the 6th February to 6th November, - - - - - | 45 00 |
| | Error in the calculation of interest on the sums advanced to express, - - - - - | 26 08 |
| | | <u>1,071 08</u> |
| Balance due to Francis Cazeau, - - - - - | | 21,600 62 |
| | | <u>\$22,671 70</u> |

Copy of the affirmation of Mr. Cazeau.

ALBANY, *July 24, 1785.*

I, Francis Cazeau, do swear solemnly that, in the year 1776, I made a verbal agreement with General Arnold, commanding the American troops in Canada, to furnish to said troops certain articles of provisions and ammunition, for which the current prices in said province were to be paid to me, together with all the expenses attending the collection of them in convenient depositories, and in sending them to the army, besides a commission of five per cent. on the total sum. At the same time, General Arnold agreed to indemnify me for all inevitable losses or capture, from the time the provisions should be collected to that of their delivery; that, conformably to the said agreement, a quantity was collected by my direction, of which the wheat, mentioned in the first article of the account, was entirely destroyed and lost; that the provisions of the second article, having been procured and sent in the same manner, have been plundered and entirely destroyed, with the boats; and that the prices and expenses set in the present account are not above those current at that time and place. I declare, besides, that the account passed in conformity with the agreement is just, without fraud towards the United States; and that I have not received either payment or compensation but what is carried to the credit of the present account.

FRANCIS CAZEAU.

WILLIAM BARBER,

Commissioner of Accounts for the State of New York.

Revisal of the above account by Mr. William Barber, commissioner appointed by a resolve of Congress of the 27th June, 1785.

SIR:

ALBANY, July 27, 1785.

The United States in Congress, by their resolve of the 27th June last, have been pleased to give me the power of examining the accounts of those Canadian refugees who have furnished the armies of these States with provisions of any kind, and to make report to Congress. I have examined the claim of Mr. Francis Cazeau, and have the honor, through your excellency, to report that, as Congress, by a resolve of the 18th March, 1784, thought proper to order that Mr. Cazeau's own testimony, under oath, should be allowed in support of all other evidences which the circumstances of his case required, I have therefore taken it, (such as is annexed to this,) by which it would appear that, by an agreement entered into between Mr. Cazeau and General Arnold, all provisions and munitions furnished by virtue of the said agreement were to be at the risk of the United States up to the delivery; and, by other concurrent testimony, the quantity charged in his account was *bona fide* procured with the intention of aiding our army; and that the said provisions and munitions were inevitably lost and destroyed before they were demanded and had arrived to our troops.

It would appear, also, as well by the testimony of Mr. Cazeau, as by a comparison of the price of wheat in those States, that the prices charged are not above the prices current at that time; therefore, conformably to the last act of Congress above mentioned, which has laid down the principles by which the present account is to be governed, it would clearly appear, and I am entirely of the opinion, that the sums charged for the wheat, the three boats, the provisions, and advances to gain intelligence, are just; that the United States owe to Mr. Cazeau the sum of \$8,000 on account of the first article, and \$4,000 on account of the second; and that the United States owe also to Mr. Cazeau, for advances made at different times to procure intelligence, the sum of \$276 64, and for advances made for the use of the troops of the United States. As to that which relates to the expense of transportation of the aforesaid provisions, and the commission on the purchase, although it appears, by the testimony of Mr. Cazeau, that these allowances should be made, yet I presume that a special act of Congress is necessary to confirm this part of the agreement before any sum be placed to his credit on that account. I am, at the same time, of the opinion that the ordinary commission ought at least to be allowed to Mr. Cazeau on the amount of his purchases, together with a compensation for the extraordinary expenses which he had to incur in procuring and forwarding the provisions, as well as the expenses which he has incurred in obtaining a settlement of his account.

I am your excellency's very obedient servant,

WILLIAM BARBER,

Commissioner of Accounts for the State of New York.

To His Excellency the PRESIDENT of Congress.

The amount thus settled on account, by order of Congress, falling far short of what Mr. Cazeau thought he had a right to claim, as he entered into the service of the United States at the beginning of the Revolution with an estate worth more than three hundred and fifty thousand dollars, and came out of the war in penury and distress, he declined accepting the amount liquidated by Mr. Barber, commissioner of accounts for the State of New York, not understanding the same to be *on account*, but in lieu and in full satisfaction of his more ample claim.

Emboldened as he was to risk every thing, by the solicitations of the American Congress, who, together with the Government of France, were pledged to the amount of whatever losses he might sustain; and buoyed up for a time by the flattering prospects that were presented to him, before the fervor of gratitude for his aid had subsided, it is not wonderful that, when wearied down with the pursuit of his just claim, and sinking with despair, he should have given expression to his feelings in the following pathetic style, viz: "The favorable disposition that was shown towards me at that period (1783) by the Legislature of the United States, and the liberal concessions of land which were announced by several* members of Congress as being intended to be made to me as an indemnity spontaneously granted by national munificence, had rendered me extremely moderate and reserved in all my demands relative to the determined objects of my account, and also in the several valuations, which seemed in some measure to be left to my own arbitration. But after having been kept until this day in vain expectation of the justice that was promised; after having worn out the rest of my life by twenty-four years of fruitless solicitation, attended with continual fatigue, sorrow, and the deepest misery, since a great nation has enjoyed that happy state of independence which my eminent services have contributed to establish; reduced as I am now, bordering upon my grave, to invoke only a strict and impartial justice, which, although I may never enjoy the effect of it, my CREDITORS, my BENEFACTORS, and my CHILDREN may partake in, I cannot dispense with stating each particular object of my loss at its fair value at the time when I was dispossessed of my property."

Mr. J. B. Stuart, the authorized petitioner in behalf of the family of Mr. Cazeau, and his assignee, was in London in March last, (1816,) in quality of chancellor of the United States consulate at that place, when his claim was presented to Mr. Adams, the American minister at that court, and who was at the same time informed that Francis Cazeau was then dead, leaving a wife and children in Paris in total poverty, who were then, and for eighteen years before had been, subsisting on the benevolence and charity of a Mr. Corbeaux, the brother-in-law of Cazeau, who was himself in rather indigent circumstances, and to whom Cazeau, in his lifetime, as a retribution for his generous support of himself and family, had made an assignment of part of his claim, and a power for the recovery of the whole; that Mr. Cazeau's advanced stage of life (being upwards of ninety years of age when he died) prevented him from crossing the Atlantic to prosecute the claim.

Mr. Adams referred the business to the consul, for him to put it into the hands of some fit person, to be presented to Congress; and the petitioner was selected as that agent.

This claim has been revived, from time to time, as far as it was in the power of Mr. Cazeau to revive it, as your committee are induced to believe that it has been regularly presented to the attention of every American minister at the court of France since the Revolution.

From a review of all the circumstances attending this case, and a thorough and patient investigation of the voluminous documents and memoir presented with this claim, a brief sketch of which is here presented to the Senate, the committee are of opinion that Francis Cazeau was a meritorious and useful friend to the cause of the American Revolution; that he consumed much of his property to aid the establishment of our independence; and that his firm adherence to the United States in that arduous struggle was the cause of his being reduced from the greatest affluence to the extremest poverty. They are further of opinion that Mr. Cazeau was solicited by the old Congress, and by their authorized agents and officers, to give his aid and influence in their favor, and that he was promised by

* Mr. Jefferson, Mr. Monroe, Mr. Howell, Mr. Henry.

the then ruling powers of the country, and was by them impressed with a full conviction, that whatever pecuniary losses he might sustain in their service should be reimbursed, and that the Government of France guaranteed the indemnity.

Your committee do not consider themselves authorized to allow the claim to the great extent in which it has been stated by Mr. Cazeau, as they are not sure that it would be proper to allow some of the items charged; but they have no hesitation in saying that, in their opinion, the claim ought to be allowed to at least the amount stated by Mr. Barber in July, 1785, under the sanction of Congress in 1784 and 1785, together with interest from that time. They therefore submit the following resolution:

Resolved, That the Committee of Claims be instructed to report a bill authorizing the payment of forty-two thousand seven hundred and thirty-seven dollars and ninety-seven cents to the legal representatives of Francis Cazeau, late merchant at Montreal, or to his assignee or attorney, or other person lawfully constituted and empowered to receive the same.

STATEMENT.

| | | | | | |
|-------------------|--|---|---|---|--------------------|
| March, 1777. | 8,000 minots (bushels) of wheat, | - | - | - | \$8,000 00 |
| May. | Three boats loaded with brandy, wine, and clothing, | - | - | - | 4,000 00 |
| 1778, 1779, 1780. | For advances to gain intelligence, | - | - | - | 276 64 |
| | | | | | <hr/> |
| | Interest on \$12,276 from 1777 to present time, (say 40 years,) | - | - | - | 12,276 64 |
| | Expenses and commission charged on wheat, | - | - | - | 2,463 30 |
| | Expenses and commission on the boats loaded with wine, brandy, clothing, &c. | - | - | - | 1,404 43 |
| | | | | | <hr/> |
| | | | | | 45,777 97 |
| February, 1783. | Cash received on above account, | - | - | - | \$1,000 |
| | Interest on same to present time, (say 34 years,) | - | - | - | 2,040 |
| | | | | | <hr/> |
| | | | | | 3,040 00 |
| | | | | | <hr/> |
| | Balance due representatives of Francis Cazeau, | - | - | - | <u>\$42,737 97</u> |

Recapitulation of the whole claim of Francis Cazeau, as stated by himself in 1807, (November.)

Government of the United States of America to Francis Cazeau, (late merchant at Montreal,)

| | Dr. |
|--|-----------------------|
| <i>1st head.</i> Supplies for the American army and other expenses included in an account settled by William Barber, commissioner appointed by Congress, according to his report thereof, 27th July, 1785, | \$15,314 45 |
| <i>2d head.</i> Effective disbursements during the seven years of the independence war, say from 1775 to 1782, inclusively, in my capacity of political and secret agent, acknowledged by the Governments of the United States and of France, and further disbursement in procuring the evasion of American and French prisoners, | 59,814 81 |
| <i>3d head.</i> Losses sustained, either by confiscation of my property in Canada by the British Government, or by the plunder of my warehouses during my imprisonment, in consequence of the active part I had taken in the political affairs of the United States, after the express solicitations to that purpose which were made to me by the general officers and legal powers of the Government of the said United States, as also by the general officers commanding the French forces in America, and upon the faith of the solemn promises made to me at the same time, both in the name of Congress and in that of the King of France, of a full indemnity for any such consequences that might result from my so doing, | 352,977 59 |
| <i>4th head.</i> Indemnity for the loss of my commercial establishment, and for the utter dissolution of my fortune, which resulted from the vengeance exerted upon me by the British Government, in consequence of the services which I had rendered against that Government to the Congress of the United States, | 296,296 30 |
| <i>5th head.</i> My pay on the footing of a colonel of the United States service during seven years of activity, with five years' retreat allowed to all the American officers after the end of the war, and the grant of lands made to each officer of that rank, | 11,600 00 |
| <i>6th head.</i> Extraordinary expenses occasioned to me by twenty-four years' solicitation towards obtaining the settlement and payment of what is due me from the Government of the United States, | 8,888 89 |
| <i>7th head.</i> Interest of sums advanced, and of others withheld from me by the Government of the United States of America; the said interest calculated up to the 31st December, 1807, at the rate of six per centum per annum, being the legal rate of interest, | 2,056,359 44 |
| | <hr/> |
| | <u>\$2,801,251 48</u> |

14th CONGRESS.]

No. 345.

[2d SESSION.

INDEMNITY FOR WASTE ON VILLIERS' PLANTATION DURING THE DEFENCE OF NEW ORLEANS IN 1814 AND 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Jumonville de Villiers, of the State of Louisiana, reported:

That, in the months of December, 1814, and January, 1815, the American troops, called to the defence of New Orleans, and commanded by General Andrew Jackson, were stationed on the plantation of the petitioner; that, while so stationed there, it became necessary to use for fuel, for the use of the troops, a quantity of fencing, and the petitioner requests of Congress to pay him the value thereof, and also the value of a quantity of sugar cane and sugar which he states were used by the troops of the United States.

The committee are of opinion that the fencing having been made use of for fuel, which could not have been procured of the ordinary kind, from the nature of the service, and the circumstances under which the troops were collected for the defence of New Orleans, the claimant is entitled to relief so far as respects the value of the fence, but that the Government cannot be considered liable for the destruction of the cane or use of the sugar, it being neither necessary for the service nor for the sustenance of the army. Pursuant to this opinion, they report a bill authorizing payment for the fence only.

14th CONGRESS.]

No. 346.

[2d SESSION.

INDEMNITY FOR INJURY DONE TO MONTREUIL'S PLANTATION DURING THE DEFENCE OF NEW ORLEANS IN 1814 AND 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Madame Montreuil, of the State of Louisiana, reported:

That the petitioner owned a plantation situated below New Orleans, which was occupied by the American army in 1814 and 1815, and upon which public works for the defence of the country were erected; that, in consequence of such occupation, and the erection of a line of public works through the plantation, it has received considerable injury, and would cost a considerable sum to place it in the same situation it was in before its occupation.

The committee are of opinion the petitioner is entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 347.

[2d SESSION.

HOUSES AND FURNITURE BURNT BY ORDER OF THE COMMANDING GENERAL AT NEW ORLEANS IN 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Antoine Bienvenu, of the State of Louisiana, reported:

That the claimant was owner of an elegant and well-furnished house situated below the city of New Orleans, and between the positions occupied by the American and British armies in December, 1814, and January, 1815. In consequence of this situation of the house and the two armies, it afforded a shelter to the British army, and was, by General Jackson, ordered to be fired on with hot shot for its destruction. It was several times fired on by Commodore Patterson and set fire to, which was extinguished by the British forces. In consequence of the destruction of the house and furniture, and other houses adjacent to the dwelling-house, the petitioner has sustained considerable injury, for which he prays Congress to remunerate him.

The committee are of opinion he is entitled to relief, and therefore report a bill for that purpose.

14th CONGRESS.]

No. 348.

[2d SESSION.

INDEMNITY FOR WASTE ON CASTANADO'S PLANTATION DURING THE DEFENCE OF
NEW ORLEANS IN 1814 AND 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of John De Castanado, of the State of Louisiana, reported:

That the petitioner owned a plantation and house situated on the right bank of the Mississippi, below New Orleans, and that a battery was erected, by order of the commanding officer, in front of the house, and close by it; in consequence of which, the house received much injury from the British artillery.

The petitioner had also a quantity of wood and hay taken from him and used by the army, for which he requests that he may be paid.

It appearing to the satisfaction of the committee that the house and plantation of the petitioner were injured in consequence of their occupation for military purposes, and that the wood and hay were necessarily used for the army, they are of opinion the petitioner is entitled to relief, and therefore report a bill to that effect.

14th CONGRESS.]

No. 349.

[2d SESSION.

INDEMNITY FOR PROPERTY DESTROYED BY THE ENEMY IN 1777.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 5, 1817.

Mr. ROBERTS, from the Committee of Claims, to whom had been referred the petition of Sarah Dewees, reported:

That they find it to be the object of the petitioner to obtain indemnity for buildings, the property of her late husband, destroyed by the public enemy while occupied, under the authority of the quartermaster general of the United States, as a place of regular military deposite at the Valley Forge, in the year 1777.

The petitioner refers to a report of a select committee, made to the House of Representatives on the 11th of February, 1794, [see No. 39, page 74,] on the petition of her late husband, Colonel William Dewees. That report sets forth "that the facts alleged in the said petition are satisfactorily established; that it appears the property was taken for public use, contrary to the wishes and remonstrances of the petitioner; that the chief part of his buildings were occupied as a deposite for military stores, where a part continued until the approach of the enemy; that, on the arrival of the enemy, he consumed the stores with the buildings; that the destruction of the said property *is to be ascribed wholly* to the circumstance of the military stores being there deposite, as none of the buildings in the vicinity suffered in like manner; and that the claim of the petitioner is not barred by any act of limitation, having been exhibited at the Treasury within the period limited by those acts."

The above-cited report concludes with a resolution to bring in a bill for the relief of the petitioner. The Committee of the Whole appear to have reported the resolution negatived, which report was rejected by the House.

From that time until the death of Colonel Dewees, embarrassed circumstances, consequent on the loss of his property and great infirmity of body, prevented him from prosecuting his claim. In 1811, the petitioner petitioned Congress. Her vouchers were then on the files of the House of Representatives; but which now appear to have been destroyed in the conflagration of 1814. Copies of these vouchers, which the committee have no doubt are genuine, together with evidence recently obtained of the most respectable character, accompany the petition.

The petitioner represents her case as coming entirely within the scope of an act passed at the last session of Congress, authorizing the payment for buildings destroyed by the enemy while occupied as a military deposite. The force of this suggestion the committee are compelled to admit in all its extent.

The committee believe the destruction of Colonel Dewees's buildings was clearly sanctioned by the usages of civilized warfare, and that the obligation on the Government to make compensation for the loss of property thus taken for public use is unequivocal. In the lapse of time for which indemnity has been withheld, the committee see nothing to weaken this obligation. The facts were established to the satisfaction of the House of Representatives as early as 1794. From a diligent examination of the records of the House of Representatives, the committee are induced confidently to believe no claim similar in character has ever been made on the justice of Congress since the establishment of the present Government.

They therefore respectfully recommend the payment of the claim of Sarah Dewees, and report a bill making the necessary appropriation.

14th CONGRESS.]

No. 350.

[2d SESSION.]

INDEMNITY TO A TEAMSTER FOR DAMAGES AWARDED AGAINST HIM.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Paul Robinson, of the State of Vermont, reported:

That, in the year 1814, the petitioner was employed as a teamster to the detachment commanded by Colonel Isaac Clark, who marched into Lower Canada. While in that province, at a place called South River, at the house of Theophilus Morrill, he received on his sleigh, by order of Colonel Clark, a puncheon of rum, which he was ordered to carry to Swanton, in the State of Vermont. The petitioner accordingly took the rum to that place, and delivered it at the guard-house, and it was afterwards, as Colonel Clark states, issued to the troops. In March, 1816, the petitioner, having business at Missisque bay, went to that place, and was there arrested, at the suit of Morrill, for taking and converting to his own use the puncheon of rum. Instead of waiting a regular trial of the cause, and finding himself much embarrassed to procure security for the satisfaction of the damages, if any should be found against him, he consented to have the case arbitrated. The arbitrators were accordingly appointed, met, and heard the parties by their counsel, and finally awarded against the petitioner to the amount of \$344 33, which he states he has paid to the said Morrill. He requests that Congress would pay him that sum, and \$100 for his trouble and other expenses.

The committee are of opinion that the Government is under no obligation to pay to the petitioner a claim for which he has made himself liable by his own voluntary act in submitting to the arbitrament and award of the arbitrators. Nor is it believed that the Government ought to indemnify the officer who took the rum, if it were private property, and if, in consequence of its being private property, damages were recovered against him. The United States have in no instance, while at war, justified the seizure or capture of private property belonging to a citizen or subject of the enemy. If any such capture has taken place, it was an offence in the officer, and a violation of a private right, for which the individual injured would be entitled to damages. If Morrill was entitled to recover against the petitioner, it must have been upon the principle that the rum was private property.

The committee recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[February 7, 1817.—Considered in the House of Representatives, and the word *not* in the resolution stricken out.]

14th CONGRESS.]

No. 351.

[2d SESSION.]

PENSION TO A REVENUE OFFICER DISABLED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 8, 1817.

Mr. PARRIS, from the select committee to whom was referred the petition of Noah Miller, of Castine, in Massachusetts, submitted the following report:

That, on the 19th of April, 1815, the petitioner was inspector of the port of Penobscot, in the State of Massachusetts; that, on the said 19th of April, in the execution of the duties of his said office, the petitioner seized a quantity of beef belonging to one Daniel Whittier, who was in the act of conveying the same in a boat to Castine, then invested by a British fleet and army in hostility to the United States; and that, in consequence of such seizure, the petitioner received from said Whittier a severe wound in his right hand by a large knife, aimed at his body, by reason of which wound the petitioner has lost the use of said hand; that Whittier has been convicted of the offence before the supreme judicial court of the State of Massachusetts, and punished by imprisonment; but in consequence of his poverty was, by order of court, discharged from prison, in which, after the expiration of the term for which he was sentenced, he had been detained several months for the payment of the costs of prosecution.

The evidence adduced to the committee proves that the petitioner discharged the duties of the office of inspector at a time of great hazard, when it was difficult to obtain any other person to enter upon them; that he was faithful and persevering, even at the risk of his personal safety; and in consequence of his activity, as appears by a certificate from the collector, the smuggling of provisions to the relief of the enemy at Castine was interrupted.

The committee, believing that those persons who are unfortunately disabled in enforcing the revenue laws are entitled to relief equally with those who are disabled in the military service, and that sound policy requires that every reasonable inducement should be offered to insure a faithful execution of those laws, have reported a bill for the relief of the petitioner.

14th CONGRESS.]

No. 352.

[2d SESSION.

MERCHANDISE CAPTURED BY THE ENEMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Peter Kindall, of the State of New York, reported:

That, in the month of July, 1814, the petitioner, with his wagon and team, was passing from Lewiston, in the county of Niagara, to Buffalo, with a quantity of goods. It was deemed necessary by General Brown to impress the wagon and team into public service, for the purpose of transporting ordnance and stores from Lewiston to Scho-lassie, and the wagon was actually impressed by David Denman, assistant deputy quartermaster general, by the order of General Brown.

At the time the wagon was impressed, the goods with which it was loaded were taken out, and a guard put over them; but the enemy advanced before they could be removed, and captured them, together with a variety of public stores.

The committee are of opinion the petitioner is entitled to relief, and therefore report by bill.

14th CONGRESS.]

No. 353.

[2d SESSION.

FURTHER CREDITS AFTER JUDGMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 13, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Peyton Short, of the State of Kentucky, reported:

That the petitioner entered into a contract with one Thomas Marshall, an agent of the United States, to furnish the Government with a large quantity of whiskey, at 3s. 6d. per gallon. A controversy arising out of the contract, the petitioner was sued by the United States, in the federal court of Kentucky; and, at the time of trial, being absent from the court, his counsel consented that judgment should be entered against him for five hundred dollars, subject to the equity of his case. The petitioner afterwards, being dissatisfied with the judgment of the court, filed a bill of injunction; and, upon a full and equitable hearing of the cause, the court decreed that there was a balance against the petitioner of one hundred and fifty dollars seventeen cents and nine mills in favor of the United States; and that the balance of the judgment at law, which is stated at one hundred and eighty-two dollars two cents and nine mills, should be perpetually enjoined. The petitioner discharged that part of the debt which was decreed against him; but, subsequent to the decree, (to wit, in November, 1814,) the court decided that it had no jurisdiction of the cause, and ordered it to be dismissed; upon which, an execution issued against the property of the petitioner for the balance of the judgment.

It appears, from a copy of an execution from the district court of Kentucky, that the petitioner has paid, or is ready to pay, the balance which the court decreed against him when his cause was considered as in a court of equity.

The committee, assuming as a fact that the cause, when it was heard by the federal court as a court of equity, was equitably and justly decided between the public and a citizen, have not considered it necessary to investigate the original merits of the case. They are of opinion that the petitioner, having paid the amount decreed against him, is entitled to relief, as regards the balance of the judgment at law, and report a bill to that effect.

14th CONGRESS.]

No. 354.

[2d SESSION.

REIMBURSEMENT OF LEGAL EXPENSES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 13, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of Asa Wells, of the State of New York, reported:

That, in the year 1808, the petitioner, as lieutenant, with a detachment of men under his command, was ordered by the Governor of New York to march to Oswego, in that State, for the purpose of aiding the collector of the district and port of Oswego in the execution of the duties and powers of his office in executing the laws of the United States. While the petitioner was stationed at Oswego, he received orders from the collector of the port to proceed, with thirty-five men, to Salmon river and Big Sandy creek, to search for potash, or any other articles which might

be there deposited, indicating a belief that they were about to be smuggled into Canada, and to seize boats which might be found there without regular papers. Some boats were found at Sandy creek, and seized by the petitioner and his party. Those who had them in possession, no doubt, from circumstances, intended running them off as soon as they found it convenient. The masts, sails, and oars of the boats were secreted in the adjacent woods; but they were discovered, and also seized. A number of persons, supposed to be about eighty, assembled and demanded of the petitioner and his men that the property which had been seized should be restored, and stating their determination, if it were not restored, to take it by force. They were ordered to disperse and retire; and, having refused to do so, ten of them were taken by the petitioner, and sent to the garrison at Oswego, and, by the commanding officer of the garrison, they were sent to the jail in Onondaga. For this proceeding the petitioner was sued, in ten several suits, by the party he had arrested; and, after the return of the writs in each case, and before the trial of the causes, the plaintiffs left the State of New York, and the suits have been all dismissed for the want of prosecution by those who commenced them; the consequence of which is, that the defendant, in each case, has been compelled to pay costs to the amount of \$488 95.

The law of the State of New York authorizes a resident citizen of the State to commence suit without giving security for the payment of the costs if the plaintiff should fail in the suit. But if one who was a citizen at the commencement of the suit removes from the State, he may be compelled to give security for the prosecution of the suit, or have it dismissed; and if the counsel of the plaintiff should continue to prosecute the suit after the plaintiff has removed, he may be made answerable for the costs which may have accrued after the removal. The counsel in those cases against the petitioner, upon this principle, was compelled, by order of the court, to pay of the costs in the suits \$122 40.

The petitioner prays that Congress would pay him the sum which he has been compelled to pay under these circumstances.

The committee are of opinion he is entitled to relief, and therefore report a bill to that effect.

14th CONGRESS.]

No. 355.

[2d Session.]

MONEY LOST BY A PAYMASTER.

COMMUNICATED TO THE SENATE, ON THE 19TH OF FEBRUARY, 1817.

Mr. ROBERTS, from the Committee of Claims, to whom has been referred the petition of Joseph C. Boyd, reported:

That the petitioner was a paymaster in the army, and, on the 9th of March, 1813, he intrusted to Captain Joseph Westcott the sum of \$1,374 35, to pay said Westcott's company, then stationed at Castine, in the district of Maine. Captain Westcott left Portland in the sloop Harriet of Portland, Jacob Orcutt, master, and, on the day he sailed, dropped the money overboard, and was deprived of the means of recovering it by a rough sea. Mutilated duplicate receipts, given by Captain Westcott to the paymaster for the sum in question, are in the accountant's office. It appears the usage has been, and is still continued, of the paymasters sending their remittances to the officers of posts by such conveyances as they may select; it is, however, understood to be at the risk of the paymaster. In this case, very full evidence is given that the loss was accidental, though the loose manner in which Captain Westcott was carrying the money was blameable. The effect of relieving the petitioner to the United States is the payment of the money twice.

The committee are of opinion that, however severely the withholding relief may press upon the petitioner, the precedent such a grant would establish would be of the most evil tendency. It seems unwise to adopt any measure that would encourage remissness in the transmission of moneys by paymasters. The following resolution is respectfully submitted, viz:

Resolved, That the petitioner have leave to withdraw his petition.

14th CONGRESS.]

No. 356.

[2d Session.]

INDEMNITY FOR WASTE ON VILLERE'S PLANTATION, NEAR NEW ORLEANS, IN 1814 AND 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1817.

Mr. YANCEY, from the Committee of Claims, to whom were referred the petition and documents of General James Villéré, of the State of Louisiana, reported:

That, at the time the State of Louisiana was invaded by the British forces, the petitioner, living near New Orleans, owned and occupied a valuable house, from which his family retired, and which was sometimes occupied by the British forces, and sometimes by the American, during the invasion. During this time, the troops of the United States used a quantity of his wood and some of his fencing, for fuel. At the time the British forces left New Orleans, it was considered prudent and proper by General Jackson to fill up a canal through the plantation of the petitioner; in consequence of which, a part of the plantation, which was planted with sugar cane, was over-

flowed, and continued so long overflowed, before the news of peace reached that place, that he was prevented from making a crop.

The petitioner prays to be paid the value of such injury as he has sustained, in consequence of the filling up of the canal, and the value of his wood and fencing.

It is difficult to determine, precisely, what are the damages for which the petitioner is entitled to indemnity. The committee, however, after having bestowed some consideration on the subject, are of opinion he should be paid the value of his wood and fencing necessarily used for fuel, a sum sufficient to open the canal, and one year's rent for such part of his plantation planted in sugar cane as was overflowed by filling up the canal; and therefore report a bill to that effect.

[14th CONGRESS.]

No. 357.

[2d SESSION.]

HOUSE BURNT BY THE ENEMY AT HAVRE-DE-GRACE IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1817.

Mr. ROBERTS, from the Committee of Claims, to whom had been referred the petition of William B. Stokes, reported:

That the petitioner was owner of a house in the town of Havre-de-Grace, in the State of Maryland, when the British detachment arrived at that place in May, 1813, at which time it was destroyed by them.

The petitioner represents his said house as of the value of \$7,500. The evidence laid before the committee appears to have been taken under commissions issued by Richard Bland Lee. It is set forth in the deposition of John C. Ridgely, a lieutenant of dragoons at said time in the service of the United States, that, on the Saturday before the British arrived at Havre-de-Grace, he reached there with a detachment of dragoons, in pursuit of deserters, and asked for quarters. Mrs. Sears, who kept the house of Mr. Stokes as a tavern, objected; but he insisted, and did quarter there from Saturday until Monday, when the British landed, and at that time had two deserters under guard in the said house. Subsequently he bore a flag to the enemy, and remonstrated against the destruction of said house, and was answered it was a *military depot*. Abraham Garret, another witness examined, swears that he accompanied the flag, and, on remonstrating against the conduct of the British in burning the town, he was told by the admiral that *many of the houses burnt were occupied for military purposes*; that it was his determination to burn every house occupied for military purposes, &c.

The depositions of Ridgely and Garret are those only that go to touch the cause of the burning, and all they state amounts to no more than that this was the vague excuse of a vindictive freebooter for a disgraceful outrage on the usages of civilized warfare. The detachment of cavalry, it appears very evidently, sojourned in a public house over the Sabbath only; that they were there as persons passing casually, not in a military station, nor exercising any control over the house. The attempt to establish a military occupancy from the presence of militia is still more objectionable, as there were, it is believed, only the local militia present, and many of them residents. That a British admiral, committing acts of the most flagitious desolation, should, when earnestly expostulated with against it, offer some pretence of justification at the expense of candor and truth, was to be expected—it was perfectly in character. But the committee think it would be erroneous to admit such authority to establish the fact of public occupancy. Mr. Garret says that many of the houses were alleged by the enemy to be occupied for military purposes. This would seem to convey the idea that Mrs. Sears's house was the strongest case, and that others are considered as eligible to allowance, even on slighter pretences. Some, however, it is admitted, have been burnt wantonly.

The whole transaction the committee have no doubt was of the most lawless character, and they cannot admit for a moment that this flagitiously incendiary act should be at all palliated by the admission of such evidence to sanction it as an act of excusable warfare.

The committee believe this to be the first claim of a similar nature presented for the decision of Congress, and they apprehend that the extent in which like claims may be made gives to the decision that may now be had an importance that does not belong to the value claimed. While they regret an enemy, styling themselves Christians, could commit acts of such aggravated turpitude, and that their fellow-citizens have been made the victims of such heinous depravity, they cannot feel the obligation on the Government to make indemnity, nor discover any practical principle of justice that would allow it. They submit, respectfully, the following resolution, to wit:

Resolved, That the prayer of the petitioner ought *not* to be granted.

[14th CONGRESS.]

No. 358.

[2d SESSION.]

LOSS SUSTAINED BY AN OFFICER OF THE NAVY, CAUSED BY THE CAPTURE OF HIS VESSEL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1817.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of Stephen Champlin, reported:

The petitioner states that he is a lieutenant in the navy of the United States; that, during the year 1814, he commanded the schooner *Tigress*, then cruising on Lake Huron; that, on the night of the 3d of September, he was

overpowered by a superior British force, himself badly wounded, and, with his vessel and crew, captured by the enemy; that the petitioner was plundered after the capture of private property of the value of five hundred dollars, for which loss he prays to be compensated by the Government.

The committee, on examining this question, find no precedents to justify them in recommending it to the House to grant the prayer of the petition, but believe that a number of applications on similar principles have been rejected; they therefore recommend to the House the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

15th CONGRESS.]

No. 359.

[1st SESSION.]

MONEY DEPOSITED WITH THE AMERICAN CONSUL AT TUNIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 15, 1817.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the report of the Secretary of State in the case of Winslow and Henry Lewis, reported:

That, on the 14th of February last, the petition of the aforesaid persons was, with the accompanying documents, referred to the Secretary of State; that, in compliance with the said resolution, the Secretary has submitted to the House the following, which the committee beg leave to adopt as a part of their report:

“The Secretary of State, to whom, by a resolution of the House of Representatives of the 14th of January last, was referred the petition of Winslow and Henry Lewis, has the honor of submitting thereon the following report:

“That, in the year 1815, the sum of \$21,613 06, the property of the petitioners, was deposited in the hands of M. M. Noah, consul of the United States at Tunis. The money had been paid by the Bey of Tunis, under an agreement with Commodore Decatur, to indemnify the petitioners for the loss of two prizes captured during the late war with Great Britain, and which, having been carried into that port, had been, by his direction, delivered up to the British Government.

“The money thus deposited was appropriated by Mr. Noah to another object, namely, to pay certain bills of exchange drawn by him for the ransom of prisoners at Algiers, represented by him to have been authorized by the Department of State, and for which he had previously drawn bills upon the Department, which had been protested, but for which, afterwards, provision was determined to be made, and the payment of which was superseded by this application of the funds of the petitioners to that object.

“How far the conduct of Mr. Noah in the transactions connected with the drawing of these bills was warranted by the instructions and authority that he had received, it were superfluous now to inquire. That the money belonging to the petitioners, deposited in the chancery of the consulate, was applied to other purposes, for which the Government of the United States has deemed itself responsible, and the object of which was the redemption of citizens of these States from Algerine captivity, is certain. The Secretary of State, therefore, respectfully reports it as his opinion that the claim of the petitioners is just, and entitled to the favorable consideration of the Legislature, whose sanction is essential for its admission to settlement at the Treasury.

“JOHN QUINCY ADAMS.”

The Committee of Claims therefore report to the House a bill for that purpose.

15th CONGRESS.]

No. 360.

[1st SESSION.]

LOSS OF THE SCHOONER WILLIAM YEATON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 16TH OF DECEMBER, 1817.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petition of Joseph Forrest, offered to the House the following report:

That the petition, with accompanying documents, was, by a resolution passed on the 26th of February last, referred to the Secretary of State; that, in compliance with said resolution, the Secretary has submitted to the House of Representatives a report, which the committee beg leave to insert in their report, with a view to bring the subject more distinctly before the House.

The report of the Secretary of State appears to the committee to be final as to one point, viz: that the United States were charterers, but not insurers of the voyage, and, therefore, are not liable, by any principle of contract or retributive justice, to the petitioner. And although the committee perfectly accord in the generous sympathies expressed for the sufferings of a fellow-citizen, yet they cannot think it would be right for Congress, in this case, to follow the impulse of those feelings. On this point, however, the Secretary of State has given no opinion, but submits it to the discretion of the Legislature.

The claim may present itself in a point of view still stronger, when we reflect that the sufferings of the petitioner have been induced by embarking on a voyage for charitable purposes to a distant land. But the committee think we should not in the mean time forget that the relief afforded to foreigners in distress proceeded alone from the munificence of the Government. The petitioner had only the custody of the benefaction, not an interest in it; he asked, and no doubt received, for the use and risk of his vessel, precisely the same as if it had been destined to pursue "a voyage of ordinary traffic or indifferent intercourse." The petitioner cannot, in the opinion of the committee, be entitled to share with Government the beneficence of character which this transaction might impart. In deciding the case, therefore, they must return to the more regular, better settled, and, in their opinion, safer principles of justice, as applicable to an ordinary contract. And here the committee are happy to say again, that the opinion of the Secretary of State is in perfect accordance with their own, "that the United States are not bound by their covenants to indemnify the petitioner for his loss." They think this the only safe criterion to be adopted by Congress. The feelings of generosity are too indefinite to be admitted as a rule of conduct in a series of legislative acts.

Individuals may—yes, it is their duty to bestow reasonable gratuity on meritorious objects; but on individuals these demands will be limited. The number of them, if satisfied to their full extent, cannot be supposed to draw after them intralment and distress as a consequence to the benefactor. If they did, they would cease to be obligatory; for it is a plain rule of morality, that, to take from those who want in order to give to those who want, adds nothing to the sum of human happiness.

Of a nature similar to acts of individual beneficence was the measure of the Government for relieving the inhabitants of Venezuela from the afflicting calamities of an earthquake. Our own citizens, similarly situated, would be entitled to, and would unquestionably receive, the most active, the most liberal munificence of Government. But the case of the petitioner is of a different kind; he prays relief from an ordinary accident, a common casualty, the loss of a vessel, such as might happen every day. Once adopt the principle that cases of this sort are to be relieved, and who can define the limit at which it may be possible to withhold munificence from the claims of suffering and distressed humanity? Every vessel wrecked at sea; every house consumed by fire; every field devastated by storm; in short, every accident resulting from any fortuitous concussion of elements, either natural or moral, would be the basis of an equal claim to your indulgent consideration. That they would multiply beyond all proportion to your ability to meet them, needs no comment to make it obvious to the House. Not only so, but distress in assumed, if not hypocritical forms, might assail you, till the burdens imposed on the citizen for the purposes of general or unlimited relief would far exceed the misfortunes you should propose to alleviate. The committee think they see great danger in acting on such extended (perhaps some would say generous) principles. They see, on the other hand, great safety, if not a paramount duty, in conforming their decisions to the simple precepts of justice. If in the present case Congress should grant relief, may not a great number of cases, appealing with equal force to your generosity, arise during the present session? Allow one, and all of them must be entitled to the same benevolent respect, or Congress would be liable to the charge of invidious discrimination. It requires only a moderate foresight to discover that, instead of performing the duties assigned them by their constituents, instead of attending to the general concerns of the nation, Congress must, in a few years, be altogether employed in acts of charity and beneficence to individuals. Such a result, the committee think, would be as incompatible with the duties they owe their fellow-citizens, with that vigilance and attention generally to the affairs of the people whom they represent, as it would be inconsistent with the rules of wholesome legislation. They, therefore, recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

The Secretary of State, to whom, by a resolution of the House of Representatives of the 26th of February last, were referred the petition of Joseph Forrest, and the documents accompanying the same, has the honor of submitting the following report:

In the month of May, 1812, the schooner William Yeaton, George Travers, master, belonging to the petitioner, was chartered, at New York, by James Christie, as agent of the Government of the United States, to carry from New York to Laguayra, in South America, a cargo of flour, being part of a donation granted by the Congress of the United States to the inhabitants of that country, which had recently been afflicted by the calamity of an earthquake. In the charter-party for his voyage, the petitioner's agent, George Davis, covenanted, among other things, that the said schooner should "be made ready, fitted, and provided by the said George Davis with all necessary and convenient things for such a schooner bound on the proposed voyage, and furnished with sufficient men and all other necessaries during said voyage;" and the United States covenanted to pay for the cargo to be put on board the said schooner by them at the rate of one dollar and fifty cents for every barrel of flour, seventy-five cents for every half-barrel of the same, and forty cents for every bushel of corn, as the full freight and compensation for the proposed voyage, with a deduction of five per cent. for payment before the vessel sailed from New York; and it was agreed that the petitioner's agent, George Davis, should have the privilege of carrying to Laguayra on board of said schooner four passengers.

These were all the covenants stipulated on the part of the United States in the charter-party.

The vessel sailed from New York on the 28th of May, provided with a special passport, under the seal of the United States and the signature of the President, declaring that she was bound from the port of New York with a cargo of provisions intended as a donation from the Government of the United States to the unfortunate inhabitants of Venezuela, who had suffered by the late earthquakes there. She arrived at Laguayra on the 1st of July, 1812.

Before she had entirely discharged her cargo, the place, which had been in a state of revolt against the authority of Spain, was taken by the royal forces, and the vessel, with several others alike situated, was seized and condemned for a breach of the Spanish colonial laws, in going to the place without permission from any Spanish authority. The sentence of the court alleges that it was notorious to all the inhabitants of the United States, having been published in the gazettes, that all foreign vessels going to Laguayra, then in a state of insurrection, without a certificate of the Spanish consul at the port of their departure, would, by virtue of repeated royal ordinances, be seized and confiscated; that, had the object of the Government of the North really been to relieve the unhappy inhabitants of Venezuela, who had suffered the desolation of an earthquake, the Spanish consul could not have refused the aforesaid certificates when applied to such acts of humanity; and hence the court inferred it as clear that the sole object of the Government of the United States was to support the people of Venezuela in the obstinacy of their criminal independence; and that the voyage of the vessels in question, of which the petitioner's schooner was one, was to infringe the royal Spanish regulations, or to elude their fulfilment under such pretexts.

In the ensuing month of October, the vessel was restored to Captain Travers, at the instance of Don Onis. A survey was made of her by four masters of American vessels, under authority of the consul, Mr. Lowry, to ascer-

tain the damages to the owner occasioned by the detention. They reported that the vessel had not suffered much damage; but they awarded to the owner twenty-four dollars a day demurrage for eighty-nine days of detention, from the day of her seizure to that of her restoration.

In the mean time, the war between the United States and Great Britain had commenced. It was impracticable for Captain Travers to obtain freight, or even to bring back the vessel to the United States. He was obliged to sell her for the payment of the necessary expenses; and the proceeds of the sale were inadequate to defray them.

The loss was total. The only question is, upon whom must it fall—the United States or the petitioner? No express covenant in the charter-party binds the United States to indemnify the owner for arrest or detention of the vessel by a foreign prince or state. It is not perceived that there was any implied contract to that effect. It was a subject to be covered by a policy of insurance, like the dangers of the sea. The United States were charterers, but not insurers of the voyage.

There is another point of view in which the question may be placed, more favorable to the claim of the petitioner, but upon which it must rest with the discretion of the Legislature to decide. The real object of the voyage was to perform a national act of beneficence and humanity for the relief of foreigners suffering under one of the most awful visitations of Heaven—an earthquake. It also happened that they were, at the same time, suffering under a calamity no less dreadful, though inflicted by their fellow-creatures—they were in a state of civil war. The authority of the sovereign against whom they were struggling was at that time not recognised in the United States. There was no Spanish consul, acknowledged as such by the Government of the United States, and to whom the petitioner or master of the vessel could have applied to obtain that certificate which, in the estimation of the royal authorities at Laguayra, was indispensable to save her from seizure and confiscation. Those royal authorities, in a state of expulsion when the vessel was chartered and sailed from New York, by one of the vicissitudes of the war recovered possession of Laguayra immediately after the arrival of the vessel there. The seizure and confiscation of the vessel were not occasioned, therefore, by any fault or neglect of the master of the vessel, or of its owner.

The object of the American Government was not, as the passions of the moment misconstrued it, to foster and foment rebellion; it was not even ordinary traffic or indifferent intercourse. It was a virtuous impulse of the highest order; it was beneficence, to relieve the distress of other nations and tongues. In the fervor of this generous sentiment, if the Congress justly concluded that they were discharging their most imperious duty to their constituents by appropriating their money to alleviate the distresses of a distant and foreign land, would not the same, or at least a congenial sentiment, warrant them in extending their bounty to their own citizens, who, in the very act of carrying their munificence into effect, fell into unmerited misfortune? Will they suffer their own countryman to find his ruin in the very fulfilment of their gratuitous kindness to foreigners? As an ordinary question upon a contract, the subscriber respectfully reports it as his opinion that the United States are not bound by their covenants to indemnify the petitioner for his loss. Whether the consistency of benevolence, in a transaction founded altogether upon the basis of sacrificing pecuniary interest to a higher principle, requires that the prayer of the petitioner should be granted, he is bound to leave to the beneficent feeling and deliberate judgment of the House.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

[15th CONGRESS.]

No. 361.

[1st SESSION.]

LOSSES SUSTAINED BY THE SURRENDER OF THE TERRITORY OF MICHIGAN TO THE ENEMY IN 1812.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1817.

THE SECRETARY OF STATE, to whom, by a resolution of the House of Representatives of the 6th of February last, was referred the petition of sundry citizens of the United States, inhabitants of the district of Detroit, in the Territory of Michigan, has the honor of submitting the following report:

The petitioners allege that they have suffered great losses of property by the violation, on the part of the British forces, and especially by the Indian savages, then acting as auxiliaries under them, of the capitulation by which, on the 16th of August, 1812, the Territory of Michigan was surrendered to the British General Brock; one article of which capitulation stipulated that private persons and property of every description should be respected.

That, by this violation of the capitulation, the petitioners acquired a just claim upon the British Government for indemnity and satisfaction, which they expected the Government of the United States would have prevailed upon that of Great Britain to make, by paying the petitioners for all the losses and damages sustained by them in consequence thereof.

That the United States having concluded a treaty of peace, and subsequently a commercial treaty, with Great Britain, without mention being made of the Territory of Michigan, or of these claims of the petitioners, they have thereby lost their claim of redress and indemnity upon the British Government; but that the obligation of making it has thereby devolved upon the United States, to whose justice and liberality they appeal accordingly for remuneration and payment.

Extracts from the documents upon the records of the Department of State are herewith annexed, serving to show the liberal principles upon which the Government of the United States were desirous of proceeding in terminating the war, and at the same time the anxious care with which they urged a provision of indemnity for the citizens of the United States who had suffered loss or damages such as those complained of by the petitioners. This provision was insisted on until it was distinctly known that the only alternative to its abandonment was the inevitable continuance of the war.

How far the United States themselves are answerable to their individual citizens for the losses and damages occasioned by the enemy, and unhappily incident to the condition of war, it is for the wisdom of Congress alone to determine.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE, December 16, 1817.

[Extract from letter of instructions, dated January 28, 1814.]

Mr. Monroe, Secretary of State, to the American Plenipotentiaries appointed to treat of peace between the United States and Great Britain.

On the claim to indemnity for spoiliations, I have only to refer you to what was said in the former instructions. I have to add that, should a treaty be formed, it is just in itself, and would have a happy effect on the relations of the two countries if indemnity should be stipulated on each side for the destruction of all unfortified towns and other private property, contrary to the laws and usages of war. It is equally proper that the negroes taken from the southern States should be returned to their owners, or paid for at their full value.

Extracts from the projet of a treaty of peace submitted by the American Plenipotentiaries to the British Commissioners at Ghent on the 10th of November, 1814, and returned by the latter with accompanying remarks.

ART. 10. His Britannic Majesty and the United States shall, by all the means in their power, restrain the Indians living within their respective dominions from committing hostilities against the territories and citizens or subjects of the other party. And both Powers also agree, and mutually pledge themselves, if, at any time, war should unhappily break out between them, not to employ any Indians, nor to admit of their aid and co-operation in the prosecution of the war against the other party.

ART. 10. Inadmissible.

ART. 13. It is agreed that indemnity shall be made by His Britannic Majesty to the citizens of the United States for all losses and damages sustained by them during the late war between Great Britain and France, and prior to the commencement of the present war, by reason of irregular or illegal captures, seizures, or condemnations of vessels and other property, under color of authority, contrary to the known and established rules of the law of nations. And it is also agreed that indemnity shall be made by each of the contracting parties to the citizens or subjects of the other party for all losses and damage sustained subsequent to the commencement of the present war, by reason of the seizure or condemnation of the vessels or cargoes belonging to the subjects or citizens of the one party, which, in the ordinary course of commerce, happened at the commencement of hostilities to be in the ports of the other party; and by reason of the destruction of unfortified towns, and the pillage or destruction of private property, and the enticement and carrying away of negroes, contrary to the known and established rules and usages of war between civilized nations.

ART. 13. Inadmissible.

The first part of the tenth article appears to be unnecessary, and the stipulation contained in the whole of it altogether inadmissible. Though His Majesty's Government sincerely hopes that a renewal of the war between His Majesty and the United States may be far distant, yet the undersigned cannot consent to enter into any engagement as to what shall be the conduct of their Government if such a war should unfortunately occur.

With respect to the thirteenth article, the indemnifications proposed by it, as applied to the actual circumstances of the war, are so unprecedented and objectionable, that any further perseverance of the American plenipotentiaries in requiring them is not anticipated by the undersigned; if, however, contrary to expectation, indemnifications of this kind should be required, all hope of bringing the negotiations to a favorable issue must prove abortive. The undersigned are instructed explicitly to declare that, as their Government makes no claim on account of losses sustained by British subjects arising out of a war declared by the United States, so neither can their Government agree to make compensation for losses sustained in such a war by the American people.

15th CONGRESS.]

No. 362.

[1st SESSION.]

INDEMNITY FOR WASTE ON THE PROPERTY OF WILLIAM CLEMENT'S, IN THE STATE OF TENNESSEE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 22, 1817.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of William Clements, of the State of Tennessee, reported:

The petitioner states that, in the winter of 1814 and 1815, his houses and lot in the town of Palmyra, Montgomery county, Tennessee, were occupied as barracks by the troops of the United States, under the command of

Ensign Somerville of the thirty-ninth regiment, then on the recruiting service; that the troops while there did considerable damage to his fences, stables, dwelling-house, and other out-houses; the damage thus sustained amounts to \$60, as appears from the valuation on oath of three individuals, whose credibility will not and need not be questioned. The petitioner asks that amount of indemnification from Congress.

The committee are of opinion that the prayer of the petitioner is unreasonable. The United States never have made good to individuals any damage wantonly done to their property by unauthorized acts of the soldiery. Had the petitioner exercised a common foresight and care over his own property, he would have made known his grievances to Ensign Somerville, whose duty and whose pleasure, no doubt, it would have been to deduct the amount of damage from the pay of the offending soldiers, and thus have afforded to the petitioner the redress he now asks from Congress.

The committee therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th Congress.]

No. 363.

[1st Session.]

SLAVES REMOVED FROM LOUISIANA BY THE BRITISH IN 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1817.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villeré, citizens of Louisiana, made to the House the following report:

That the petitions and accompanying documents were, by a resolution of the 29th of January last, referred to the Secretary of State; that the Secretary of State has submitted to the House a report, (hereto annexed,) which the committee beg leave to adopt as a part of their report.

The Committee of Claims would at any time undertake with great diffidence to discuss principles of national law, or settle questions of conventional right. But at this time it would, in their opinion, be peculiarly delicate, if not premature, for Congress to adopt any measure whatever. It would seem to them more correct that the subject of the petitions should await the result of a negotiation now pending between the Governments of the United States and Great Britain. They therefore recommend to the House the following resolution:

Resolved, That the petitioners have leave to withdraw their petitions and documents.

The Secretary of State, to whom, by a resolution of the House of Representatives of the 29th of January last, were referred the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villeré, citizens of Louisiana, has the honor of submitting the following report:

The petitioners complain that when the British forces retreated from the island of Orleans, at the close of the late war, they carried away a considerable number of slaves belonging to them; the restoration of which was, after the ratification of the treaty of peace, demanded by General Jackson, conformably to the first article of that treaty, of the British commanding officer, General Lambert, and by him refused; and they apply to Congress for indemnity for the loss of their property.

Subsequently to the reference of these petitions, a message from the President to the Senate of the United States was, on the 7th of February last, transmitted to that body, with all the documents then in the possession of this Department relating to the subject of these petitions; a printed copy of that message and of those documents is herewith transmitted, which it is respectfully requested may be received as part of this report. [See Foreign Relations, vol. iv, No. 287, page 106.] By them it will be seen that a different construction has been given by the British Government to that part of the first article of the treaty of Ghent which relates to the restitution of slaves captured during the war, from that contended for by this Government. That, according to their construction, the British Government have not considered themselves bound to make restitution of any of the slaves or other property thus taken and carried away; and that the difference of opinion between the two Governments remaining, after all the amicable discussion between them of which the subject was susceptible, a proposal was made, on the part of the United States, on the 17th of September, 1816, that the question should be referred to the arbitration of some friendly Power. To this proposal no answer from the British Government has yet been received. Their attention to it was again invited by the late minister of the United States in England, before he left London, and has been urged anew in the instructions to his successor.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE, December 12, 1817.

15th CONGRESS.]

No. 364.

[1st SESSION.]

DEPRECIATION, COMMUTATION, AND BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1817.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Edmund Brooke, reported:

That the petitioner claims pay, depreciation of pay, commutation, and bounty lands, for his services in the Revolution as first lieutenant in the first regiment of Virginia artillery on the continental establishment. He states that he was appointed to that office in February, 1781, and that he continued in service "till the siege of Yorktown, when, being extremely ill, he was compelled to ask a furlough for a few weeks." The petitioner does not state that he ever afterwards joined the army, but that he held himself in readiness to obey any call that might be made on him. The committee are of opinion, from this statement of facts, that the acts of limitation would be amply sufficient to oppose to this claim; but that the House may possess the same knowledge of facts with which they have acted upon the petition, they have determined to report in detail. This claim has often been before Congress, and has been reported against at several different sessions. The committee, before they proceed to an examination of its original merits, cannot but express their regret that the pertinacity of claimants has, in some measure, been encouraged by the apparent success of some supposed fortunate petitioners. The committee proceed to examine the several items of claim in the order in which they are presented, and have adopted the report of the Committee on Pensions and Revolutionary Claims, to whom this petition was referred at the third session of the eleventh Congress.

1st. *Pay.*—By a certificate, dated March 17, 1798, signed "Aw. Dunscomb," late assistant commissioner of army accounts, Virginia, produced, as is supposed, by the petitioner, and referred to in his petition, are these words: "From an examination of the books in the office of the Auditor for the State of Virginia, it appears that Colonel Duval settled the account of Edmund Brooke as a lieutenant of artillery on the 5th day of March, 1784."

2d. *Depreciation of pay.*—By a resolve of Congress of 10th of April, 1780, "the line of the army, and the independent corps thereof," were promised, when the public finance would admit, that the deficiency of their pay, occasioned by depreciation, should be made good; but this provision is not applicable to any but such as were engaged during the war, or for three years, and were then in service. The petitioner does not come within the provisions of this resolution.

3d. *Commutation.*—By a resolution of Congress of March 22, 1783, "all officers then in service, and who should continue therein to the end of the war, were entitled to receive the amount of five years' full pay, instead of the half-pay for life" promised by the resolution of 21st of October, 1780. The latter resolution, from its obvious import, did not make provision for any officers except those then in service, or reduced. As the petitioner was not in service, or reduced, in October, 1780, he could never have been entitled to commutation, had he continued in service to the end of the war. It has long since been settled that the war ended when the troops were discharged on the 3d November, 1783; and there is not sufficient proof that he continued in service till that time.

4th. *Bounty.*—This subject belongs to the Treasury Department; had it been the sole prayer of the petition, it is believed it would not have been referred to your committee.

The committee recommend to the House the adoption of the following resolution:

Resolved, That the prayer of the petitioner is entirely unfounded, and ought not to be granted.

15th CONGRESS.]

No. 365.

[1st SESSION.]

SURETY OF A RECOGNISOR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 24, 1817.

Mr. ROBERTS, from the Committee of Claims, to whom has been referred the petition of Silas Willard, reported:

That the petitioner stands bound in a recognizance to the United States in the penal sum of \$4,000, for the appearance of John M. Willard in the circuit court of Vermont, who stands charged with having violated the provisions of the act of July 6, 1812. The grand jury indicted John M. Willard on two counts, who subsequently left the United States, and the recognizance became forfeited. Process has not yet been served on the petitioner to compel payment of his bond. He avers in his petition he is wholly unable to pay it, and, on being pressed, must either go to jail or fly his country. Depositions of a number of highly respectable citizens accompany the petition, going to establish the uprightness of the petitioner's character, and his inability to pay the amount of the recognizance. The bail appears to the committee to be excessive, as the court could not inflict a higher fine than \$500, nor a term of imprisonment of more than six months. In this view of the case, as it is alleged, the court have no equitable powers to mitigate the penalty. It appears to the committee the interposition of Congress is necessary; they therefore respectfully report a bill.

15th CONGRESS.]

No. 366.

[1st Session.]

LESSEE OF THE SALT WORKS ON THE WABASH.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 24, 1817.

TREASURY DEPARTMENT, *December 22, 1817.*

The SECRETARY OF THE TREASURY, to whom the bill for the relief of John Bate was referred by the resolution of the House of Representatives of the 15th instant, has the honor to report:

That the petitioner did, on the 17th day of March, 1814, lease from the United States, for the term of three years, the public salt works on the Wabash, in the Illinois Territory, upon the terms and conditions set forth in the said petition.

That the petitioner claims relief upon three grounds:

1st. That, in the months of April and May, 1815, the Ohio river rose to a height never known before, and that the salt works were, consequently, inundated for a great length of time during those months, so as to be not only incapable of being worked, but that great and serious injury was done to the permanent works and improvements which had been previously erected, and for which he had paid a large sum of money.

2d. That, independent of the loss thus incurred, the inundation of the Ohio still further operated to his injury, by deteriorating the quality of the water from which the salt was manufactured, and by diminishing the quantity produced by the wells from which the supply was obtained: and,

3d. That, in consequence of the deterioration of the quality and diminution of the quantity of the water, it became necessary to greatly increase the permanent works in order to make the quantity of salt stipulated by the lease, and that the works, consequently, were greatly increased at a very heavy expense to the petitioner; but the previous consent of the Government was not obtained, as required by the conditions of the lease. That, although the previous consent of the Government was not expressly given, the petitioner conceives himself entitled to indemnity for the improvements he made of a permanent nature, inasmuch as they were made with the knowledge and implied consent of the agent of the Government, residing near the premises, and the Government itself, upon being notified of the fact, did not express its dissent or disapprobation.

It may be proper to observe that the testimony offered by the petitioner has been taken with the express view to the establishment of his claim for relief, and that no cross-examination of the witnesses on the part of the United States has been had. Admitting, however, that the evidence offered is unimpeachable, the fact of an extraordinary inundation in the river Ohio at the time alleged in the petition, which overflowed the salt works for a considerable portion of the months of April and May, by which the manufacture of salt was entirely suspended, appears to be well established.

By the same testimony, it satisfactorily appears that the quality of the water, from the time of that inundation, through the remainder of the term, was greatly deteriorated, and that the quantity was considerably diminished.

That the quality of the water should for some time after the inundation be considerably injured, might have been reasonably anticipated, even in the absence of positive testimony; but that the quantity should have also been affected in the same, or in any degree, cannot be so readily conceived, and must therefore depend upon the credence to which the evidence is entitled.

As the improvements which the petitioner alleges he made in the salt works during the time he had them in possession would have been a legal charge against the Government if the assent of the Executive had been obtained, this claim, under the peculiar circumstances of the case, would have been allowed in the settlement of the petitioner's account had that been the only obstacle to a final adjustment.

Upon the propriety of granting relief upon the two first grounds, upon which the petitioner rests his application, the House of Representatives is much better qualified to decide than the Secretary of the Treasury. Testing this claim, however, by those rules which govern the transactions of individuals, it may well be doubted whether the petitioner is entitled to the relief which he claims. Had the earthquakes and inundations, to which the change in the water, injurious to the petitioner, has been ascribed, improved its quality and quantity in as great a degree as it is alleged that it has been injured, it is not presumed that the United States could have established its claim, even in a court of equity, to a proportional increase of the rent stipulated to be paid by the lessee. If this opinion be correct, the rule by which relief is to be granted in this case is arbitrary, always operating to the injury, and never to the benefit of the Government.

By comparing the rent agreed to be given by the petitioner with that which had been previously given, and which is now proposed to be given, it is believed that he made an improvident contract, which, together with the accidents which occurred during the term of his lease, will subject him to great loss, if not to eventual ruin, unless relief to some extent be granted.

How far considerations of this nature ought to influence the decision of his case, is not the subject of inquiry.

The case of the petitioner, which is exempt from all immorality, the loss which he will sustain by his improvidence and by casualties beyond his control, seem to justify the exercise of as much liberality in his favor as in any case which will probably be presented to the consideration of Congress.

All of which is respectfully submitted.

WILLIAM H. CRAWFORD.

The Hon. HENRY CLAY, *Speaker of the House of Representatives.*

15th CONGRESS.]

No. 367.

[1st SESSION.]

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 29, 1817.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of James Burceil, reported:

The petitioner prays to be placed on the pension list, on account of deafness and other injuries which he incurred while in the service of the United States as a private soldier during the late war. It appears that he enlisted in the month of May, 1814, and was discharged on the 28th of January, 1815. The certificate of the surgeon, on which the discharge is founded, recognises the petitioner simply as a fit subject for discharge, "by reason of deafness, a dislocated ankle imperfectly cured, and other infirmities;" and the words *inflicted while he was actually in the service aforesaid and in the line of his duty* have been purposely omitted. The committee conceive that when an officer whose duty it is to examine such cases, and who has the best opportunities, refuses to grant the proper document to entitle to a pension, the Legislature ought not to interfere, unless under peculiar circumstances. There is nothing appears in the present case which ought to take it out of the established rules and regulations relating to pensions, neither have the depositions in support of it been taken or authenticated according to the laws on the subject.

The committee therefore submit the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and documents.

15th CONGRESS.]

No. 368.

[1st SESSION.]

MILITARY SERVICE PERFORMED IN 1759.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 29TH OF DECEMBER, 1817.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Roswell Woodworth, of the town of Lebanon, in the State of New York, reported:

The petitioner states that Nathaniel Woodworth served as a drummer in Captain Nicholas Bishop's company, in the campaign of 1759, in the old French war, under the command of Major General Lyman, and that he is son and heir of the said Nathaniel Woodworth. He therefore prays Congress to grant him the hundred acres of land to which he alleges his father was entitled for the aforesaid service; or that some compensation in money or otherwise, as may appear just and reasonable, will be substituted.

The committee are of opinion it will be found, upon examination, that all those who rendered service in the war of 1759, and were, in consequence thereof, entitled to land, obtained it upon due application to the proper authority. If the father of the present petitioner failed to obtain his, the fault must have been his own; but, admitting that he used a reasonable diligence, and failed to obtain the reward due to his services from causes he could not obviate, still the committee are unacquainted with any principle of law or equity which would sustain the present application. The existing Government of the United States could never recognise a principle which would require of them to make good every violation of contract by the British Government antecedent to the adoption of the present constitution. The committee would therefore recommend to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 369.

[1st SESSION.]

SURETY OF A DEFAULTING POSTMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 29TH OF DECEMBER, 1817.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Abraham Byington, of the county of Windham, in the State of Vermont, reported:

The petitioner states that, on the 28th day of December, 1807, Robert Gilmore, of Rockingham, in the county aforesaid, was appointed postmaster; that, at the same time, he gave bonds as security for the said Gilmore to the Postmaster General; that Gilmore continued in office from the date of his appointment till the 28th day of May, 1810, during which period he rendered no account nor paid any money to the General Post Office; that, afterwards, judgment was obtained on the 10th of October, 1816, against the petitioner for the sum of \$268 60 debt, together with costs of suit, amounting, in all, to \$307 48.

The petitioner further states that, when he entered as security, the said Gilmore appeared to be in prosperous circumstances; that he continued in the town of Rockingham nearly two years from the time he was turned out of office, but had become poor, and absconded to parts unknown, before the suit was instituted or judgment obtained against the petitioner; that if the Postmaster General had called upon Gilmore during his continuance in office, or while he remained in Rockingham after his dismissal, he has reason to believe the money might have been saved.

The petitioner again states that execution has issued against him; that, being unable to satisfy it, he has been confined in close jail, where he would have been obliged to remain but for the humane interference of his friends, who obtained for him the privilege of the prison-bounds. He therefore prays Congress to release him from the debt part of the execution upon payment by him or his securities of the costs of suit.

The committee have been thus minute in detailing the facts stated by the petitioner, that the House might be the better able to judge of the extreme hardship of his case. They see no way in which the prayer of the petitioner can be consistently granted. It is to be remarked, however, that his misfortunes (as stated by himself) have probably arisen from the inattention, not to say inexcusable neglect, of the late Postmaster General. The twenty-ninth section of the act passed 30th April, 1810, regulating the Post Office Department, provides "that if any postmaster or other person authorized to receive the postage of letters and packets shall neglect or refuse to render his accounts, and pay over to the Postmaster General the balance by him due at the end of every three months, it shall be the duty of the Postmaster General to cause a suit to be commenced against the person so neglecting or refusing; and if the Postmaster General shall not cause such suit to be commenced within six months from the end of every such three months, the balances due from every such delinquent shall be charged to and recoverable from the Postmaster General."

Had the Postmaster General done his duty, as he was commanded to do by this act, the distressed individual who now prays for the redeeming interposition of Congress would probably not have been visited by calamity. But, in total neglect of the injunctions of law, the head of that Department suspended the institution of a suit, not for six months, but for five years after the delinquent postmaster had been removed from office. It is true that a security ought to anticipate, and should hold himself liable for all the delinquencies of his principal, in regard to the particular transaction in which they are bound; and although in this case it is correct to say that the security ought to have foreseen his danger, yet it is not correct to say that he could or ought to have foreseen the negligence of the Postmaster General. Were it possible for the committee to discern the line which separates between the misfortunes incurred by the petitioner's own act and those brought upon him by the neglect of the Post Office Department, they would with great pleasure recommend relief to the extent thus ascertained. They might even go further, and say that if it were practicable to release the petitioner altogether, and to hold the incumbent at that time of the Post Office Department responsible for the whole debt, they should see Congress adopt such a course with entire satisfaction. But, as neither of these alternatives can be embraced, they must, under all the circumstances of the case, submit to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 370.

[1st SESSION.

HOUSE BURNT AT DETROIT IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1817.

MR. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of John Anderson, of the Territory of Michigan, reported:

The petitioner states that, after the surrender of Detroit and its dependencies, the only part of his property which did not fall a sacrifice to Indian barbarism and the other violations of the articles of capitulation which guaranteed the safety of private property, was a house at Detroit; that, on the arrival at Detroit of the army commanded by General Harrison, this house was taken possession of for the use of said army, in October, 1813, and was subsequently, on the 14th of December in the same year, destroyed whilst in the use and occupied by the officers of the 28th regiment United States infantry. He estimates his loss at \$1,300, and therefore asks that amount of indemnification from Congress.

The committee have examined with some care the evidence adduced in support of this claim. Their attention was first called to the deposition of Brigadier General Cass, at that time commanding the forces of the United States at Detroit. This officer states that when the troops reached Detroit they were generally destitute of the facilities necessary for encamping in the field; that it became, therefore, indispensable they should occupy such houses of the citizens as could be procured by contract, and, in many instances, by impressment; that a company of the 28th regiment of the United States was quartered in a house near the town, which he then understood, and yet believes, was the property of Colonel John Anderson; that this house, while thus occupied, was burnt; and, on inquiry made by him at the time, he had no doubt its destruction was owing to the carelessness of some of the individuals quartered in it; that of its value he knew nothing.

It is proved by the deposition of James McClosky, late assistant deputy quartermaster, that the house was occupied by a party of soldiers of the 28th regiment United States infantry, and that during the occupancy it was consumed by fire, which he supposes to have been in consequence of the neglect of the soldiers; that possession of the house was taken without the knowledge of the owner; that, from the dimensions of it, and the manner in which it was finished, he thinks \$1,300 a reasonable compensation for the same.

John Baptiste Comparet proves that the house was occupied as quarters by the troops under the command of General Harrison; that it was consumed while thus occupied, and was, in his opinion, worth \$1,300.

C. Harrison, quartermaster, certifies that a house claimed as the property of Colonel John Anderson, in the town of Detroit, was taken by the officers of the 28th regiment United States infantry for the purpose of quartering troops in it, and that on the 14th of December, 1813, it was consumed by fire.

Johnson McGawen, captain, certifies that a house said to belong to Colonel John Anderson was, in the month of December, 1813, entirely consumed by fire, except a few window shutters and sashes, which were afterwards used in repairing quarters for the officers of the United States.

From this evidence, it would seem that the occupation of the house by the authority of the United States, and without the consent of the owner, is pretty clearly established. The destruction of the house is also established; but whether it proceeded from the negligence of the soldiers, or from some other cause, does not so evidently appear. General Cass states that he had no doubt of the burning being occasioned by the neglect of the then occupants; the other witnesses mention it as their opinion that the burning was thus occasioned. Although this is not positive proof, yet it may be considered as strong as the circumstances perhaps would admit. The value of the house may be considered as satisfactorily ascertained.

In examining this subject with an equitable regard as well for the interest of the United States as for the rights and property of the individual, the committee thought the petitioner entitled to relief, if it should appear that he had not already received compensation for his loss. With this view, they addressed inquiries to the proper officer of the Treasury Department, and have been answered that no payment has been made to the petitioner. They would therefore report a bill for his relief.

15th CONGRESS.]

No. 371.

[1st Session.]

MONEY LOST BY AN OFFICER OF THE ARMY IN 1777.

COMMUNICATED TO THE SENATE, JANUARY 2, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Haffield White, reported:

That the petitioner represents himself, in the month of April, 1777, to have been in military service in Colonel Rufus Putnam's regiment; that Lieutenant Colonel Newhall, commanding the first division of said regiment, drew one month's pay for the men in said division, which the petitioner received, and paid it over to the men, excepting two hundred and fifty dollars, which was due to those who had fallen sick on the march. The corps were subsequently ordered to leave their baggage with a guard, and the petitioner, with the advice of Colonel Newhall, put the money into his journal book, and deposited it with his clothing, which money, after the action of the 22d July of the year aforesaid, being in a baggage wagon which was taken for the removal of the wounded by order of the commanding officer, General Nixon, was lost, and part of the petitioner's clothing. On the day of the action aforesaid, Colonel Putnam arrived with his division, bringing on the men to whom the money the petitioner had lost was due. By an arrangement with the paymaster of the regiment, who arrived with the second division, he (the paymaster) advanced the money to the men, and the petitioner indemnified him out of his pay; which sum the petitioner avers was never reimbursed to him. A certificate is annexed to the petition, signed Rufus Putnam, to which the committee refer as a part of their report. An original letter is also annexed, signed B. Goodhue, dated Philadelphia, March 29, 1794, addressed to the petitioner, informing him his petition had been referred to the Secretary of War, who had reported favorably on his claim. The committee addressed letters to the Treasury and Navy Departments, enclosing the petition and documents for further information, and have received in answer that no records exist in either touching this claim. The committee believe the petitioner's claim to be equitable. They therefore respectfully submit the following resolution:

Resolved, That a bill be reported, allowing Haffield White the sum of two hundred and fifty dollars, in full of all his claims on the United States.

SIR: TREASURY DEPARTMENT, REGISTER'S OFFICE, *December 19, 1817.*

Upon the petition of Haffield White for remuneration for the loss of two hundred and fifty dollars, with interest, referred to your Department by the chairman of the Committee of Claims in the Senate of the United States, I have searched for the report, stated by the Hon. B. Goodhue, formerly of the House of Representatives, to have been favorably made on the case by the Secretary of War, but I cannot discover the report in the printed documents, which it is apprehended may not even exist at this time in the War Department. We have not any records in the Treasury in relation to the fact stated by the petitioner; neither are there any records in relation to the petition of Weaver Bennett.

I have the honor to be, sir, with the greatest respect, your most obedient servant,

JOSEPH NOURSE.

Hon. WILLIAM H. CRAWFORD, *Secretary of the Treasury.*

SIR: DEPARTMENT OF WAR, *December 27, 1817.*

In answer to your letter of the 23d instant, I have the honor to enclose the report of Peter Hagner, Esq., Third Auditor, and to be, with great respect, your most obedient servant,

J. C. CALHOUN.

Hon. JONATHAN ROBERTS, *Senator United States for Pennsylvania, City of Washington.*

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *December 26, 1817.*

I have the honor to state, in the case of the petition of Haffield White, that there are no documents in this office which will afford any information on the subject.

In the case of Weaver Bennett, the evidences (if any) are all destroyed. The papers are returned.

Very respectfully, your most obedient servant,

PETER HAGNER, *Auditor.*

The Hon. J. C. CALHOUN, *Secretary of War.*

15th CONGRESS.]

No. 372.

[1st SESSION.]

PROPERTY LOST IN THE CITY OF WASHINGTON IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 2, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Andrew J. Villard, reported.

That it appears the petitioner was for many years employed in the ordnance department by the United States; upon the approach of the enemy in August, 1814, he was ordered by that department to take immediate charge of a certain wagon loaded with public property, and conduct it to a place of safety in the interior. With this order he complied, being allowed no time to provide for the safety of his own property, nor room in the wagon but for a few articles belonging to him. That he remained with the public property committed to his care at Leesburg, Virginia, till he was recalled, and on his return found the house he had occupied, his furniture, and tools, entirely consumed by fire. The loss thus sustained is estimated at \$580, and indemnification to that amount is asked of Congress.

The petitioner further states that the house containing his property was destroyed by authority under the control of Government; that, by his prompt attention to the safety of public property, he was prevented from having his own transported across the river beyond the reach of the conflagration; and that, on leaving Greenleaf's Point, he had the promise of the commanding officer that his effects should be removed, if necessary; but of this last statement he has adduced no proof.

Admitting all the statements of the petitioner to be fully proved, the committee are of opinion that the principle upon which he asks indemnification is wholly inadmissible. The petitioner was superintendent of artificers in the service of Government, and never can it be supposed that he should have been permitted, in the hour of danger, to prostitute the dignity of his office, or to neglect the service required of him, to attend to his own private affairs. The order of Government that he should superintend the transportation of public property to a place of safety, was requiring of him the performance of no more than a common duty incident to his profession, which he was bound to execute at the hazard of his private property. The order of Government was, therefore, perfectly correct, and the officer has no right to complain of its consequences. As to the promise of the commanding officer that the petitioner's property should be removed if necessary, it matters not in the present case, even if it had been proved; such promises are always to be understood conditionally, not absolutely. No doubt this promise would have been complied with if it had been practicable.

The fact that the buildings and other public property were destroyed by the order of Colonel Wadsworth is also immaterial in the present case. The residence of the petitioner in the houses of Government was no doubt both a privilege and a benefit conferred on him. If he derived such advantages from that situation, he ought unquestionably to take upon himself all the risk and danger to which it was liable. In the progress of a war, Government may often find it prudent, as in this case, to destroy their own property; and if the property of officers and soldiers should meet a similar fate, it is a misfortune to be lamented, but for which no compensation can be demanded. In the present instance, the property destroyed was of that character which it would be difficult to separate from the person and profession of an officer or soldier. For its destruction, then, he has no more right to complain than for the loss of his life. He must find his reward in the honor and profits of his profession in the one case as well as in the other. Such losses are always numbered among the accidents of war, for which no Government can be held responsible.

The committee, therefore, report the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 373.

[1st SESSION.]

PROPERTY LOST IN THE CITY OF WASHINGTON IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 5, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Edward Barry and George Hodge, reported:

That it appears that Edward Barry is a sailingmaster, and George Hodge a boatswain, in the navy of the United States. Previously to the 24th of August, 1814, they were in the employment of the Government in the navy yard at Washington; and for their convenience, and the promotion of public service, they had quarters assigned them in the yard. Upon the approach of the British, the navy yard and other public property at that place were destroyed, by order of the Secretary of the Navy; the property of the petitioners was also destroyed in the conflagration; and they petition Congress to pay them its value.

It further appears, from the statement of Commodore Tingey, that the petitioners were so busily employed in preparing measures for executing the orders of the Secretary of the Navy as to have had no opportunity to rescue their own property from the impending danger.

After an attentive consideration of the facts submitted to them, the committee are inclined to think that had the petitioners been active, or exerted a diligence proportionate to the pressing necessities of the case, they might have saved their own property. That they did not so save it, is proof to the committee of neglect or inattention on their part.

Another reason for not granting the prayer of the petitioners is, that the property of officers and soldiers lodged in barracks, and which is of such a character as to be attached to their persons or profession, cannot, according to any rule with which the committee are acquainted, be paid for by Government, if it should be destroyed by the casualties or accidents of war.

The committee, therefore, offer to the House the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

15th CONGRESS.]

No. 374.

[1st Session.

ADVANCES MADE TO A REGIMENT OF PENNSYLVANIA MILITIA IN 1813.

COMMUNICATED TO THE SENATE, JANUARY 15, 1818.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Rees Hill, respectfully reported:

That the said Rees Hill commanded a regiment of Pennsylvania militia, in the service of the United States, for six months of the year 1813.

He alleges in his petition that, during this tour of duty, he disbursed for the public service, from his private funds, \$3,440; of which, including \$300, at which he estimates his own expenses, he has been reimbursed \$1,082, leaving a balance of \$2,358 due to the petitioner, with interest thereon from the 15th June, 1813. It is of this balance the petitioner prays allowance, and his application to Congress is occasioned by the loss of the greater part of his papers during the said campaign.

Receipts are produced by the petitioner, for payments on public account, amounting to \$98 64. This sum, the proper accounting officer of the Treasury assures your committee can be paid, on the account being duly attested, without legislative interference.

For the balance claimed, viz: \$2,259 36, no satisfactory vouchers are produced to your committee. The petitioner alleges it was advanced by him "for many unavoidable expenses, incident in keeping together, and transporting from place to place," his regiment of militia; and evidence is adduced that he frequently advanced money to his officers and men, for forage, clothing, &c.; but on such general assertions and indefinite testimony your committee believe it would be inexpedient in itself, and might be very injurious as a precedent, to sanction the claim without further elucidation and proof.

With every disposition, therefore, to indemnify those who have devoted their time and expended their money in the service of their country, during our late arduous contest, your committee feel themselves compelled, by the circumstances of this case, as above stated, to recommend to the Senate the adoption of the following resolution:

Resolved, That the petitioner have leave to withdraw his papers.

15th CONGRESS.]

No. 375.

[1st Session.

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 16, 1818.

To the Senate and House of Representatives:

WASHINGTON, January 12, 1818.

The claim of the representatives of the late Caron de Beaumarchais having been recommended to the favorable consideration of the Legislature by my predecessor, in his message to Congress of the 31st of January last, and concurring in the sentiments therein expressed, I now transmit copies of a new representation relative to it, received by the Secretary of State from the minister of France, and of correspondence on the subject between the minister of the United States at Paris and the Duke of Richelieu, enclosed with that representation.

JAMES MONROE.

To the Senate and House of Representatives of the United States:

JANUARY 31, 1817.

The envoy extraordinary and minister plenipotentiary of His Most Christian Majesty having renewed, under special instructions from his Government, the claim of the representative of Caron de Beaumarchais for one million of livres, which were debited to him in the settlement of his accounts with the United States, I lay before Congress copies of the memoir on that subject addressed by the said envoy to the Secretary of State.

Considering that the sum, of which the million of livres in question made a part, was a gratuitous grant from the French Government to the United States, and the declaration of that Government that that part of the grant was put in the hands of M. de Beaumarchais as its agent, not as the agent of the United States, and was duly accounted for by him to the French Government; considering, also, the concurring opinions of two Attorneys General of the United States, that the said debit was not legally sustainable in behalf of the United States, [see pages 344 and 434,] I recommend the case to the favorable attention of the Legislature, whose authority alone can finally decide on it.

JAMES MADISON.

[TRANSLATION.]

M. Hyde de Neuville, Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty, to the Secretary of State.

SIR:

WASHINGTON CITY, January 22, 1817.

I have the honor to address to you a note which I solicit of you the favor to submit to the consideration of the President.

I am not very particularly acquainted with the heirs of Mr. Beaumarchais; but the view which has been given to me of the whole affair, the importance which the French Government has invariably attached to it since the

year 1778, the instructions which have been sent to me, the interest which the Duke of Richelieu and the Minister of the Interior feel in relation to that claim, and, above all, the opinion which I entertain of the legality of this debt, of which I have examined and weighed all the circumstances with the most scrupulous impartiality, induce me, with entire confidence, to claim your benevolence in behalf of the daughter of Mr. Beaumarchais, who, by her misfortunes and personal qualities, is worthy of it.

Receive, sir, the assurances of my high consideration.

HYDE DE NEUVILLE.

The envoy extraordinary and minister plenipotentiary of His Most Christian Majesty has the honor to transmit to the Secretary of State a new exposé of the affair of the heirs of the late Caron de Beaumarchais.

The documents which have not been hitherto brought forward, and which are annexed to the present claim, seem to remove every doubt which this debt may have given rise to.

The undersigned minister plenipotentiary has received from his Government reiterated instructions to call for another investigation of a transaction which bears every character of justice, and which, under this consideration, cannot fail to engage, in a very particular manner, the attention of his excellency the President.

The undersigned is particularly enjoined to renew the declaration made by Mr. Girard, His Majesty's minister, as early as 1778, and subsequently repeated by his successors in this country, "that the French Government has always been unconnected with the mercantile operations of M. de Beaumarchais."

It is likewise his duty to state that the million which, in 1791, was deducted from the private account of Mr. Beaumarchais, was not paid to him by the French Government on account of supplies furnished to the Americans, but for a secret political service, as appears by the statement submitted to the King by M. de Vergennes, on the 7th of December, 1776, and approved by His Majesty, which exonerates the minister, and places the expenditure in its regular course.

The undersigned deems it proper to recall to mind that the million in question formed a part of the three millions granted by the King prior to the year 1778, and the account of which was settled by the convention of the 25th of February, 1783, between France and the American commissioners.

The latter, doubtless, did not think that they ought to insist on being made acquainted, in a positive manner, with the application of this million; or, if one or more of them were informed of it, they probably thought, and with reason, that the secret which the King had kept within his own control could not be divulged without the express sanction of the sovereign, who had authorized and rewarded the service.

But the question is not, at best, to know whether the American commissioners were or were not informed of the true application of the million. France has given it. Congress has acknowledged it, in agreeing to the convention of the 25th of February, 1783. If, therefore, the employment of this million be not found specifically recorded, it is because certain state policy at that period rendered it improper to furnish any other information on the subject.

The undersigned will not examine into the grounds and extent of the measures which have since been adopted to discover a secret of which His Majesty had thought it expedient to reserve to himself the knowledge; a circumstance which not only explains but justifies the refusal which M. de Vergennes constantly opposed to the demands which were frequently made on him for an insight into the affair.

The question to be examined in relation to the claim of the heirs of Beaumarchais appears to be solely this: The million received by M. de Beaumarchais from the French Government, and by order of the King, on the 10th of June, 1776—has it been given to the agent of the United States on account of supplies furnished by him to the Americans, or only to the French agent, for a secret political service, foreign to commercial operations?

It will be allowed that, if the million had been remitted on the 10th of June, 1776, to any other individual than M. de Beaumarchais, the present misunderstanding would never have taken place. Will the objection be better founded if it should be discovered that M. de Beaumarchais really acted in two capacities—as the agent and furnisher of supplies for the United States, and as the secret political agent of the French Government?

It is in the latter capacity that he declares he received the million. He affirms that it was received for a secret political service, which had relation to the United States, but for which he had to render an account only to his own Government. The account has been rendered by M. de Beaumarchais to the minister; by the minister to the King. The affair thus finds its regular adjustment, more particularly as it respects the agent, in a manner not to be contested.

What, then, can be objected to the agent of supplies: that the million remitted to the political agent has been, perhaps, paid on account of the supplies which he furnished? The Government, which gave the million, declares the contrary. It declares, and it has not ceased to declare these thirty-nine years, that it has been always unconnected with the mercantile transactions of M. de Beaumarchais with the United States. How, therefore, upon principles of equity, is it possible to make the commercial agent responsible with regard to an incident which itself cannot in any manner affect the political agent, inasmuch as his Government, to which alone he ought to account for the employment of this million, has given an authentic discharge for it, as is proved by the documents of the 7th of December and 9th of June, 1776, which will be found annexed to the renewal of the claim of the heirs of M. de Beaumarchais.

These two documents, written by M. de Vergennes (at that time Minister for Foreign Affairs) and approved by the hand of His Majesty Louis XVI. himself, will serve, without doubt, to remove uncertainties, to dissipate presumptions and probabilities, which in no instance ought to be opposed to a legal certainty.

The French Government interferes in this affair only because it is convinced, as the Attorney General of the United States is, that, in justice and in equity, the million which M. de Beaumarchais received on the 10th of June, 1776, by order of the King, and for a secret political service, ought not to be charged to his private account.

The undersigned minister plenipotentiary, in adverting to the services rendered by M. de Beaumarchais during the war of independence, cannot avoid observing that, by a series of accumulated misfortunes, his family will be nearly ruined if it does not speedily regain a capital which was devoted to the success of the cause of the United States.

He has, therefore, the honor to request that the Secretary of State will lay his note before the President, in order that this affair, which has been so long pending, and which is so important to the heirs of M. Caron de Beaumarchais, may be submitted to a new investigation, and definitively adjusted and determined.

The undersigned embraces with eagerness this occasion to renew to the Secretary of State the assurance of his high consideration.

G. HYDE DE NEUVILLE.

The Hon. the SECRETARY OF STATE.

[TRANSLATION.]

M. Hyde de Neuville, Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty, to the Secretary of State.

SIR:

WASHINGTON, December 6, 1817.

The President of the United States was pleased last year to recommend to Congress, by a special message, and in the most particular manner, the claim of the heirs of Beaumarchais, relative to the settlement of an account for supplies furnished at an early period of the war of independence.

This message was referred to a committee, and in that state the affair rested. The shortness of the session was probably the only cause why it did so.

Since that period, His Most Christian Majesty's Minister of Foreign Affairs has again recommended to me this claim of the heirs of Beaumarchais, and communicated the correspondence which took place on this subject at Paris between His Majesty's minister and Mr. Gallatin, minister of the United States, a copy of which I have the honor to enclose you.

Mr. Gallatin, after repeating in his letter to the minister the objections which had been at first started, as to the employment of the million in question, gives it to be understood that he can say that a simple but explicit declaration by the French Government, "that the said million was not applied to the purchase of the supplies furnished by M. de Beaumarchais to the United States," would have removed all the doubts expressed by the public officer at the head of the Treasury, when these accounts were exhibited there.

His Majesty's minister, after a new investigation of the facts, positively renews, in his answer, the declaration "that the million paid on the 10th of June was not applied to the purchase of the shipments made to the United States at that period by M. de Beaumarchais." As these two papers complete, in some sort, the body of information requisite for a due examination of this affair, I request, sir, you would be pleased to lay them before the President. They preclude the necessity of my adding any thing further, either to the notes which have been successively presented, or to mine of the 22d of January last on this subject.

It may be that the President will judge fit to transmit these documents to Congress with a new message, to be annexed to those formerly sent, if, after the explanations which have been given, there can remain any hesitation or doubt, founded on former prepossessions not then sufficiently combated and removed.

I flatter myself that this latter communication will have the weight with Congress to which it is entitled, and dispose it to decide this affair in a manner which the claimants confidently expect from the justice of the United States.

Be pleased, sir, to receive the assurances of my high consideration.

G. HYDE DE NEUVILLE.

Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States, to the Duke de Richelieu, Minister of Foreign Affairs.

MONSIEUR LE DUC:

PARIS, December 2, 1816.

The late M. de Beaumarchais's accounts with the United States having been settled according to law, by the Comptroller of the Treasury, the claim of the heirs on account of the million of francs which they complain to have been unjustly charged to M. de Beaumarchais by that officer, is still before Congress for their ultimate decision. For that reason, and also because it was stated in the letter which your excellency addressed to me on the 11th of October last on that subject, that M. Hyde de Neuville was instructed to insist on a final decision of that claim, it appeared that the natural course for me was to transmit your excellency's letter to my Government, which has accordingly been done.

Knowing, however, that the Government of the United States is not less anxious to pay its just debts than bound to repel unfounded claims, I beg leave to present to your consideration some observations on that affair, with no other motive than that of obtaining, if practicable, such elucidations as may enable Congress to repair the wrong, if any has in this case been done by the department of accounts.

It has been fully established, and is not denied by the parties, that one of the three millions stated (in the preamble of a contract settled on the 25th February, 1783, between Count de Vergennes and Dr. Franklin) to have been an aid and subsidy granted as a gratuitous assistance prior to the treaty of February, 1778, by His Most Christian Majesty to the United States, was paid on the 10th day of June, 1776, for the use of the United States, or for some object connected with their interest, but not to any of their agents; and that that sum is the identical million which was on that day advanced by the Government of France to M. de Beaumarchais.

Under those circumstances, the accounting officers of the Treasury of the United States, presuming that the said million had been thus advanced by the Government of France for the purpose of enabling M. de Beaumarchais to purchase the supplies intended for the said States, and thinking that, at all events, for the application of a sum granted as an aid and subsidy, he must be accountable to the Government which was to receive, and not to that which gave the subsidy, charged him with the same, and demanded from him an account of its expenditures. This M. de Beaumarchais declined doing, because he considered himself accountable for that sum only to the King, and because he thought himself restrained by particular considerations from giving any explanations on that subject.

The Government of France has, however, at several times caused it to be declared: 1st. That the French Government had ever been unconnected (*est resté constamment étranger*) with any of the commercial transactions of M. de Beaumarchais with the United States. 2d. That the million had been advanced for a secret political service, and had been applied according to the intentions of the King, and duly accounted for to his satisfaction by M. de Beaumarchais.

These declarations did not appear to Congress sufficient to remove the objections to the claim, because they were consistent with the supposition that the million had been advanced for the purpose of enabling M. de Beaumarchais to purchase supplies. By the first declaration, it must have been only intended to exclude the supposition that the French Government had any concern in the commercial risks, profits, or losses of M. de Beaumarchais. That it was not intended to convey the idea that they had not made to him sales or advances on account of his supplies, is inferred from the fact, which appears on the face of the accounts, that the artillery, and a part of the military stores sent by him to the United States, were taken from the King's stores and arsenals. And if the million had been advanced to him for the purpose of purchasing part of the other supplies furnished by him to America, an advance for such an object, at such a time, would certainly have been considered as an expense for a secret political service; and if it had been thus applied by him, it would have been applied according to the King's intentions; and the sum would, by exhibiting the proof of such an application, have been duly accounted for to His Majesty.

Without asking for the disclosure of the true application of that million, and without anticipating what species of proof will satisfy Congress, I may say that a simple but explicit negative declaration on the part of His Majesty's Government "that the said million was not applied to the purchase of the supplies furnished by M. de Beaumarchais to the United States" would have removed the doubts entertained by the officers at the head of the Treasury Department when the account was settled there. It does not belong to me to conjecture whether such declaration can or ought at this time to be made by the Government of France. But its importance will be better appreciated when it is recollected that all the difficulties on that subject have arisen from former partial disclosures by the Government of France, and particularly from the insertion made by Count de Vergennes in the contract of 25th February, 1783, of the said million, as part of the gratuitous aid and subsidies of His Most Christian Majesty to the United States. They were till that time wholly ignorant of such an advance having been made for their use; and had it not been thus brought to their knowledge, M. de Beaumarchais's claims would long ago have been definitively settled and discharged.

I have the honor, &c.

ALBERT GALLATIN.

[TRANSLATION.]

The Duke of Richelieu to Mr. Gallatin.

SIR:

PARIS, December 20, 1816.

I have received the letter which you did me the honor to address to me on the 2d of this month, in answer to mine of the 11th of October last, on the subject of the claim of the heirs of Beaumarchais.

After informing me that you had transmitted my letter to your Government, you enter into some details of the reasons which have hitherto prevented it from pronouncing on their claims. You are of opinion that the declarations made to the Congress at different times by the French Government could not have been deemed sufficient to overcome all objections and remove all difficulties. Finally, sir, you express a desire that new information should be given to it, to the end that its future decision may be conformable to the principles of that fair and strict justice which it professes.

I cannot, sir, adopt the opinion manifested by your Government. The notes successively presented by the ministers of France are so particular and positive, (*affirmatives*,) that they seem to remove all doubt on the facts of the subject in dispute, and consequently all hesitation as to the decision to be given.

It was in fact stated that the French Government had no concern in the commercial transactions of M. de Beaumarchais with the United States. By this declaration it was not only intended to convey the idea that the Government was nowise interested in his operations, or in his chances of loss or gain, but a positive assurance was also given that France was wholly unconnected with them; whence it results that, in relation to them, she is neither to be considered as a lender, a surety, nor as an intermediate agent. The whole of these transactions were spontaneous on the part of M. de Beaumarchais, and the right and agency derived from them appertain exclusively to him.

If, as is supposed by the committee of the Treasury, permission had been granted to him by the French Government to draw from its arsenals and magazines the supplies furnished by him to the United States, and the million in question had been advanced to enable him to replace the articles delivered to him, he certainly would have been bound in the first place to exhibit to the King's minister a provisional statement, showing the mode in which they were disposed of, to enable him to receive a provisional acquittance; and subsequently to the treaty of 20th February, 1778, a period which rendered all dissimulation unnecessary, this statement and its approval would have been required and delivered according to the usual forms.

It is, however, unquestionably the fact that nothing of this has been done. The million delivered on the 10th of June immediately reached its intended destination, and a simple authorization (*approuve*) of the King, but a few months subsequent to the payment of the sum, was the only document which finally placed the expenditure in the regular train of fiscal settlement.

I am therefore warranted, sir, after a fresh examination of the facts, in persisting in the declarations above stated, and in considering as a matter of certainty that the million paid on the 10th of June was not applied to the purchase of the shipments made to the United States at that period by M. de Beaumarchais.

I have reason to hope, sir, that these explanations, which, when taken in connexion with those that have been already offered, may seem superfluous, will throw all the light upon the subject under discussion that can reasonably be desired. The Congress will thus be enabled to decide the affair promptly and favorably; the issue of which must, however, rest with it, as well in conformity with the common laws of equity, as with the considerations of benevolence and good-will towards the family so deeply interested in it.

There is no member of the Government who can be ignorant of the services rendered by the head of that family to your cause, and the influence produced on its early successes by his ardent zeal, extensive connexions, and liberal employment of his whole fortune.

Be pleased, sir, to receive, &c.

RICHELIEU.

[15th CONGRESS.]

No. 376.

[1st SESSION.]

MONEY LOST BY A DEPUTY COLLECTOR IN MASSACHUSETTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 19, 1818.

Mr. LOWNDES, from the Committee of Ways and Means, to whom had been referred the petition of Gad Worthington, reported:

That it appears that the petitioner, a deputy collector in Massachusetts, has been robbed of a sum of public money of \$193. There seems to the committee to have been no want of prudence in securing it, and certainly none of courage or exertion in its defence. They report a bill for the relief of Gad Worthington.

SIR:

WASHINGTON, *December 30, 1817.*

I have the honor to return the petition of Gad Worthington, with the papers which were enclosed in your letter of the 26th instant, and submit for the information of the committee a report from the Commissioner of the Revenue, accompanied by two papers, marked A and B, which contain all the information in the possession of this Department which relates to the case of the petitioner.

I have the honor to be your most obedient and very humble servant,

WM. H. CRAWFORD.

HONORABLE WILLIAM LOWNDES,

Chairman of the Committee of Ways and Means.

DECEMBER 29, 1817.

The Commissioner of the Revenue has the honor to make the following report on the petition of Gad Worthington:

1. The only evidence of the robbery in this office is contained in a letter, dated December 5, 1817, from Joshua Danforth, the collector, a copy of which is enclosed, (marked A.)

2. In the general instructions given to the collectors at an early day, they were advised that they alone were held responsible, and that their deputies were officially unknown at the Treasury. An act of Congress was, however, subsequently passed, on the 3d of March, 1815, which, without impairing the responsibility of the collectors, may be viewed as increasing that of their deputies. (see ninth section.) All deposits are made by a collector, who previously receives, at least monthly, the moneys collected by his deputies from them.

3. The enclosed document, marked B, contains the instructions for the deposite of moneys. The deposites of the collector are made in the Branch Bank at Boston, which is one hundred and twenty miles from his place of residence.

4. The collector appears to have fulfilled his official duties with invariable fidelity, and entire reliance is placed on his statements.

His last monthly returns do not exhibit any balance on hand, and the whole amounts of the several taxes have been accounted for, excepting an outstanding balance of \$1,737 27.

SAMUEL H. SMITH, *Commissioner of the Revenue.*

HON. SECRETARY OF THE TREASURY.

A.

SIR:

COLLECTOR'S OFFICE, PITTSFIELD, *December 5, 1817.*

Enclosed is my return of moneys received and paid on account of the direct tax, for the month ending the 30th day of November, 1817; also, a receipt for \$1,007. The sum paid is \$193 less than it would have been had not a most daring robbery been committed. On Saturday, the 15th ultimo, about two o'clock in the morning, the dwelling-house of Mr. Gad Worthington, of Lenox, one of my deputies, was forcibly entered by some person unknown, his secretary broken open, and \$193 taken therefrom. Mr. Worthington returned from the south part of the county on Friday evening, where he had collected that sum, and expected to have paid over the same to me the next day. Mr. Worthington intends, if possible, to borrow the amount stolen, and pay it this month. It is a very serious loss to him, as he is a young gentleman who has just set out in life with a small property: his character is perfectly fair. His friends have advised him to petition Congress on the subject.

I am, with respect, your obedient servant,

JOSHUA DANFORTH.

S. H. SMITH, Esq.

B.

CIRCULAR TO COLLECTORS OF THE REVENUE.—No. 4.

SIR:

TREASURY DEPARTMENT, REVENUE OFFICE, *December 17, 1813.*

Such moneys as you may receive in payment of the internal duties and the direct tax, exclusive of the amount of your commission on the duties and taxes actually received and authorized expenses, are to be deposited in the bank of _____, to the credit of the Treasurer of the United States. On making every such deposite, you will require from the cashier duplicate receipts for the sum deposited; one of which you will transmit to this office, with your monthly return of moneys received and paid. Such deposite must be made at least monthly, and, in cases where the situation of the bank renders it practicable, on the last day of the month. Should your office be in the city or town wherein the bank is situated, you are, at no intervening time, to suffer a sum exceeding one thousand dollars to remain in your hands undeposited. According to an arrangement with the above bank, the principal of treasury notes, with the interest that has accrued thereon, will be received as cash.

Gold and silver of the coinage of the United States, and copper of the like coinage for small sums, with Spanish milled dollars and the parts thereof, are a legal tender, and will be consequently received in payment of duties and taxes. Such other gold or silver, and bank notes, as are received by the above bank as cash, and none other, are to be taken in payment of duties and taxes.

I am, respectfully,

_____, *Commissioner of the Revenue.*LENOX, *December 2, 1817.*

I, William P. Walker, of Lenox, in the Commonwealth of Massachusetts, testify and say: That, on the night of the 14th of November last, my family was called up by a servant girl of Mr. Gad Worthington; the girl appeared greatly agitated, and, on my inquiring of her what was the difficulty, she stated that there was a great noise at Mr. Worthington's, and she was afraid some one was murdering the family, and that she made her escape out of the chamber window. On my going out at my door, I met Mrs. Worthington, who was also much agitated; she stated that some one had broken into the house, and broken open the desk, and taken all Mr. Worthington's money, and that Mr. Worthington was very badly hurt. I immediately went over to the house, when Mr. Worthington stated that he heard a noise in his dining room, where his desk stands; that he got up, and, on going into the room adjoining, saw a light under the door; on attempting to go in, he found the door fastened; he then returned to his bed room, took a small pair of tongs, and burst open the door; the light was then out, being very dark in the room, and supposing the villain had escaped, he went to the desk and found it open; he saw one of the windows also open;

he immediately called to Mrs. Worthington to bring a light, when some one sprang upon him from a corner of the room, and gave him a blow upon the breast with a club; he attempted to strike him with his tongs, but they were soon knocked out of his hand, and, in attempting to seize him, the villain gave him a number of blows on his head, and one so severe that it knocked him down; when he escaped. On my going into the room, I found his desk had been broken open; one of the windows was open; it appeared to have been fastened with a cut nail, which was broken, one part was on the floor, and one part was in the frame of the window. A stick of wood stood by the window, and one lay upon the floor, with which Mr. Worthington supposed he was struck; the latches of the doors were fastened down, and one catch had been burst out. I found one swelling upon Mr. Worthington's head, which must have been caused by a severe blow.

And I further say that, from the appearance of Mr. and Mrs. Worthington, and the situation of the family when I went to the house, and the appearance of the room and the desk, I have not the least doubt in my mind but that the house was broken open, and that the robbery was committed, and he assaulted in the manner he stated. I saw Mr. Worthington in the course of the evening, when he stated he had been closing the collection of his taxes; and, upon my inquiring how much he had collected, I think he stated about two hundred dollars.

Mr. Worthington sustains as fair and as honorable a reputation as any man in the community.

WILLIAM P. WALKER.

LENEX, December 3, 1817.

We, the subscribers, hereby certify that we were called up, and went to the house of Mr. Gad Worthington, on the night of the 14th of November last, a few moments after Mr. Walker, when we found the situation of the room and of the desk as he has stated; and Mr. Worthington related the same circumstances to us as stated by Mr. Walker. And, from all the appearances at the house, and the facts stated to us, there is not in our minds the least doubt but that the house was broken open and Mr. Worthington robbed, as he stated.

The reputation of Mr. and Mrs. Worthington is such, that no one acquainted with them can doubt the truth of their statements.

CALEB HYDE,
TIMOTHY GRISWOLD.

DECEMBER 4, 1817.

BERKSHIRE, ss.

Personally appeared William P. Walker, Caleb Hyde, and Timothy Griswold, and made oath to the truth of the above affidavits by them respectively subscribed.

DANIEL WILLIAMS, JUN., *Justice of the Peace.*

15th CONGRESS.]

No. 377.

[1st SESSION.]

LOSS OF THE SCHOONER WILLIAM YEATON.

COMMUNICATED TO THE SENATE, JANUARY 23, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, reported:

That the petitioner's case was, at the last session, referred by the House of Representatives to the Secretary of State, whose report thereon has been made at the present session. To this report the committee refer for a legal and equitable exposition of the nature of the claim. [See No. 360, page 527.] The facts of the case are: That the petitioner, in May, 1812, chartered his vessel to the United States, to carry to Laguayra a portion of a donation of flour made by Congress to the inhabitants of that country, who were then suffering under the calamities consequent on an earthquake of most distressing character. That, on her arrival, she was prevented from unloading the whole of her cargo until the town became occupied by the Spanish army, when it fell into their hands; they also took possession of the shipping in the harbor, among which was the vessel of the petitioner, though it appears his was the only vessel carrying the donation of the United States which had not been entirely unloaded. The vessels were libelled and condemned as prize in the court of admiralty at Porto Cabello, for having violated the ordinances of Spain in entering a Spanish port without the certificate of the Spanish consul at the port whence the vessel sailed. Subsequently the vessel was restored through the friendly interference of the then unacknowledged minister of His Catholic Majesty. On a view of the vessel, when restored, she was adjudged not to have deteriorated materially, and damages were laid against Spain for detention, amounting to 2,136 Spanish milled dollars. War then existing with England, the vessel was sold at auction for the best price that could be had, to wit, \$1,025, out of which the costs and charges of condemnation had first to be paid. The captain renders an account which exceeds the above sum \$300, for which he has brought suit against the petitioner. The loss of the vessel was total. That it bears hard on the petitioner, from his circumstances in life, there is no doubt; but this does not justify the grant of relief on the part of Congress. All commercial adventures proceed upon contingencies of profit and loss. Though this has been adverse, it was not undertaken without reasonable prospects of advantage, and these continued in full expectancy until after the vessel had arrived at Laguayra. The petitioner admits, when the royalists became masters of the place, he had a return cargo in prospect that would have promised good profits. At last, the event of war making the sale of his vessel expedient, only definitively settled the adventure as wholly disastrous. The petitioner participated in the privations of war in common with his fellow-citizens. It must be recollected the petitioner sought this employment under the Government as matter of favor; it was peculiarly such. The vessel sailed at a time of embargo, just precedent to a state of war, which might have operated to the loss of her if she had remained in port. Reasonable prospects of a successful voyage existed, and it appears the loss of the vessel was due to a contingency of very uncertain occurrence. The committee believe every allowance by Congress of a claim ought to be had on some determined principle that would admit of general application. The plea of hardship and compassion can never be acted upon but with the extremest hazard of abuse. This claim, though presented in its most favorable aspect, rests

upon the extension of that benevolence that produced the act for the relief of the people of Venezuela. Whether this act was proper, though well intended, is matter of doubt. It failed in its object, and the committee do not think there is any safety in continuing to act on the principle that produced it. The eventual loss of the vessel arose out of the war with Great Britain, and it is obviously improper to do any thing that would give color to claims of remuneration thence arising. The committee, in investigating this claim, have even felt solicitude to discover features in it that would admit of legislative interference. They have been, however, compelled to report the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 378.

[1st Session.]

SURVEYOR OF PUBLIC LANDS SOUTH OF TENNESSEE.

COMMUNICATED TO THE SENATE, JANUARY 23, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Isaac Briggs, reported:

That they find, among the documents referred to by the petitioner, a letter from the Secretary of the Treasury, dated March 2, 1816, addressed to the chairman of the committee to whom the petitioner's case had been referred at that time. To this letter the committee refer for a view of the merits of the claim. The prayer of the petitioner appearing reasonable to the committee in part, they report a bill for the petitioner's relief.

SIR:

TREASURY DEPARTMENT, *March 2, 1816.*

I have the honor to acknowledge the receipt of the communication from the committee of the Senate to whom was referred the petition of Isaac Briggs, requesting—

1. A report stating the difficulties which have arisen in the Treasury Department in relation to the subjects of the petition.

2. A suggestion of the particular legislative aid requisite to obviate such difficulties as oppose themselves to a just and fair settlement of Mr. Briggs's account with the United States.

In compliance with the request of the committee, I have collected, as expeditiously as was practicable, the necessary information, and respectfully submit the following answers:

1. The petitioner was a surveyor of the public lands south of the State of Tennessee from the commencement of 1803 to the commencement of 1807. In the prosecution of the duties of his office, he was authorized and required to make all necessary disbursements and advances, and to draw, from time to time, on the Secretary of the Treasury for the amount with which he was charged on the books of the Treasury, and could only be discharged by the returns of his deputies, and the settlement of their accounts. The petitioner states, (and the allegation is ascertained to be true,) that, at the close of the year 1806, he suddenly left the Mississippi Territory, to convey a confidential communication to the President of the United States, relative to the alarming state of the country at that period. His office, books, and papers remained under the care of a deputy and his clerk, with instructions to transmit his accounts and vouchers to the seat of Government for settlement; but this, it is alleged, was only partially done; so that a settlement at the Treasury in the year 1808 exhibited a balance against him to the amount of \$9,217 67, for the recovery of which he was arrested in the spring of 1815. On the 12th of May, 1815, the petitioner presented an account at the Treasury, claiming credits, which, if allowed, would reduce the balance against him to the sum of \$888 29.

The difficulties which have arisen in the Treasury Department, in relation to the last account of the petitioner, will appear from the original documents and the statement of the Auditor of the Treasury, now transmitted. They are, principally, 1st. That the dates of the items and vouchers of the account, generally, are prior to the settlement of 1808; and it is therefore inferred that they have been already credited. The inference is resisted by the petitioner; and as the statement and documents appertaining to the former reports upon his accounts were lost in the Register's office, at the time of the British invasion, there are no official means for deciding the controverted point. 2d. That the item for surveying the Mississippi and Chepalaga in 1806 was not allowed, probably, in any former settlement, as it was supposed by the Auditor not to be authorized by any law. 3d. That there is not any provision by law to compensate the petitioner for exploring the country, in order to ascertain the best ground for a road from the seat of Government to New Orleans, in the year 1804.

1. The first difficulty cannot, in equity, be deemed fatal to the claim of the petitioner. The original statements and documents, by which the correctness of his claims might have been tested, were lost without his fault; and it seems just that the next best proof of which the case is susceptible should be admitted, to negative the general inference that has been drawn against him.

2. The thirteenth section of the act of the 21st of April, 1806, provided "that the Secretary of the Treasury be authorized to cause a survey to be made from the seacoast of New Orleans, from the mouth of the Mississippi to Vermilion bay, inclusively, and as much farther westwardly as the President of the United States shall direct; and also of the bays, inlets, and navigable waters connected therewith: *Provided*, That the expenses of such survey shall not exceed 5,000 dollars." The survey of the Mississippi river and Chepalaga appears to have been executed under the authority of this provision; but the inference of a former credit for the charge, drawn from the date of the voucher, will recur.

3. There was no previous law authorizing the petitioner to explore and lay out a road from Washington to New Orleans; but it appears that the task was undertaken at the request of the President of the United States, without a view to compensation, upon a supposition that it would not greatly add to the expense and trouble of the petitioner, while prosecuting his official duties; that the task was performed in a very able manner, at a considerable expense of time, health, and money; and that the survey of the road, as made and returned by the petitioner,

has been adopted and carried into effect by Congress. The origin, progress, and value of the service rendered by the petitioner, are set forth in a letter which has been received from the late President, dated the — ultimo, —, which, and the documents that accompanied it, are now submitted to the committee. The adoption of the petitioner's survey of the road will appear from the messages of the President to Congress on the 1st and 22d of February, 1805, communicating the survey and report; and from the acts of the 3d of March, 1805, of the 21st of April, 1806, and of the 3d of March, 1807.

The extent and value of the service rendered by the petitioner having been thus recognised by the executive and legislative departments, the question of remuneration arose upon the legal as well as equitable principles of an implied contract, that the Government should pay an equivalent for the benefit which it accepted and enjoyed. From the year 1805 until 1810 the subject occasionally occupied the attention of Congress in various forms, without producing any positive result; and it is again presented for legislative consideration, as constituting a just item of credit in the petitioner's accounts with the public.

II. In order to accomplish a fair and just settlement of the petitioner's accounts, it seems to be requisite—

1. That the accounting officers of the Treasury be authorized to credit the petitioner for the charges on his accounts, upon the best evidence of which the case is susceptible, under all the circumstances attending it.

2. That they be also authorized to credit a reasonable charge for the survey of the river Mississippi and Chepalaga.

3. And that they be also authorized to credit a reasonable charge for exploring the route of the road from Washington to New Orleans.

With the letter I have transmitted the original documents referred to, which I pray you to return when the committee have no longer use for them.

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

A. J. DALLAS.

The Hon. WILLIAM HILL WELLS.

15th CONGRESS.]

No. 379.

[1st SESSION.

INDEMNITY FOR JUDICIAL PROCEEDINGS AGAINST AN OFFICER OF THE ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 23, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Loring Austin, major by brevet in the army of the United States, reported:

The petitioner states that, on the 25th day of March, 1813, being then an officer in the army, and bearing the commission of lieutenant in the first regiment of dragoons, he received from Colonel Z. M. Pike, his superior officer, commanding at that time the forces in and around Sackett's Harbor, in the State of New York, an order which the committee beg leave to insert in their report as follows:

SIR:

SACKETT'S HARBOR, *March 25, 1813.*

You are ordered to proceed to the county of St. Lawrence with your detachment. Your route will be by Watertown, Antwerp, Rossie or De Kalb, and Black river. You must make inquiry of the well-affected inhabitants if there are any hostile Indians or British troops in the country; and, if there are, and not your superior in numbers, you will instantly attack them. You had best halt some distance from Ogdensburg, in order to procure good intelligence. A Mr. Shaw of that place is employed to secure some public craft that are there in the ice by sinking them. When he is ready, you will draw nigh in order to prevent a small party from crossing from Prescott and destroying the boats. This is one principal object of your march. Another is for you to repair to Massena, forty-two miles below Ogdensburg, and deliver the letter herewith to Mr. Richards, the collector, and seize on and make prisoners of any persons whom he charges with having been engaged in treasonable practices, and bring them to this place, and do any other acts which he deems may be conducive to the public service. Lieutenant Wells, who commands a party of riflemen, is ordered to co-operate with you, and has a duplicate of this order. Being different species of troops, it will be necessary for you to appoint places of rendezvous, where you will form a junction, particularly near Ogdensburg and Massena; when joined, the senior officer will give orders for future operations. You may hold out to the disaffected that it is not improbable that a thousand men may be shortly established at Ogdensburg; but, to our friends, assure them that, until the campaign opens, they need not expect permanent relief. Guard against spies and surprise by frequent changes of position. Should you make a capture of consequence, you may return so soon as you have seen the collector. If not, you may extend your excursions to the 15th of April, when you will rendezvous at this place without fail. British officers of rank are frequently at Ogdensburg: conceal your march carefully, and you may seize them.

Z. M. PIKE,

Colonel commanding U. S. forces, Sackett's Harbor.

The petitioner further states that the rule of war making it his duty to obey the said order was, agreeably to its tenor, promptly and correctly executed; in consequence of which obedience, cognizance was taken of him by the civil authority of the State of New York; and the said military order not being received by the court in mitigation of damages, he was held in execution for the sum of \$6,673 90. He therefore prays that, in the adjustment of his accounts with the Government, the aforesaid sum may be placed to his credit, together with the charges incurred in his defence.

In investigating this claim, the point which first presented itself to the attention of the committee was, whether Lieutenant Austin had done his duty in executing the order of General Pike. With this view, the committee have

asked information of the War Department. The answer to their inquiry the committee beg leave to insert in and to adopt as a part of their report, in the following words:

SIR: DEPARTMENT OF WAR, *January 2, 1818.*

In reply to the inquiry of the Committee of Claims, whether, according to the rules prescribed for the government of the army, Major Austin has done his duty; and whether, in such cases, the Government has ever interposed to relieve suffering individuals; and, more particularly, whether it would be right to relieve Major Austin, I have the honor to make the following observations:

The ninth article in the act prescribing the rules and articles for the government of the army renders it highly penal for an officer to disobey the lawful commands of his superior officer. I am not aware that relief has been extended by the War Department to any case similar to Major Austin's; though it has been usual to extend it to cases where the damages have been small, and no doubt existed as to the lawfulness of the order under which the officer acted. Whether he ought to be relieved, involves the question, in the first place, whether General Pike's orders to him were lawful; and, if it should be determined that no law authorized him to impose such duties on Major Austin, yet I would respectfully suggest that there may be cases in the exigencies of war, in which, if the commander should transcend his legal power, Congress ought to protect him and those who act under him from consequential damages; whether this is a case of that kind, the committee can best determine.

JOHN C. CALHOUN.

Although the committee concurred in opinion with the Secretary of War "that there may be cases in the exigencies of war, in which, if the commander should transcend his legal power, Congress ought to protect him and those who act under him from consequential damages," yet it appeared to them that Government should sanction such a principle with very great caution. An illegal or unauthorized seizure of property, of goods and chattels belonging to a citizen, is seldom allowed in a state of war; but an arrest of his person should be more cautiously guarded, in proportion as his freedom in this respect is dearer than the unmolested possession or enjoyment of property, however great the amount. Believing, therefore, that the claim of the petitioner was to be justified only on the ground of an invincible necessity for executing the order of General Pike, and wishing, at the time they should grant him relief, to assert also the principle of the sovereignty of the civil over the military power, the committee addressed a letter to the Attorney General, requesting that he would favor them with his opinion as to the legality of the order under which Lieutenant Austin had acted. The Attorney General answered that there could be no question that the order of General Pike, strictly considered, was unlawful.

This point being settled, and reviewing the circumstances of the case; the state of the war on the frontier; the apparently suspicious character of the persons designated by Mr. Richards, the collector, and arrested by Major Austin; the necessity for keeping the intended operations of the American army unknown to the enemy; the high reputation of the officer concerned, and the obligation he might reasonably suppose he was under to obey the order of his superior in command; and, lastly, the good faith with which he defended the suit instituted against him—the committee thought he was entitled to relief. They are more disposed to this opinion when they advert to the case of Commodore Rodgers, decided by the last Congress, which furnishes a precedent both pertinent and applicable in the present instance.

The committee feel satisfaction in stating, as it appeared in evidence before them, that the persons seized by Major Austin have never complained of any harsh treatment from him. After he had been arrested by the civil authority in New York, the prisoners were taken on to Sackett's Harbor, and there lodged in the guard-house. In this situation, they are said to have suffered much in mind and body, which was the cause of the heavy damages in which the petitioner has been amerced—the judge charging the jury on the trial that Major Austin was legally and technically liable for all their sufferings from the time of capture to their discharge.

It appears that the petitioner is not any longer personally responsible for the damages recovered of him at the instance of the nine persons arrested pursuant to the order of General Pike. He was confined for twelve months in the prison limits of Watertown, in New York, and was finally discharged by the operation of the citation act of that State. His property is still liable to respond the judgments in those suits, and his patrimonial expectations may be wasted in the payment of those damages. While the committee are disposed to relieve Major Austin, they would be unwilling on the other hand that the persons for whom the judgments were obtained should reap the full benefit of legislative interference. They would therefore recommend that the Secretary of War be invested with a discretionary power to compromise and settle this claim on such terms as may appear to him just and reasonable; and for this purpose they report herewith a bill.

15th CONGRESS.]

No. 380.

[1st SESSION.]

CONTRACT WITH THE COLLECTOR OF MACHIAS IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 2, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Benjamin Berry, of Machias, in the State of Massachusetts, reported:

It appears the petitioner was employed in January, 1813, by Jeremiah O'Brien, collector of the port of Machias, to proceed to Mausepechy reach, for the purpose of bringing away sundry goods, saved from the British ship Dilligent, wrecked at that place. The petitioner, according to contract, proceeded to the aforesaid place, and brought away ten 24-pounders, fifteen 12-pounders, two cohorts, together with wheels, carriages, and about thirty tons of shot and old iron. These articles he delivered safely at Machias, for which the petitioner alleges the collector promised to pay him \$300, when Government should furnish the money for that purpose; but of which he has as yet received no part. He therefore asks Congress to allow him that sum, together with interest from the date of the agreement between him and the collector.

The committee have obtained from the Comptroller of the Treasury copies of the correspondence between that officer and Mr. O'Brien, collector of the port of Machias. From the letter of Mr. O'Brien to the Comptroller, dated 9th September, 1815, it appears that Benjamin Berry was employed by him to bring away from the wreck of the British ship *Diligent* the property above mentioned; that for this service he was to be paid the sum of \$300 when the property should be condemned and sold. The property was libelled, and ordered to be sold; but the marshal was directed not to sell, unless some person appeared to purchase on behalf of Government, or unless others were present who, on their own account, might be disposed to give near the value of the property. On the day of sale no purchasers appeared according to the above directions, and the whole was returned unsold. The property was afterwards decreed forfeit to the United States, subject to the claims of individuals who assisted in securing it. In September, 1814, before a sale could be made, the enemy retook as much of the property as they could find, carried away that which was valuable to them, and rendered the rest useless. In October, 1815, the remains of the cannon, &c. were ordered to be sold, and the proceeds to be paid into court. The same were accordingly sold for the small sum of \$157, which, after deducting costs of court, sales, &c., was paid over by the marshal, as directed by the warrant.

The committee are of opinion that the petitioner is entitled to some relief. The terms of the contract were, "that, out of the proceeds of the property when condemned and sold, he should receive \$300." Mr. O'Brien says that, had the property been sold when first landed, the sum contracted to be given would not seem great. While, on the one hand, it may be urged that the property has sold only for \$157, a sum below that stipulated to be paid, it may be said, on the other, that the postponement of the sale by the officer of Government, for the want of valuable purchasers, was a contingency not to be apprehended by the petitioner. The committee would, therefore, recommend that the Secretary of the Treasury be allowed a discretionary power to settle this claim, as may appear to him equitable and proper, and for this purpose report a bill.

15th CONGRESS.]

No. 381.

[1st Session.

HOUSE BURNT IN NEW YORK IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 2, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Thomas Miller and Stephen Baker, composing the firm of Miller & Baker, of the city of New York, reported:

The petitioners allege that, in the autumn of 1812, they were applied to by C. Vandeventer, deputy quartermaster general in the service of the United States, to rent to him, for the use of the United States troops, certain buildings owned by them, and situated in Greenwich, on the corner of Hammond and Washington streets, near the city of New York. That, on the 5th of November, 1812, they rented those buildings to the said C. Vandeventer for ten dollars per week, on his engaging to pay all damages the buildings might sustain while occupied by the troops. The buildings were thereupon taken possession of by the troops; and on the 4th of March, 1813, were burnt to the ground, in consequence of the negligence of the troops who were at that time in the occupation of them.

The petitioners further state that they have never received any rent for the said premises, or any compensation for the destruction of their property; that they have applied for payment to the Accountant of the War Department, and have been informed that there is at present no law providing for a demand of this nature. They therefore ask Congress to pass a law granting them \$4,812 70 as indemnity for the losses aforesaid. This claim consists of several items, viz: for the dwelling-house in Greenwich, at the corner of Hammond and Washington streets, near the city of New York, \$3,500. Rent of said house and interest thereon, \$195 70. For the destruction of five summer-houses and other out-buildings, together with the yard and garden fence, \$550. Two years' interest, at 7 per cent., \$567; making, in the aggregate, the aforesaid sum of \$4,812 70.

As to the five summer-houses and other out-buildings, together with the yard and garden fence, amounting to \$550, the committee will observe that the petitioners have adduced no proof of their destruction by the troops of the United States, either with or without the order of an officer. This, therefore, cannot be allowed. Neither can the charge of \$567 for interest be allowed. Government is presumed to pay all its debts promptly and without hesitation, whenever a fair claim is presented. If the petitioner has not received payment in this case, the delay must have arisen from his inability heretofore to produce satisfactory evidence of the justice of his claim. Upon this principle, charges for interest have generally been rejected; and, if allowed in any case by Government, it is to be considered a charitable indulgence, more than the payment of a just demand. The committee think this item ought also to be rejected. The charge of \$3,500 for the house in Greenwich, at the corner of Hammond and Washington streets, is the only part of the petitioner's claim which, in the judgment of the committee, can be allowed, and which must be considered as embracing the charge of \$195 70 for the rent, and interest thereon. It is proved by the affidavit of C. Vandeventer, late deputy quartermaster general of the United States army, that he did rent the house of Messrs. Miller & Baker upon the condition "that if it was destroyed by the carelessness or design of the troops, to be paid for, unquestionably, by the United States." The affidavit of John Armstrong, Henry Moore, George James, and Jeremiah Pangburn, made February 12, 1817, and the certificate of the Hon. Mr. Wendover, now of the House of Representatives from the State of New York, prove to the satisfaction of the committee that the house was destroyed by the carelessness or design of the troops. The value of the house is also satisfactorily ascertained by the affidavit of Arthur Smith, George Ireland, and John E. West, master builders in the city of New York.

Under all these circumstances, the committee are of opinion that the petitioners are entitled to relief, and for this purpose report a bill.

15th CONGRESS.]

No. 382.

[1st Session.]

SLAVE KILLED IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 3D OF FEBRUARY, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Basil Shaw, of the State of Tennessee, reported:

The petitioner states that he was appointed in 1814 assistant adjutant general in the division of Tennessee militia commanded by Major General Carroll, then ordered to the defence of New Orleans: that the duties devolved on him were such as to require that he should have a horse in order to perform them correctly: that, having a horse, it also became necessary he should have a servant to take charge of his horse and baggage while he might be attending to more important interests: that he, therefore, hired a servant for the purpose aforesaid, upon the condition that, if he lost said servant either by the accidents or casualties of war, he should become responsible to the owner for his value, estimated at five hundred dollars.

The petitioner further states that the aforesaid servant was killed by a cannon shot from the enemy's works at the commencement of the attack on the morning of the 8th of January, 1815, whilst attending to the business of the petitioner in the military family of Major General Carroll: that, on his return home, he paid to the master and owner of said servant the sum of five hundred dollars, the price stipulated to be given in case the servant should be lost as aforesaid. The petitioner therefore asks Congress to repay to him the sum of five hundred dollars.

The committee are decidedly of the opinion that Congress is under no obligation whatsoever to remunerate the petitioner. No principle of legislation is perhaps better settled than this, that for such losses Government cannot be liable. The committee will mention only the case of Lieutenant Montgomery, who lost his servant in the destruction of Fort Mimms, and petitioned, at the first session of the fourteenth Congress, for indemnification. [See No. 278, page 453.] It was then determined that Government could not be liable.

The committee therefore recommend that the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 383.

[1st Session.]

CERTIFICATE ISSUED IN 1780 BY A DEPUTY QUARTERMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of John M. Godfrey, reported:

The petitioner states that, in the year 1790, then being an inhabitant of the State of Pennsylvania, and engaged in mercantile business, he received, in the course of his business, a certificate granted and signed by Cornelius Cox, deputy quartermaster general, dated 29th of June, 1780, for the sum of £2,613 15s. currency of Pennsylvania, of paper emission, endorsed "paid on it £157 10s.:" ditto again, "£1,000," leaving a balance of £1,456 5s.—\$3,883 33; for which sum he received it; and he now asks payment for the same, with interest thereon from 29th of June, 1780.

The committee further report: it appears that the said certificate was issued to John Armstrong for services said to have been by him performed in the quartermaster general's department; and that, on the 24th of July, 1780, John Armstrong received from Cornelius Cox £157 10s. by the hands of Robert Whillon, in part payment of said certificate; and that, on the 20th of August, 1780, he received £1,000 on the same certificate from Abner Wickerson, being the credits endorsed thereon: that, by receiving the payments as endorsed on said certificate from the said Cornelius Cox, John Armstrong appears to have considered Cornelius Cox responsible to him for the whole amount of the said certificate; and that Cornelius Cox, by making said payments, considered himself responsible to John Armstrong for the whole amount of said certificate; therefore, the balance due on said certificate existed a debt due by Cornelius Cox to John Armstrong, and the transfer of the certificate to the petitioner did not alter the nature of the claim, or vary the party liable for the payment thereof.

The committee further report the accounts of Cornelius Cox, deputy quartermaster general, yet remain unsettled; that there do not appear to be any returns made to the Treasury Department, showing that this certificate was issued for a consideration valuable to the United States, and that certificates of this description are not included within the act of August, 1790, for funding the public debt. From this statement of facts, the committee submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 384.

[1st SESSION.]

MONEY LOST BY A RECRUITING OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 6TH OF FEBRUARY, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of John Whistler, late of the United States army, reported:

The petitioner states that, in 1813, he was ordered by General Harrison to relieve Colonel John Miller, of the 19th regiment of infantry, and to superintend the recruiting service at Chillicothe, in the State of Ohio. While at Chillicothe he enclosed, on the 8th April, 1813, the sum of three hundred dollars in a letter, which he sent by the hands of Sergeant George W. Prather to Lieutenant Philip Price, then recruiting at Cincinnati, agreeably to the orders of Colonel Miller to forward the money by the first safe opportunity; that Sergeant Prather, who had been before employed by him on similar services, and had performed them punctually, broke open the letter containing the money, and, after robbing it of its contents, deserted from the service; that he advertised him immediately, with the number and description of the bills, but has never been able to procure his arrest, or to obtain any part of the money for himself or Lieutenant Price.

The petitioner further states that, being apprized of the necessity of forwarding the money without delay, and of the uncertain conveyance at that season of the year by mail, in consequence of high waters, he chose to send it by Sergeant Prather, who had been highly recommended to him as an honest man by an officer well acquainted with him; that, having presented his account to the proper office for settlement, he has been informed that this item cannot be allowed without legislative interference. He therefore prays Congress to pass a law directing the allowance to be made.

The principle involved in the decision of this claim appears to the committee so well settled that it would be almost superfluous, at this time, to add any thing with a view to its further exposition. It has long been a rule that officers who had the disbursement of public money should be answerable not only for its correct application, but for its safe conveyance from one place to another. Colonel Miller ordered the petitioner to forward the money by the first safe opportunity. It may here be asked, was the money so forwarded? No. It was confided to the hands of Sergeant Prather, who deserted, took it with him, and has not since been heard of. This fact at once destroys the petitioner's claim to the remuneration he asks. It will not be improper to remark that the petitioner has adduced no proof of his having previously employed Sergeant Prather to convey money from one place to another. Under every circumstance, therefore, the committee recommend that the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 385.

[1st SESSION.]

DEFICIENCY IN QUANTITY OF CERTAIN GROUND IN NEW YORK SOLD FOR THE BENEFIT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 9, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of John G. Bogert, of the city of New York, reported:

That, some time in the year 1805, all the estate, both real and personal, of Edward Livingston, then of the city of New York, was advertised to be sold to satisfy certain judgments in favor of the United States against the said Livingston. Of the property so advertised to be sold, several lots in Mott and Mulberry streets were apart, which were laid out and numbered as described in a certain map annexed to the petition. The petitioner states that he became the purchaser of lots numbered 134, 135, and 119 on the map; that a deed was given for the same by John Swartwout, then marshal for the district of New York, and that he punctually paid the purchase money as it became due, by instalments, amounting to one thousand and fifty dollars.

The petitioner also states that the ground in this vicinity remained vacant till a recent date, when he directed a survey of the lots he had purchased, with a view to enclose them. By surveying the same, he has ascertained that more ground was sold by the map than really existed, and that the lots marked as the numbers 134, 135, and 119 on the map by which they were sold, do not, and never did, exist. As the petitioner has therefore received no consideration for the money he has paid, he prays that the United States will indemnify him for the deficiency of ground, and refund to him the purchase money, with the interest thereon.

In regard to this claim, the committee have necessarily adverted to analogous cases heretofore decided. At the second session of the thirteenth Congress, Thomas Cutts, of the State of Massachusetts, presented a petition similar in principle to the present. The committee at that time submitted the case to the Attorney General, and requested his opinion upon it. The Attorney General, on the 5th of March, 1814, in reply to the committee, says: "The rule of law I take to be that, regularly at a sheriff's or marshal's sale, nothing passes to the purchaser but the interest which the defendant or debtor himself had in the thing sold. It is with the purchaser to be upon his guard, and look to the title before he buys. Hence it appears to me that it would not be safe to consider the said Thomas Cutts, in this instance, as having established any legal right to demand of the United States indemnification for his alleged loss." With the Committee of Claims, at the second session of the thirteenth Congress, this opinion of the Attorney General was conclusive, and they reported against the petition to the House. [See No. 248, page 432.]

As the claim of Bogert is founded on a principle similar to that just mentioned, and as the committee are perfectly satisfied that the proceedings on the former occasion were correct, they would now recommend the following resolution:

Resolved, That the prayer of John G. Bogert ought not to be granted.

15th CONGRESS.]

No. 386.

[1st SESSION.]

LOSSES SUSTAINED BY THE WAR WITH THE CREEK INDIANS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 9, 1818.

Mr. WILLIAMS, of North Carolina, made the following report:

The Committee of Claims, to whom was recommitted their report in the case of Zachariah McGirt, for the purpose of examining the validity of the evidence on which the claim is founded, now offer to the House a report on the same, as follows:

The committee have examined the evidence, and, in their judgment, find it wholly insufficient to support the claim. The petitioner asks \$5,300 as indemnification for the loss of his property during the late war with the Creek Indians. He states that he had been residing among that nation for many years at the commencement of the war, and had married a woman of that tribe. His moveable property, he says, to a considerable amount, was lost in the destruction of Fort Mimms. In the mean time, his other property, to wit, cattle, hogs, horses, and a part of his slaves, was destroyed by the hostile Indians. For these losses he claims of the Government of the United States the aforesaid sum of \$5,300.

In support of this claim, the petitioner adduces certificates from different persons. The first is from Henry Taulman, judge of the Mississippi Territory, who certifies, generally, that McGirt was active on behalf of the United States in the Creek war.

Benjamin S. Smoot, colonel 6th regiment Mississippi militia, certifies, on the 15th October, 1816, that McGirt took an active part in the war; that his property was destroyed by the hostile part of the nation, but says nothing as to the amount of loss.

Joseph Carson, late colonel 1st regiment Mississippi Territory volunteers, certifies that McGirt was active; that he had a considerable stock; all of which must have been destroyed.

Gilbert C. Russel, late colonel 3d regiment United States infantry, certifies, on the 14th October, 1816, that McGirt rendered important services during the war; that he lost nearly, if not quite, all his property; none of which, except his slaves, was recovered.

Samuel Dale, collector of the county of Monroe, Mississippi Territory, certifies the same as to the activity of the petitioner.

George Fisher, of the town of St. Stephen's, certifies the same as to his activity.

It is unnecessary, nor would the committee be understood to question the respectability of the characters who have certified in behalf of McGirt. It is enough always to set aside evidence of the kind that it has not been given on oath. But if the evidence had been given on oath, still the committee think it would not be sufficient to entitle the petitioner to his claim of \$5,300. There is nothing in the certificates about the amount of property destroyed. On this point the certificates are entirely vague; and had the petitioner claimed ten or fifteen thousand dollars, there would have been, from this evidence, precisely the same reason to believe the charge just as to believe that the present charge of \$5,300 is not exorbitant or unreasonable. The committee could not, without the adoption of an arbitrary rule, recommend, as yet, any thing in his favor.

The petitioner himself deposes, on the 19th October, 1816, before Judge Taulman, that the statement he makes of his losses is just, as far as he can ascertain.

Michael Ellert, a Creek Indian, deposes before Philemon Hawkins, jun., assistant agent for Indian affairs, that the petitioner did lose the amount of property as set forth in his claim.

James Cornells, who, it is presumed, is also an Indian, deposes, on the 8th December, 1816, before James Varnum, of the city of Washington, that McGirt lost property in the Creek war to the amount of \$5,300, if not more.

If this evidence derives any validity from its being given on oath, there are other circumstances attending it by which it must be weakened. The committee think it would be unsafe to allow any man to swear himself into a benefit, and that this rule would exclude the evidence of the petitioner, without pretending further to impeach the testimony of a white man, who had resided many years among Indians, and incorporated himself with their nation.

Michael Ellert and James Cornells are the two remaining witnesses in favor of this claim. The committee will only remark that it would, in their judgment, be unsafe to rely on the evidence of men who, from their education, if from no other circumstance, must not be remarkably sensible of the obligations of an oath.

Such is the evidence on which a claim of \$5,300 is made against Government. The committee feel no hesitation in saying that it appears to them wholly insufficient. Independently, however, of the insufficiency of the testimony, this claim is to be rejected on other ground. The petitioner, in the character of a friendly Creek Indian, asks Congress to indemnify him for his losses. On the 3d of March, 1817, a law was passed granting \$85,000 to indemnify the friendly Creek Indians. To that law, therefore, and not to any future act, the petitioner ought to look for relief. The committee have applied to the Secretary of War to know how the \$85,000 have been distributed. The Secretary answers that the money has been placed in the hands of Governor Mitchell, and that no return has been received from him. Under these circumstances, the committee think the petitioner will receive his portion of the money heretofore appropriated, and that he cannot be entitled to any other relief. They therefore recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[15th CONGRESS.]

No. 387.

[1st SESSION.]

INDEMNITY TO MAJOR GEN. BROWN AGAINST CERTAIN JUDICIAL PROCEEDINGS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 9, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Jacob Brown, major general in the army of the United States, reported:

The petitioner states that, in the winter of 1813-14, while in command of the army of the United States, then in winter quarters at French Mills, on the Canadian frontier, a man by the name of Henry Utley, who, in conjunction with his father and family, had been notoriously employed in communicating intelligence to the enemy, was apprehended by a patrol from his camp, when more than two miles within the enemy's territory, and in direct route to his head-quarters at Cornwall. During the days immediately preceding, the said Utley had been at Malone and the parts adjacent, at the cantonment of our troops at Chateaugay Four Corners, and entirely through the camp of General Brown at French Mills. After exercising these means of examination, he was returning to the enemy to communicate the result of it. When taken by the patrol, he begged, as they valued his life, that they would release him, and offered, as an inducement, his horse, saddle, bridle, and two hundred dollars in money. He was nevertheless brought to head-quarters, and ordered to the provost guard to be tried as a spy. The exigencies of the service did not admit of a court-martial being immediately ordered, in consequence of which the prisoner escaped before he could be tried.

The petitioner further states that, in consequence of having thus discharged his duty, the aforesaid Utley, in the month of June, 1816, commenced suit against him in the State of New York for assault, battery, and false imprisonment, and obtained judgment against him, by which he has sustained a loss of \$669 81.

The facts disclosed to the committee appear fully to corroborate the statements of the petitioner; among which are brief statements of the trial, one from the honorable Mr. Palmer of the House of Representatives, from the State of New York, and the other from Judge Spencer, who presided at the trial. These go fully to satisfy the committee that General Brown acted only as a prudent officer would have done in the arrest of Utley, and that he faithfully defended the suit which was instituted against him.

There are two charges of interest, amounting to \$47 89, in the claim of General Brown, which the committee think cannot be allowed. Rejecting this, the claim will then amount to \$621 92, which the committee think should be granted him. For this purpose they report a bill.

[15th CONGRESS.]

No. 388.

[1st SESSION.]

SHIP REMOVED FROM CASTINE BY THE BRITISH IN 1815, AFTER THE TREATY OF PEACE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 10, 1818.

The SECRETARY OF STATE, to whom, by a resolution of the House of Representatives, was referred the petition of James Caze and John Richaud, has the honor of submitting respectfully to the House the following report:

The petitioners allege that, on the 25th of May, 1814, they purchased of the marshal of the United States for the district of Maine a prize ship called the Victory.

That, afterwards, this ship was taken by the British forces at Hampden, and carried down the Penobscot river to Castine, where she remained until the ratification of the treaty of peace between the United States and Great Britain.

That, immediately after that event, application was made by the petitioners to the British commanding general at Castine, for the restoration of the vessel, conformably to the stipulation in the first article of the treaty. That the restoration was refused, and the vessel finally carried away by the British force and authority.

From this statement, it appears that the principle of the case is the same as that of the claimants for the restitution of the slaves carried away from within the territorial jurisdiction of the United States after the exchange of the ratifications of the treaty. It depends upon the construction given to that part of the first article of the treaty which stipulates the restitution of private property. The Governments of the United States and Great Britain not agreeing in that construction, it is yet a subject of negotiation between them, and the claim of the petitioners, it is believed, must abide the issue of that negotiation.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE, February 7, 1818.

15th CONGRESS.]

No. 389.

[1st Session.]

MAINTENANCE OF A WOUNDED SOLDIER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Hannah Weed, of the State of New York, reported:

The petitioner states that, on the 11th of September, 1812, her son, Calvin Weed, was draughted to serve in the militia of the State of New York on the Niagara frontier, and the next day marched to Lewiston, where he joined the regiment commanded by Lieutenant Colonel Dobbins, then on duty at that station. On the 13th of October, her said son volunteered his services in the attack on the heights of Queenstown, and assisted in storming the enemy's batteries, where, on the second attempt of the enemy to regain them, he received a wound by a rifle ball, which passed through his body, and was carried off the field. Soon after this, he was permitted to return home on furlough, till he should recover from his wound, where he languished nearly three months, and died.

The petitioner further states that, during the illness of her said son, while at home on furlough, she incurred a debt for surgical and other aid and attendance, amounting to more than one hundred and fifty dollars. This debt she is unable to discharge; is, consequently, much embarrassed; and, therefore, prays Congress to grant her such relief as may be deemed just and expedient.

This case comes within the principle often decided by Congress, "that, for expenses in attending sick soldiers while at home on furlough, or for funeral charges, Government cannot be answerable." The grant of a furlough, in all cases of the kind, is considered a great favor—an inestimable privilege to the subjects of disease in the army; and if they should choose to avail themselves of the indulgence rather than remain in camp, where they would be attended to at the public expense, they ought most assuredly to take upon themselves all the consequences. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 390.

[1st Session.]

HOUSE BURNT IN MARYLAND BY THE ENEMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was recommitted their report in the case of John Ireland, who claims payment for his house, destroyed (as he alleges) in consequence of its being in the military occupation of the United States, reported:

That, subsequently to their first report, Commodore Joshua Barney addressed a letter to the Hon. John Forsyth, of the House of Representatives, from the State of Georgia, disclosing what the committee deem important facts in relation not only to the case immediately under consideration, but which ought also to have great weight in deciding similar cases now before the House.

The committee would beg leave to insert that letter in their report, as follows:

"SIR:

"BALTIMORE, January 27, 1818.

"I never was more surprised than, in reading the proceedings of Congress, to find that *Mr. John Ireland* had petitioned to be paid for "a house" (tobacco-house I suppose) said to have been burnt by the British, on account of having been occupied, &c. by *men belonging to the flotilla* under my command. If the house in question was *the tobacco-house at St. Leonard's creek*, the petitioner can have no claim whatever on that account. The place where it was situated was *a common landing*, and where I had established tents, &c. near the house, for the purpose of receiving stores and provisions from Baltimore and the city of Washington. Some few *small sails* were laid upon the rafters and tobacco, to keep them from the weather; but the sails and every other article were removed from that place to *Huntington court-house* some time before the British landed and burnt the house. It never was occupied by my men except in the instance cited. After the battle of the 26th June, 1814, in which we drove the blockading squadron from before the creek, the flotilla moved up the creek opposite to *Huntington*, and received on board from that place *all the sails*, stores, and materials of the flotilla, nothing being left but some round shot and iron ballast *near* the said house on the landing; so that the destruction of that property had no connexion with the flotilla, any more than the destruction of *Mr. Pattison's* house had with the militia; for *Pattison* would not suffer a man to go on his place for its defence, but declared he would shoot the first man that attempted to do so, rather trusting to the *enemy* than the protection of the militia. This statement was made to me immediately after his declaration, and soon after his house was burnt, which could have been defended with ease had not *Mr. Pattison* prevented it. I do hope, sir, if any more claims are made, in which myself or the officers and men of the flotilla are mentioned, that I may be referred to, when a true statement shall be made for the satisfaction of Congress.

"I am, sir, respectfully, your obedient servant,

"JOSHUA BARNEY."

From this letter, the committee think it must be obvious that the cause assigned by the claimant for the destruction of his house could not have been the real one. It is universally known that the enemy, during the late war, was actuated by a spirit of malevolent and vindictive animosity, involving, in every instance in which it was practi-

cable, the plunder and devastation of private property, which ought to have been protected by the laws of war among any civilized people. The claimant, in this case, would justify the enemy by an attempt to prove that his house was in the *military occupation* of Government; but his statement appears to be flatly and unequivocally contradicted by Commodore Barney. Here the committee think will be seen the necessity for great caution in receiving the *ex parte* evidence adduced to support most of the claims against Government. The United States have no agent, no attorney, to cross-examine witnesses when their evidence is taken. It is easy to keep out of view the facts favorable to the cause of the Government, and to disclose only those which support the claimants. Traits of such a disposition have conspicuously and evidently appeared in many cases of claim against Government for houses destroyed by the enemy in the late war. The law of the 9th of April, 1816, authorizes the President to prescribe the rules and regulations under which the evidence shall be taken. Pursuant to this authority, the President has directed that in all cases of claim the evidence of the officer who commanded the military occupation of any house shall be deemed indispensable to the admission of a claim, and that it shall be considered practicable to produce such evidence so long as the officer is within the limits of the United States. Did this claimant comply with the law? Did he produce the evidence of Commodore Barney, under whose authority he attempted to convince us his house had been occupied? No! aware (as it now appears) that the evidence of Commodore Barney would operate against him, he brings forward other witnesses, whose testimony the law itself would reject as not being the best of which the case was susceptible. The want of Commodore Barney's testimony, and especially when it was so completely in the power of the party to produce it, was a circumstance calculated to excite suspicion in the mind of the committee. It now appears that the suspicion was well founded; that the occupation of the house, as alleged by claimant, did not take place; that the destruction of it occurred some time after Commodore Barney had removed to Huntington court-house; and, consequently, that, by the law of April, 1816, as well as by the laws of nature, Government is under no obligation to make indemnification for the loss.

The committee feel it a duty to make any remarks calculated to throw light upon the subject of these claims generally, and the evidence which has been offered in support of them. They would, therefore, call the attention of the House to the case of John J. Pattison. This claimant proved that militia had been in the vicinity of his house; that provisions had been issued from, and, in the belief of the witnesses, cooked at the house; that, in consequence thereof, in the further belief of the witnesses, the house was destroyed. This evidence was, in general, too vague and indefinite to be entitled to any credit. But it now appears, from Commodore Barney's letter, that the claimant himself was the cause of the militia not being nearer to his house than *the vicinity*; that he had declared he would shoot the first man who attempted to come upon his place for its defence; that he was disposed to trust to the friendship of the enemy rather than to the valor of his fellow-citizens. The claimant, finding that his confidence in the friendship and forbearance of the enemy was misplaced, comes forward at the present session, and asks Congress to indemnify him against the just consequences of his own misdeeds. However unjust this act of destruction might have been on the part of the enemy, it was just as it regarded the petitioner; for to his conduct alone is the destruction to be imputed.

Such claims, but particularly when the evidence in support of them is so indefinite, when it appears so fraught with evasive, equivocal expressions, cannot be allowed. The committee, therefore, recommend that the claim of John Ireland be rejected.

15th CONGRESS.]

No. 391.

[1st SESSION.]

HOUSES AND OTHER PROPERTY DESTROYED NEAR NEW ORLEANS IN 1814 AND 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of B. and P. Jordan, brothers, reported:

That the claimants ask payment for sundry property destroyed and damage done to their sugar plantation on the right bank of the Mississippi, below New Orleans, during the invasion of the British army in the years 1814 and 1815, to the amount of \$40,917 80. Among the items of their account making this aggregate, are a mansion-house and saw-mill estimated at the sum of \$8,000, which, by the evidence, appear to have been wantonly burnt and destroyed by the enemy, contrary to the rules of warfare among civilized nations. There are also sundry other items in said account, say, two negro slaves, stated to have been taken off by the enemy, and not since recovered; sugar moulds; empty sugar hogsheads; sundry farming utensils; household and kitchen furniture; the value of which is stated by the claimants at \$4,274. Whatever propriety there might be in paying for some part of the property last mentioned, a want of sufficient evidence of its loss or destruction forbids it, no other evidence being offered in support of this part of the claim but the oath of one of the claimants; nor is it stated whether said property was destroyed by the enemy or the United States troops. One other charge in said account is for damage done to said plantation by digging and throwing up the earth for works of defence, stated at \$600. Although several witnesses state that works of defence were thrown up on said plantation, yet no one testifies to the amount of damage done to the farm thereby, except one of the claimants.

The balance of this claim, amounting to \$23,043 80, is for the destruction of the following houses and buildings, with the property therein contained, and fencing of the plantation, to wit:

| | | | | | |
|---|---|---|---|---|-------------|
| 1 sugar house, valued by commissioners at | - | - | - | - | \$12,000 00 |
| A refining house, do. | - | - | - | - | 150 00 |
| A barn and stable, do. | - | - | - | - | 400 00 |
| A magazine with apparatus, do. | - | - | - | - | 1,800 00 |
| A coach house, do. | - | - | - | - | 100 00 |
| 2 poultry houses, do. | - | - | - | - | 140 00 |
| A kitchen, do. | - | - | - | - | 500 00 |

| | | | | | | |
|---|---|---|---|---|---|--------------------|
| 2 pigeon houses, valued by commissioners at | - | - | - | - | - | \$200 00 |
| 10 negro cabins, do. | - | - | - | - | - | 1,500 00 |
| A granary, do. | - | - | - | - | - | 150 00 |
| A rice mill, do. | - | - | - | - | - | 400 00 |
| Fences of the plantation, do. | - | - | - | - | - | 1,449 00 |
| 56,880 pounds sugar at 8½ cents, burnt in said sugar-house, | - | - | - | - | - | 4,834 80 |
| 120 barrels of molasses, 50 gallons each, burnt as aforesaid, (\$15) | - | - | - | - | - | 1,800 00 |
| Corn and hay in part used by United States troops, and the balance burnt, | - | - | - | - | - | 1,220 00 |
| Sugar cane plants used and destroyed by United States troops, | - | - | - | - | - | 1,400 00 |
| Amounting to | - | - | - | - | - | <u>\$28,043 80</u> |

For this latter sum the claimants appear to have a just demand on the Government, it being satisfactorily proven that said houses and buildings, as also the other property last enumerated, were burnt and destroyed by order of General Morgan, acting under an order from Major General Jackson, thereby the better to enable said Morgan to defend the post of which he had command.

Your committee are of opinion that the said sum of \$28,043 80 ought to be paid the claimants; and for that purpose they report a bill.

15th CONGRESS.]

No. 392.

[1st SESSION.]

HOUSE AND FURNITURE DESTROYED AT SODUS, NEW YORK, IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the report of the Commissioner of Claims in the case of William Eadus, of the State of New York, reported:

That William Eadus claims the payment of \$4,259 75, for property captured or destroyed by the British at Sodus, in the county of Ontario and State of New York.

It appears from the evidence in this case, which the committee have examined with some attention, that on the 16th of June, 1813, intelligence was received that the British had landed at Genesee river, and were coming to Sodus, where were deposited large quantities of provisions and stores destined for the American army, then in service against Canada. The militia were ordered out under General Burnett, and accordingly assembled at Sodus for its defence. While at Sodus, the militia were employed in removing the public property from the storehouse of Nathaniel Merrill, in which it had been deposited, to a place of safety, (perhaps in the woods,) some distance from Sodus. On the morning of the 19th of June, the enemy not having come to Sodus as was expected, the militia were discharged, except a guard which was retained for the protection of the property which had been removed; this guard, therefore, must have been at the place of safety to which the property had been removed, some distance from Sodus. On the night of the 19th the enemy landed, marched to Sodus, and captured or destroyed what property was in Merrill's storehouse; burnt the storehouse and several other houses, among which was the house of the present claimant, William Eadus. For this loss, sustained under such circumstances, he asks Congress to pay him for his house, valued at \$2,500, and for the furniture therein, valued at \$1,759 75.

In examining the evidence, the committee do not find that this case comes within the provisions of the act of April, 1816. It does not satisfactorily appear that the claimant's house was ever in the military occupation of the United States. General Burnett, under whose authority the house must have been occupied, if it was occupied at all, is silent on this head. Some of the other witnesses do state that, between the 16th and the morning of the 19th, the house was occupied, but the evidence is so vague and indistinct as greatly to diminish the confidence to be placed in it. At the time of its destruction, (on the night of the 19th,) there certainly was no person, much less a body of troops, in the occupation of it; for it will be recollected that, on the morning of the 19th, the militia were discharged, and only a guard kept in service for the protection of the property at the place of safety, to which it had been removed, some distance from Sodus. It is evident, therefore, that the guard must have been at this place of safety, some distance from Sodus; and, consequently, that the house could not have been destroyed while in the military occupation of the United States.

Although the committee would decidedly recommend the rejection of this claim upon principle, yet there are other considerations which it will be proper to bring before the House:

1. That throughout the whole of the evidence, consisting of twenty-five or thirty pages, not a question is propounded to the witnesses, calculated in the least degree to vindicate the interests of the United States. Perhaps in no case referred to them during the present session is the evidence so completely *ex parte*; not only so, but in many respects it appears equivocal and evasive.

2. The law under which this claim comes before Congress requires that the evidence of the officer commanding the military occupation of any house shall be produced before a claim can be allowed. If this house had been really occupied as barracks, it seems to the committee more than probable that General Burnett, the superior officer, and present on the spot, would have been apprized of the fact, and would have stated it in his deposition.

3. The amount of furniture in the house at the time it is alleged to have been destroyed, valued at \$1,759 75, will, in the opinion of the committee, prove incontestably that it could not have been occupied as barracks. Among the articles charged against Government are mahogany tables, looking-glasses, family pictures, and a carpet: these, and every other article in the list of property destroyed, determine the house to have been in the use and occupation of a private family, not in the use and occupation of Government as barracks for soldiers.

4. When the enemy were advancing to Sodus, a flag was sent out to meet them; the enemy proposed to those who had borne the flag that if they would give up the stores and provisions which had been removed, they would spare the village and not destroy private property. After some hours' consultation, the demand was not complied with.

The enemy entered Sodus, and destroyed private property. The motive for the destruction, as here indicated, is, that the public property which had been removed to a place of safety, some distance from Sodus, was not given up; and not that it was because the village was occupied as barracks, or that the particular house in question had ever been occupied.

5. Other houses in Sodus were destroyed at the same time, and it has never been pretended that all of them were occupied by Government.

6. It is in evidence that the enemy fired from his shipping upon the house of the claimant, and it is not reasonable to suppose that he knew at the time whether or not the claimant's house was in the use and occupation of Government; consequently, it could not have been destroyed on that account.

These reasons, and many more which might be mentioned, induce the committee to think the destruction complained of in the present instance was of that wanton character on the part of the enemy which he frequently indulged in during the late war. If the evidence produced by the claimant had been positive and precise in regard to the facts set forth, it would not, in the opinion of the committee, have varied the substantial merits of the case. They therefore recommend the following resolution:

Resolved, That the claim of William Eadus, of the State of New York, ought not to be granted.

15th CONGRESS.]

No. 393.

[1st SESSION.]

HOUSE BURNT IN MARYLAND BY THE ENEMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1818.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the report of the Commissioner of Claims in the case of Mary Frazier, reported:

That Mary Frazier claims eight hundred dollars compensation for the loss of a frame house in Calvert county, on the river Patuxent, alleged to have been destroyed by the enemy in consequence of its being occupied by Commodore Barney as an hospital for the United States flotilla.

As Commodore Barney had requested, in his letter to the honorable Mr. Forsyth, which was inserted in the report in the case of John Ireland, [see No. 390, page 552,] that if any more claims were brought forward in which he and the officers and men under him were mentioned, he should be applied to, and as the evidence in the case of Mary Frazier appeared to the committee to be altogether vague or equivocal, they directed their chairman to address a letter to Commodore Barney, requesting that he would furnish them with such information on the subject as he might be able to communicate. The answer of Commodore Barney is as follows:

" SIR:

" BALTIMORE, *February 15, 1818.*

" I have had the honor to receive your letter of the 13th instant, and would have answered it by return of post, but was desirous of obtaining Dr. Hamilton's report on the subject of Mary Frazier's claim for a house burnt in Calvert county by the British. I was always informed that the house was not burnt, and the doctor tells me he was informed by a person living on the place that it was not burnt. However, if it was burnt, the case is as follows:

" 1st. A small house was occupied by a few sick men belonging to the flotilla, in the town of St. Leonard's, in Calvert county.

" 2d. It was not occupied by my orders.

" 3d. It was some short time (a few days) after we left St. Leonard's creek that the British burnt the tobacco-house and several other houses in the town of St. Leonard's; but I am very confident, if Mrs. Frazier's house was burnt, it was not in consequence of the sick men having occupied it for a few days, for the house where Dr. Hamilton lived was not burnt, although several officers, sick and wounded, had occupied it. If the house which Mrs. Frazier claims was burnt, and was the one which my men occupied, it was a wretched hovel, being deserted and vacant at the time, without windows, and entirely open, being a small one-story frame and entirely rotten, and, if valued at the very highest, could not be worth more than fifty dollars; and in this opinion I am supported by Dr. Hamilton, who also informs me that he was solicited to occupy the house, and I now believe with a view to make a claim for it in case of accident; but as several other houses were burnt at the same time, I do think our occupation of it was not the cause, for, at Nottingham, I occupied a large house, where all my sick and wounded lay six or eight weeks; and when the British took that place, they did not molest it. But, sir, the fact is, that in Calvert county, and particularly at St. Leonard's, the inhabitants were more the enemies of the officers and men belonging to the United States service than they were to our enemies the British.

" I am, sir, with respect, your obedient servant,

" JOSHUA BARNEY."

The committee feel it a duty to observe that this second letter from Commodore Barney affords additional proof of the danger attending the admission of *ex parte* evidence. The evidence before the Commissioner of Claims, and reported by him to the House, appeared very suspicious before any other information had been received. If it had been unsuspected, still the committee would have thought that the case did not come within the provisions of the act of April, 1816. But since the information in Commodore Barney's two letters has been disclosed, it most evidently appears that the claim of Mary Frazier ought not to be allowed. For this purpose, therefore, the committee recommend that the claim of Mary Frazier be rejected.

15th CONGRESS.]

No. 394.

[1st SESSION.]

BEEF FURNISHED THE TROOPS AT CHESTER, PENNSYLVANIA, IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 20, 1818.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the memorial of Martin Dubbs, of the city of Philadelphia, reported:

The petitioner alleges that, in 1814, a large body of militia in the service of the United States, for the defence of the fourth military district, being in want of provisions, in consequence of the inability of the contractor to meet his engagements, were supplied by him; that, as the contractor was greatly in arrears, he applied to General Gaines, then in command of the district, and informed him he could not continue the supplies on the credit of the contractor; but that, at the request of General Gaines, and on his assurances that he should be paid, he was induced to continue his supplies to the militia at Marcus Hook, and to the regulars and militia after they were marched to Philadelphia.

The petitioner further states that, in consequence of the failure as aforesaid of the contractor to meet his engagements, the sum of \$10,916 49 is yet due to him; that although he acted under the contractor, yet the supplies were furnished on the assurances of General Gaines, and he therefore prays Congress to pass a law granting such relief as may appear to be proper.

The committee, on a reference of the petition to the War Department, have obtained information that the petitioner acted as a sub-contractor; that the amount claimed appears to be a balance due by the contractor, R. McCoy, to the petitioner; and that the grounds for claiming payment from the United States are, that a promise was given by General Gaines, as above specified.

The certificate of General Gaines, enclosed in a letter to the Secretary of War, dated at Augusta, December 17, 1815, does not recognise a promise to the extent alleged by the petitioner. General Gaines says: "Upon the whole, my promises to Mr. Dubbs were intended only to pledge myself that my best exertions should be made use of to cause the contractor to make prompt and regular payments; nor can I believe that Mr. Dubbs received them in any other light. It certainly could not be expected that Mr. Dubbs should have considered the Government pledged, or myself, further than to pay him out of any moneys that might remain due to the contractor."

It further appears to the committee that the Government has fulfilled, on its part, the condition implied by the promises of General Gaines; for it was determined at the War Office that if, on a settlement of the contractor's accounts, any balance should appear to be due, no payment should be made without first informing Mr. Dubbs. Accordingly, when the contractor's accounts were settled, a delay in the payment was suggested to him as being necessary in order to comply with the assurances of General Gaines. But Mr. McCoy, the contractor, produced a transcript from the records of the court, proving that Mr. Dubbs had resorted to a suit for the recovery of the money due him. After consultation with the Comptroller, it was determined that, under these circumstances, no stoppage could be made, and the balance was paid to Mr. McCoy.

It further appears to the committee, from the statement of General Gaines, that Mr. Dubbs, about the latter end of November, called at his quarters, and reminded him of his promise. General Gaines sent for R. McCoy, the contractor, who readily assured him that any advances which he might make to Dubbs for provisions supplied by him would be cheerfully admitted. About this time General Gaines paid the contractor \$3,000, out of which he understood the contractor was to pay Mr. Dubbs the amount of his account, and they left the general apparently satisfied.

Subsequently to this, it appears Mr. Dubbs again called on General Gaines, who offered him \$1,000 in treasury notes, which he declined taking, stating he would wait till other money was received.

The committee have been enabled to present this view of the petitioner's case from the papers furnished by the Third Auditor in the Treasury Department. It will not now appear, they think, that the United States have failed to comply with the conditions of any assurance given to the petitioner by General Gaines. Under all the circumstances of the case, they submit to the House the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

Sir:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *February 18, 1818.*

I have the honor to acknowledge the receipt of your letter of the 16th instant, enclosing the petition of Martin Dubbs, requesting to be furnished with such information as I may possess in relation thereto. In reply, I have to state that it is understood at this Department that the petitioner was the sub-contractor at Philadelphia under Robert McCoy, who had contracted with the Government to supply all provisions within the district of Pennsylvania, &c. The contract provides that, if the contractor should fail to furnish agreeably to contract, provisions should be purchased on his account on the order of the commanding officer; hence, there could have been no difficulty on the part of the commanding officer in purchasing supplies chargeable to the contractor; and, in several instances, resort was had to this course, one of which appears to have been a purchase made of the petitioner himself in December, 1814, of 22,341 rations, which were paid for by the quartermaster, and charged to the contractor. But, in the case petitioned for, no such course appears to have been adopted, and, consequently, no charge raised against the contractor. The amount claimed appears to be a balance due by the contractor, R. McCoy, to Mr. Dubbs; and the grounds for claiming payment from the United States appear to originate from a promise alleged to have been given by General Gaines. When application was made in the same claim to the late Accountant, any responsibility on the part of the Government was denied, from the interference of General Gaines, as appeared from his statement, which accompanied the application. It was only taken to mean that when the contractor was to receive money, Mr. Dubbs should be informed, and the influence of the general exercised in having him paid; and, accordingly, the agent of Mr. Dubbs was informed that if, on settlement of the accounts of the contractor, any balance should appear to be due the contractor at this office, payment would not be made without first informing Mr. Dubbs. Accordingly, when Mr. McCoy's accounts were settled at this office, a delay in the payment of the balance was suggested as necessary to Mr. McCoy, the contractor, in consequence of the promise made by the late Accountant; but he produced a transcript from the records of the court, proving that Mr. Dubbs had resorted to a suit for the recovery of the money due him; and it was determined, on consultation with the Comptroller, that no stoppage could be made under these circumstances, and the balance was accordingly paid to him.

It will be understood that the United States have already paid the contractor for all supplies made during his contract, and, consequently, that part of the rations stated to have been furnished by the petitioner is included.

I furnish the committee with a copy of the letter from General Gaines to the Secretary of War on the subject, and of his certificate setting forth the understanding he had of the conversation with Mr. Dubbs.

The petition and accompanying documents are returned.

Respectfully, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. LEWIS WILLIAMS, *House of Representatives.*

Copy of a letter from General Gaines to the Secretary of War, dated

SIR:

HEAD-QUARTERS, AUGUSTA, GEORGIA, *December 19, 1815.*

I have the honor to enclose, herewith, the duplicate of a certificate which I have given to Martin Dubbs, of Philadelphia, touching a large supply of provisions furnished by him to the troops stationed near Chester, in Pennsylvania, under my command, in the autumn and early part of the winter of 1814.

Having been informed that the contractor, R. McCoy, had failed, and that Martin Dubbs was likely to sustain a serious loss, I have considered it to be an act of justice due the zeal and fidelity which he constantly manifested in the public service to state particularly how far I had given him reason to calculate upon my authority and exertions in obtaining payment for his supplies. My sudden departure from Philadelphia, and the weight and multiplicity of duties on my hands at the time, added to a bad state of health, must apologize for my having left Philadelphia without formally revoking my promise to Mr. Dubbs. It cannot be believed, however, that he furnished provisions after my departure solely upon the credit of such a promise.

Most respectfully, your obedient servant,

EDMUND P. GAINES.

The Hon. WM. H. CRAWFORD, *Secretary of War.*

HEAD-QUARTERS, EASTERN SECTION,

DIVISION OF THE SOUTH, AUGUSTA, GA., *December 17, 1815.*

I certify that whilst in command of the fourth military district, in the autumn and early part of December, 1814, Martin Dubbs called at my quarters in the city of Philadelphia at different times, and informed me that he had supplied the contractor with a considerable quantity of beef for the troops under my command, but that he should be unable to continue the supply of that article without prompt payment for the same; adding that the contractor had failed to pay agreeably to promise. I advised him to continue his supplies, and assured him that money would shortly be obtained for the contractors' department, and that, as soon as it should come to my hands, he should be notified, and I would require the contractor to settle with him. The contractor had for some days previously failed to make regular or other than very partial supplies. About the latter end of November, having received from the Department of War a supply of treasury notes, Mr. Dubbs called at my quarters, and reminded me of my promise. I sent for R. McCoy, the contractor, who readily assured me that any advances which I might make to Mr. Dubbs for provisions supplied by him would be cheerfully admitted. About the same time, I paid the contractor \$8,000, out of which I understood he was to pay Mr. Dubbs the amount of his account. They left me apparently satisfied; Mr. Dubbs called upon me a few days before my departure for New Orleans, and again stated that he must have money or that he could not continue his supplies. I offered him \$1,000 in treasury notes, which he declined taking, stating he would wait till other money could be obtained. I renewed my promise to urge the contractor to pay him as soon as money should be received. I do not recollect seeing Mr. Dubbs after receiving orders to repair to New Orleans. Upon the whole, my promises to Mr. Dubbs were intended only to pledge myself that my best exertions should be made use of to cause the contractor to make prompt and regular payments; nor can I believe that Mr. Dubbs received them in any other light. It certainly could not be expected that Mr. Dubbs should have considered the Government pledged, or myself, further than to pay him out of any moneys that might remain due to the contractor.

EDMUND P. GAINES,
Major General by brevet, Commandant.

15th CONGRESS.]

No. 395.

[1st SESSION.]

COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Willis Wilson, reported:

The petitioner states that he was a lieutenant in the army of the United States at the time of passing the resolution of October, 1780, allowing half-pay for life to the officers who would continue in service to the end of the war; that he did continue in service to the end of the war, and so became entitled to half-pay for life; that the half-pay for life was afterwards, by resolutions of March, 1783, commuted for five years' full pay; that he settled his army account, and obtained a certificate of his being entitled to the commutation for half-pay; that he was severely wounded in the course of the service in the army, and disabled, and was under the necessity of applying for a pen-

sion; that he was told it was reasonable, but that it was made the condition of granting the pension that he should return the certificate of commutation of half-pay to the commissioner of loans to be cancelled; that his situation becoming more and more necessitous, he returned to the commissioner of loans his certificate of commutation for half-pay, and thereby conformed to the condition for obtaining a pension; and he now prays that an act may be passed ordering the payment to him of the amount of the commutation for half-pay, (being four hundred and eighty pounds,) together with interest thereon from the 1st day of January, 1783, the time when it became due.

The committee further report that it appears, by documents accompanying the petition, that the petitioner was placed on the pension list at the rate of forty pounds per annum, to commence from the 1st day of January, 1788, in the State of Virginia; and that the pay of the petitioner as lieutenant in the army having ceased on the 1st day of January, 1783, and that he had returned the certificate for commutation of half-pay to the commissioner of loans, it was advised that the Auditor be directed to issue warrants for the arrearages of pension due him from the said 1st of January, 1783, to the 1st day of January, 1788, and that he be continued on the list of pensions with an allowance of forty pounds per annum.

The committee further report that, by the resolution of Congress of June 7, 1785, it is provided that no officer who has accepted his commutation for half-pay shall be entered on the list of invalids, unless he shall have first returned his commutation. That the petitioner having returned his certificate for commutation of half-pay, and having been placed on the pension list at the rate of forty pounds (Virginia) per annum, and having received his pension from the 1st day of January, 1783, cannot have any claim for commutation of half-pay, with interest thereon from the 1st day of January, 1783; and if the petitioner could or can, by any possibility, have such claim, it is long since barred by the statute of limitations. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner is unreasonable, and ought not to be granted.

15th CONGRESS.]

No. 396.

[1st Session.]

PROPERTY DESTROYED BY THE ENEMY IN NEW YORK IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Philip Bryant, of Chateaugay, in the State of New York, reported:

It appears from the representations of the petitioner that, in 1813, he volunteered as a lieutenant under Captain David Erwin of the militia, and continued in service till discharged by Major General Hampton; that, in the winter of 1814, he was employed by Colonel Bissel to reconnoitre the enemy's lines, and to watch their movements; that a part of his house was occupied as a guard-house during the time the army remained there, which was about three months; that, about the time of the evacuation by the American army, there were stored at his house thirty barrels of beef and pork which belonged to the United States.

The petitioner further represents that, immediately after the removal of the American army, the enemy approached them, and because they found public property at his house, because he had performed services, and because a part of his house had been occupied by a guard, they became much exasperated, and plundered or destroyed whatever of furniture and other personal property they could find; at the same time they also injured the house itself as much as they could, without entirely demolishing the same, destroying the doors, floors, and windows. He therefore prays Congress to indemnify him to the amount of six hundred dollars.

The committee think there is abundant evidence in this case to show that the destruction complained of was wanton on the part of the enemy. In the first place, none of the witnesses state that the beef and pork were deposited in the house of the petitioner; a fact so essentially necessary to substantiate his claim, and so easily ascertained if it had existed, that the absence of proof in regard to it must be taken to justify an inference decidedly in the negative.

In the next place, the petitioner himself assigns to the enemy a plurality of motives for the destruction: to wit, "that he had rendered service to his country; that a guard had occupied a part of his house some time previously to the destruction; that beef and pork were in it," &c. To say that an enemy is at liberty to destroy the property of citizens because they serve their country, saps at once the foundations of patriotism, and overthrows the whole system of honorable warfare among nations; such a principle would prepare the way for every terrible ill attending a war, not of victory, but of extermination.

The committee are unable to determine the quantum of injury done to the petitioner on account of each of these distinct, if not contradictory, motives which have been imputed to the enemy. It appears to them that, taking into view all the circumstances of the case, the more rational conclusion will be that the destruction of the petitioner's property is only another instance of outrage committed by the enemy during the late war. They therefore submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[15th CONGRESS.]

No. 397.

[1st SESSION.]

CUSTOM-HOUSE OFFICER TAKEN PRISONER BY INDIANS IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of John McCrea, of the State of New York, reported:

That it appears the petitioner, in 1814, resided at the French Mills, in the town of Constable and State of New York; that, on the 1st day of December in the same year, whilst in the execution of his duty as a custom-house officer under Peter Jaily, Esq., of Plattsburg, he, then and still being a custom-house officer for the district of Champlain, was seized by a party of the St. Regis Indians, within the limits of the district; that, when he was seized, he was, in company with a Mr. Wakefield, attempting to prevent a number of cattle from passing into Canada; that, after being seized, he was taken to Cornwall, and from thence to Montreal, where he was confined till the 4th of March, 1815; that, during his confinement, he and Mr. Wakefield suffered much, and were obliged to expend considerable sums of money in procuring comfortable food, as that which was furnished by the Government of Canada consisted only of one pound of bread and one of meat, with a gill of rice, per day, without any convenience for cooking, except a small tin stove.

The petitioner also states that, during his confinement as aforesaid, his affairs suffered at home for the want of his personal attention; and he therefore prays Congress to grant him such relief as may be deemed just, &c.

The committee think that Government is under no obligations, either of justice or equity, to grant the relief which is asked; and therefore submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[15th CONGRESS.]

No. 393.

[1st SESSION.]

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1818.

Mr. BASSETT, from the committee to whom was referred the President's message in relation to the heirs of Caron de Beaumarchais, [see No. 375, page 538,] reported:

That, on the settlement of the account of the late Caron de Beaumarchais with the United States, he was charged with one million of livres received by him from the French Government on the 10th June, 1776, and for which, as was alleged by the accounting officers of the Treasury Department, he had never accounted to ours. The receipt of this sum is admitted, but it has uniformly been denied by M. de Beaumarchais that it was received under any accountability to the United States, but solely to the French Government, from whom he received it, to whom he did account, and by whom he was discharged. Before the treaty of 1778, the King of France had furnished for the use of the United States three millions of livres: two millions paid to our banker in Paris, in four equal instalments, in January, April, July, and October, 1777, and one million paid to M. de Beaumarchais, 10th June, 1776. These were all the pecuniary supplies which preceded the treaty. During the years 1776 and 1777, M. Beaumarchais had furnished to the United States supplies of arms and military stores, and goods, amounting, with charges, to near five millions of livres. They consisted of eight cargoes shipped from France and received at the following places: four at Portsmouth, New Hampshire; two at Martinique, by Mr. Bingham, and two at Cape François, by Mr. Carobasse; from the latter ports they were shipped to the United States. Most of the arms and military stores were taken from the King's arsenals in different fortresses; other articles were purchased by M. Beaumarchais from individuals, and all were charged by him in his account to the United States. The accounts were mostly examined and certified by Mr. Silas Deane, who had, by an appointment from the secret committee, repaired to Europe in 1776 to purchase goods for the Indians, and arms and other supplies for our troops. The receipt and the amount of these supplies were never questioned; but there were various opinions about the source from which they were furnished. By some they were said to have been furnished by the King of France gratuitously, and to have been sent to us through the agency of Beaumarchais, to give the appearance of an individual and commercial transaction; by others, that they were really furnished by the latter on his own account; that he was charged and held accountable to the French Government for the articles taken from the public stores, and thus become a debtor to France and a creditor to the United States, and purchased the other articles on his own credit and resources. This question seems not to have been settled until in the year 1779, when, after a formal application to the French Government, and a very tedious examination of the transactions, accounts, and correspondence of our public agents, Congress, by various resolutions, admitted that the supplies were not furnished by the Government, but that they were indebted to M. Beaumarchais for them. Since that time there has been no act or resolution of Congress questioning the source of these supplies; and, although many years elapsed before the accounts were finally settled, the question of liability, in the first instance, seems to have been at rest; though the account has been very differently stated at different times by the public officers appointed to settle it, yet all have concurred in giving Mr. Beaumarchais credit for the supplies furnished. In 1785, Mr. Thomas Barclay was appointed a special commissioner to proceed to Europe, to settle this and our other public accounts in France. After a very laborious examination, he stated and settled the account of M. Beaumarchais, and reported the United States in debt to him upwards of fifteen hundred thousand livres, not including any interest. This settlement, it seems, was not satisfactory; and the accounts were referred to the Treasury Board, who, in 1788, reported a balance due by Beaumarchais of more than seventeen hundred thousand

livres. It was discovered that very great errors had crept into this latter account, and it was revised in 1791 and 1793, and finally settled in 1805, on the principles detailed by the Auditor and Comptroller in their reports. The committee do not deem it necessary to go into an examination of this or any of the other statements of this account, or to notice any of the items, except the one million received from the King in June, 1776, which was conditionally placed to the debit of M. Beaumarchais by the Board of Treasury in 1788, and finally ordered to be charged to him in the final settlement in 1805. The committee, considering the question of original indebtedness as settled by the various resolutions of Congress, and the settlement of the accounts by the authorized officers of the Government, find but one question presented for their consideration:

Whether this million was justly chargeable to Mr. Beaumarchais, as a payment on account, or as an offset to a debt otherwise admitted to be due?

The application of this million does not seem to have been known to any of our agents in France during the revolution; and though Dr. Franklin, in the contract of 1783, acknowledges the receipt of it, yet no account was demanded of its expenditure until in 1786, when there was much said about the lost million, and a formal demand made of the French court in relation to it, when it was declared by the Count de Vergennes, then and in 1776 Minister for Foreign Affairs, that it was paid by the King's order on the 10th June, 1776, for a secret political purpose, of which the King reserved to himself the exclusive cognizance. All further explanation was refused, and none other has ever been given. It was then supposed to have been received by Beaumarchais, and his account was conditionally charged with it in 1788. The application of this sum was thenceforth considered as a mystery of the cabinet, and was not further inquired into until in 1794, when, on the application of Mr. Morris, then our minister in France, the original receipt of Mr. Beaumarchais was procured, it being for one million of livres, received by him on the 10th June, 1776, for which he was to account to M. de Vergennes. It was on the faith of this receipt that this sum was finally charged in the account of Mr. Beaumarchais. At this time it does not appear that any other of the secret papers of the French court, in relation to this transaction, were examined. But in 1806 that Government declares that they had examined the archives, and had discovered conclusive evidence that Beaumarchais had accounted to the King for this sum; that it had been disbursed for a secret political purpose, and not for the purchase of supplies for the United States. The present Government has renewed, in a more explicit manner, these declarations, and furnished a document, which seems to the committee to be entitled to full credence, by which it satisfactorily appears that this million had been, before December, 1776, applied to the purposes intended by the King, who approved of it in the manner in which he usually signified his approbation. The committee are of opinion that Mr. Beaumarchais thus became discharged from all further accountability to the Government from whom he received the money, and to whose minister, by the tenor of his receipt, he engaged to render an account. The tenor of this receipt creates no accountability to the United States, which can only arise by its satisfactorily appearing that the secret political purpose for which the money was advanced was the purchase of these supplies for them; of this the committee have discovered no evidence. It was well known to our agents in France that the supplies of a military nature were procured from the King's stores; it was so stated on the face of the accounts; they bore the King's mark. This was well known to Congress, and was never attempted to be concealed. It, therefore, could not have been necessary to ascertain this fact to make a formal demand of the French court; this could not have been the mystery of the cabinet and the important state secret which the King refused to disclose, even on the formal application of the United States. In 1786 there could exist no possible motive for concealing the supply of arms more than of money, for it was disclosed to the world by the treaty and the contract of 1783; but there might be very cogent reasons for concealing forever the knowledge of the application of money for secret political purposes, as it might involve the safety of individuals and the reputation of their families. As the advance was gratuitous, and the insertion of it in the contract made, not for the purpose of creating a charge, but merely as an evidence of friendship, it might, as the committee conceive, very properly have been alleged by the French Government, who made the present, that ours ought to be satisfied with any application which the donor might choose to make. If this million was not applied for our benefit, we lost nothing, because we paid nothing. If the donor declared it was for our use, it was all we had a right to ask; if he was mistaken in his application of it, and we derived no benefit from it, the King could derive none, and, at the most, it was a mistake in judgment. This surely could not make that Government accountable to ours for this sum, and, whether disbursed by the King, his ministers, or his or their agents, would not vary the question, as they must be accountable to those, and to those only, from whom it was received, unless the tenor of the receipt imported an accountability to others. A donor has an undoubted right to direct the application of his bounties. This money was set apart by the orders of the King, in May, 1776, for an object of which he reserved to himself the exclusive knowledge. It was paid in June to Beaumarchais.

The United States had then no agent in France. The money was applied; the account rendered, approved, and closed in the same year. The accountability of Mr. Beaumarchais had then ceased as to the French Government. He had complied with the condition of his receipt. He did not know the United States in the transaction, for the money was not put into his hands for their general use or account, but for a special and definite object, which the King thought would result beneficially to them. If he had refused to account to the King, alleging his accountability to the United States, he would not have complied with the terms of his receipt; and, at all events, it is to be presumed that the King would not have admitted it as a compliance. Had Beaumarchais dared to disclose a state secret which the King had forbade his minister to publish, it is not to be doubted that the disclosure would have cost the liberty, if not the life, of Beaumarchais. It was his duty as a subject and a secret agent of the King to keep the secret; and it could not have been expected that he would or dare betray such a trust. The payment of this million to Beaumarchais was not even suspected until in 1786, for, until that time, it had been considered as the million advanced by the farmers general. This was ten years after he had rendered his account to the King. The discovery of this fact could not transfer the accountability of Beaumarchais to our Government, without the consent of the French, and divest the latter of its control over its subjects or agents. It could create no new liability, nor revive one which had been discharged ten years before by the parties concerned. The receipt of the money made him a debtor to the King until he accounted for it: when the account was received and approved, he ceased to be a debtor. He did not know, and could not be accountable for any arrangements between the two Governments; he was no party to the contract of 1783, and it could not affect him; it could not make him accountable to both, and no circumstances could make it his duty to disclose to the United States the application of this money, in violation of the orders of his sovereign. It is certainly dealing harshly with him to charge him in his account with this million, because he would not account to us for the manner in which he had applied it. The dilemma is a cruel one. The refusal to disclose costs him his fortune; a disclosure may cost him his life. It was a rigorous mode of extorting from the necessities of Beaumarchais a secret which could not be obtained from the Government. Had the contract of 1783 recited the gratuitous advance of only two millions for the use of the United States, there could have been no question about this million. In consequence of this, Mr. Beaumarchais is held accountable for this million, because it appears by his receipts to have passed through his hands. If this re-

cital is sufficient evidence to create a liability, and we attach this weight to this declaration of the French Government in our favor, may not Mr. Beaumarchais attach the same weight to their uniform declarations that he had accounted to them for this sum, that it was not applied in the purchase of supplies, and that we are not entitled to a credit for it in our account with him?

It is admitted that there is no evidence that this money was applied to the purchase of supplies, but what has been furnished by the French Government: it is, then, but fair and consistent with the principles of justice that all their declarations on the same subject should be taken together and considered as one; they are all consistent, and it is believed that all the difficulty in the settlement of this account has been in giving credence to that one which gives a color for charging the million to Beaumarchais, and giving none to those which declare the charge an improper one. The committee have devoted much time, and made a laborious examination of the merits of this case; they have been able to discover no reason why the uniform declarations of the French Government should not be credited; there is no fact to contradict them; there is no evidence that this million was applied in the purchase of the supplies charged by Beaumarchais to the United States. If the French Government now, or at any time, claimed repayment of the three million of gratuities; if there were any facts clearly proved, contradicting their assertions, then we might properly exact a strict accountability from their agents, and be justified in so far departing from the respect due to a friendly Government as to contradict its solemn asseverations. But the committee do not think this should be done to a Government which, in trying times, evinced its friendship to ours, when the sum in question was a present and not a charge, and when, after an investigation of near forty years, no evidence has been found to oppugn their declarations. It is not to be supposed that the French Government would advance this sum to Mr. Beaumarchais to purchase supplies from itself, or that he would, in less than six weeks after the receipt of this money, and under their eye, make a contract with Mr. Deane for payment by the United States, and thus be permitted to deceive one Government and defraud another. Indeed, the accounting officers of the Treasury do not allege that the charge was made against Beaumarchais on any evidence of the misapplication of the million by him, or of the falsity of the declarations of the French Government, or collusion between them and Beaumarchais; but on the ground of his accountability to the United States, and not to the King. The committee do not think that this conclusion is justified by the evidence before them, and can discern no reason founded on any legal or equitable principles in support of this charge, and are unanimously of opinion that the million in question has been improperly passed to the credit of the United States.

The committee would have felt that their duty would have ended with the expression of their opinion on this part of the case submitted to them, had it been one of a common cast. If any debt is due to Mr. Beaumarchais, it is a very large one. It was contracted more than forty years ago, and under circumstances which make its payment an imperious duty. The claim has been made and persisted in, by every possible means, since 1777. No act of limitation has attached to it, and it has been made the subject of the especial and repeated interposition of the French Government; and it is equally due to them and us that it should be fully investigated and finally settled.

In a common case it would be deemed sufficient evidence of the validity of a claim on a Government that its agents, accounting officers, and Legislature had uniformly admitted its justice; had promised payment, when it was unable to do more, and have made remittances when it was able; that the account had been closed for twenty-five years, except as to one item, which two Executive Magistrates and two Attorneys General had decided was not sustainable as a credit. Yet as this subject has been heretofore referred to committees, who have reported unfavorably to the heirs of M. de Beaumarchais, [See pages 314, 332, 341, 433,] and whose opinions are entitled to the highest respect, the committee have felt it their duty to inquire not only into the propriety of the charge of the one million, but for the source of the supplies which form the charge against the United States, and to ascertain whether any were furnished gratuitously by the Government of France, or purchased by Mr. Beaumarchais on his own credit, and from his own resources. The committee have examined every document submitted or accessible, and are fully of opinion that they are properly chargeable to the United States. It has never been denied that they were furnished by him, that he procured and shipped them, and that payment must be made to him, if the Government of France did not employ him as their agent, and intend these supplies as gratuitous aids; for they never were attributed to any other than the two sources.

The Government of France never pretended that they had furnished more than three millions before the treaty of February, 1778, and this was in money. These supplies amounted to more than four millions; and if they were gratuitous, then the Government must have furnished seven millions before the treaty. It is not credible that Dr. Franklin and the Count de Vergennes, in the contract of 1783, should have committed so great a mistake as the omission of four millions. There was then no motive for concealing supplies of arms more than of money; and as these gratuitous aids were inserted in the contract merely to remind us of our obligations, it is to be presumed that their extent would not have been unknown or unacknowledged. The French Government have uniformly declared that they furnished no supplies of arms or military stores; have disclaimed all connexion with the commercial transactions of Mr. Beaumarchais; that the United States must pay him; that the King furnished nothing, but simply permitted him to provide himself from the arsenals, on condition of replacing the articles he took; and that the King never intended to make a present of any of the military stores taken from his arsenals; that they were furnished by Beaumarchais in the way of trade; and that, by furnishing them, he became a debtor to France and a creditor to the United States. These declarations have been the same from the year 1778 to the present time. In January, 1779, Congress, by a solemn and unanimous resolution, declared that these supplies were not a present from the King, and that he did not preface his alliance with any supplies sent to America. In the same month they order a remittance of three thousand hogsheads of tobacco to Beaumarchais, in part payment of his debt, and recognise as valid a contract made with his agent in April, 1778. The president, Mr. Jay, was directed to write him a letter, acknowledging the debt, promising payment, and assuring him that he will receive the merited applause of the new world.

The committee are not aware that there can be stronger evidence, as to the source of these supplies, than the concurring declarations of both Governments, simultaneously made, and uniformly persisted in. Peculiar force will be found due to them when a recurrence is had to some facts, which show the situation of Congress at that time, and afford a history of this transaction, in relation to the accounts of Beaumarchais.

In January, 1776, Congress resolved that a quantity of arms and other stores should be imported for the use of the United States, and forty thousand pounds worth of goods for the Indians. The secret committee were directed to pursue the most effectual measures for procuring them. They appointed Mr. Silas Deane for this purpose, and he repaired to Europe. He arrived at Bordeaux 6th of June, 1776; the exact time of his arrival in Paris is not known, but, in July, after various letters had passed between him and Mr. Beaumarchais, an agreement was made for the supply of the articles required, not by a formal contract, but by the letters referred to. The prices were not definitively settled, but it was agreed that the United States, at their option, should pay for the articles their current value when delivered in America, or their cost in France, with the addition of transporta-

tion to the seaports, freight, commission, and insurance. A separate contract was some time afterwards made for freight between Messrs. Monthieu, Deane, and Beaumarchais, which was reduced to writing. In pursuance of this agreement, the articles were furnished and received in the United States. It was not then supposed that these supplies were gratuitous aids from the King; for, in November, 1776, Mr. Deane writes to the committee that the United States were largely indebted to Beaumarchais for them, and presses for remittances to be made to him. In August, 1777, Congress ordered that the correspondence between the secret committee and Mr. Deane be laid before them; and, in September and October of that year, remittances of tobacco were received by Mr. Beaumarchais on account. In that year he sent Mr. Francis, his agent, to the United States, in order to receive payment of his account. In March, 1778, Congress paid him twenty thousand dollars; and in April following, by a committee, made a contract, stipulating for payment of principal and interest for what had been then furnished, and for the supply of twenty-four millions of livres if the contract was ratified by Mr. Beaumarchais and our commissioners in France; this was not done, and that sum was not furnished. In the latter part of 1776, Dr. Franklin, Silas Deane, and Arthur Lee were appointed joint commissioners at the court of France. They did not long act in harmony, and dissensions arose among them, which Congress resolved were highly injurious to the honor and interest of the United States. Dr. Franklin and Mr. Deane appear to have been on friendly terms, but both otherwise as to Mr. Lee. Mutual complaints seem to have been made. Mr. Deane was recalled in November, 1777, and in December ordered home, and to attend Congress with all convenient despatch, in order to give an account of our affairs in Europe. He returned from France 11th July, 1778, and appeared before Congress on the 15th August, when he was ordered to give a detailed account of his proceedings, and especially of his transactions with Beaumarchais. This was the more necessary, as on the 2d of May preceding, a letter had been received from Mr. Lee, dated in October preceding, in which he stated that the supplies for which Beaumarchais charged the United States were gratuitously furnished by the King, and that the agreement for furnishing them had been made in London, in April, 1776, between Mr. Lee and Beaumarchais, who assumed the name of Hortales & Co. Congress having made a contract in April, by which they had assumed payment for those supplies, it became all-important to ascertain their source. They wrote to our ministers in Paris, enclosing a copy of the contract made with Mr. Francis, and instructed them to call on the French court to know whether they had furnished any, and what, supplies. A letter was addressed to the Count de Vergennes; he informed them that the King had furnished nothing, and Mr. Girard, the minister here, was ordered to make the same assurances to Congress, which he did. In the mean time, the inquiry proceeded before that body. All the correspondence of our foreign agents was laid before them. Mr. Deane was examined in person, (he was so ordered,) and presented a statement in writing. In September a committee made a report on the letters of Mr. Lee and Dr. Franklin. In December Mr. Deane was again heard, and presented a long detail in writing. In January Congress passed the resolutions, and directed the letter before noticed to be written. In April, 1779, the committee reported on the conduct of our commissioners in France, and the accounts of Mr. Deane were ordered to be settled by a committee. This was never done. In August Mr. Deane was discharged from further attendance, and ten thousand five hundred dollars were ordered to be paid to him for his expenses in attending on Congress. During this investigation of more than twelve months, the inquiry was not confined to the conduct and accounts of Mr. Deane; the accounts of Beaumarchais necessarily formed an important part of the matters they acted on. Congress must have been fully informed in relation to them, and therefore possessed better means of judging correctly than possibly could have existed at any subsequent time. The transactions were then recent, the witnesses were alive, and all the papers tending to elucidate the transactions were fully considered. Under such circumstances, the resolutions of January, 1779, ought to have conclusive force, more especially when, in June following, Congress agreed to a report of a committee appointed to settle the accounts of Beaumarchais, in which they state, but do not settle, his account; acknowledge the United States to be largely indebted to him; order bills of exchange to be drawn in his favor for two million four hundred thousand livres, and direct all the tobacco which the United States then had to be paid to him. The committee cannot feel themselves justified in considering the account as open for discussion after all these solemn recognitions of its justice. It is worthy of remark, that all the evidence which is now to be procured was then fully considered; nothing new has been discovered. The former examinations were minute, and the result was satisfactory. The bills were paid to Beaumarchais, and various remittances were made to him in 1777, '78, '79, '81, and '83. The debt was never questioned, but its amount could not be ascertained here; it was, in 1785, ordered by Congress to be settled in Europe; and it was settled by Mr. Barclay, the special agent of the United States for that purpose.

Before the committee would feel themselves authorized to reject a claim thus sanctioned, they would feel it indispensable that the most clear and explicit proof should be produced—such, indeed, as would not leave remaining a reasonable doubt. A due respect for the old Congress of 1778-9, to public credit, and the often plighted faith of the Government, would seem to make this a duty imperious, not only on the committee, but on Congress. Such evidence has been sought for in vain, and, it is believed, does not exist. The committee have attentively examined the correspondence of our commissioners in Europe, and can discern in that no evidence that the supplies were furnished by the French court. If, indeed, the statement of one of them was alone to be believed, there might have been reason to doubt on the subject, and it certainly afforded fair grounds for inquiry when the statement was received in 1778; but the committee do not know any reason why greater credit should now be given than it seemed entitled to then. It was at most but the declaration of an agent, and the principal has disavowed it, and admitted a liability which the agent denied. It is thought not consistent with good faith for this Government to rely solely on the declarations of one of its agents when it happens to be in their favor, and to disregard the assertions of others when they operate against it. If our agents in Europe dispute about the source of these supplies, the solemn and repeated declarations of both Governments would seem sufficient to turn the scale. If our Government denied its liability, it might not be deemed so important, as it was interested in proving the supplies to be gratuitous; but when it admits its liability, and that, too, when it was so extremely hard pressed for money as in the year 1779, it ought to be conclusive. It is not now a sufficient allegation to reject and disprove the justice of this debt to say that one of our agents in 1777 and '78 declared that the supplies were gratuitous; that at some times another doubted, and at other times admitted the justice of the claim. If the United States had ever paid for these supplies, and were now repelling an attempt to exact payment a second time, there would be more reason for taking advantage of slight circumstances. But the present is a far different case: we admit the receipt of the supplies; they were of infinite importance; payment has never been made by the United States, and is now resisted on no other ground than that they were intended as presents. Such intention is solemnly contradicted, and no proof offered that it existed. Congress has already repeatedly decided on the statements produced, and the committee think that their decision cannot be disturbed consistently with good faith. They fully agree with our great revolutionary financier, (Robert Morris,) "that, if any thing is due Mr. Beaumarchais, the reputation of the country will be compromised until it is paid; that the payment of debts may be expensive, but that it is infinitely more expensive to withhold the payment. The former is an expense of money, when money may be commanded to defray it; but the latter involves the destruction of that source from which money can be derived when all other sources fail.

That source, abundant, nay, almost inexhaustible, is public credit. The country in which it may with greatest ease be established and preserved is America, and America is the country which most stands in need of it." In conclusion, the committee will remark that, in every point in which the case can be viewed by them, they are fully of opinion that the heirs of Mr. Beaumarchais are creditors of the United States, and beg leave to report a bill for their relief.

No. 1.

Letter of the Count de Vergennes to Louis XVI., dated May 2, 1776. (Taken from the General History of French Diplomacy.)

SIRE:

J'ai l'honneur de mettre aux pieds de votre Majesté la feuille qui doit m'autoriser à fournir un million de livres pour le service des colonies Anglaises, si elle daigne la revêtir de son approuve. Je joins, pareillement, sire, le projet de la réponse que je me propose de faire au Sieur de Beaumarchais; si votre Majesté l'approuve je la supplie de vouloir bien me la renvoyer tout de suite. Elle ne partira pas écrite de ma main, même de celle d'aucun de mes commis ou secrétaires. J'y emploierai celle de mon fils, qui ne peut être connue; et quoiqu'il ne soit que dans sa quinzième année, je puis répondre affirmativement de sa discrétion. Comme il importe que cette opération ne puisse être pénétrée, ou du moins imputée au Gouvernement, je compte, si votre Majesté le permet, mander ici le Sieur Montaudoin. La prétexte apparente sera de lui demander compte de ses correspondances avec les Américains, et le motif réel de le charger de leur faire passer les fonds que votre Majesté veut bien leur accorder; en les chargeant de toutes les précautions à prendre, comme s'ils en faisaient l'avance pour leur propre compte. C'est sur quoi je prends encore la liberté de demander les ordres de votre Majesté. Cela fait, j'écrirai à M. le Marquis de Grimaldi, je l'informerai avec détail de notre opération, et je lui proposerai de la doubler.

Je suis, etc.

[TRANSLATION.]

SIRE:

I have the honor of submitting to your Majesty the paper which is to authorize me to furnish a million of livres for the use of the English colonies, if you should deign to ratify it with your signature. I add to this, sire, the draught of the reply which I mean to make to Mr. Beaumarchais; if your Majesty should approve of it I beg that it may be returned to me without delay. It shall not go forth in my handwriting, nor in that of any of my clerks or secretaries. I will employ that of my son, which cannot be known; and, although he is only in his fifteenth year, I can answer positively for his discretion. As it is of consequence that this operation should not be detected, or at least imputed to the Government, I propose, if your Majesty consents, to call hither the Sieur Montaudoin. The ostensible motive will be to ask an account of his correspondence with the Americans, and the real one to charge him with the transmission to them of the funds which your Majesty is pleased to grant them, directing, at the same time, all the precautions to be taken as if he advanced the funds on his own account. On this head, also, I take the liberty of requesting the orders of your Majesty. That being done, I will write to the Marquis Grimaldi, (Secretary of Foreign Affairs in Spain;) I will inform him in detail of our operation, and propose to him (de la doubler) to do the same.

I am, &c.

No. 2.

[COPIE.]

Remboursement d'une avance de fonds pour un objet de dépense secrète.

VERSAILLES, le 7 Décembre, 1776.

Il y a environ six mois que le Roi jugea à-propos d'ordonner l'avance d'un million de livres *tournois* pour un objet secret relatif au service politique de Sa Majesté, et réservé à sa connoissance. Le Sieur d'Harvelay, garde du trésor royal, a fait cette avance de ses propres fonds, et l'application en a été faite suivant les intentions du Roi. Il me reste à prendre les ordres de Sa Majesté pour le remboursement de l'emprunt et des intérêts. Pour cet effet, j'ai l'honneur de proposer au Roi de vouloir bien approuver qu'il en soit acquitté 500,000 livres, avec les intérêts des fonds du service politique que je prévois pouvoir rester libres à la fin de l'exercice courant, et le surplus sur ceux de 1777. Si le Roi a la bonté d'agrèer cet arrangement, je supplie Sa Majesté de le confirmer par sa décision, et d'autoriser l'expédition des ordonnances nécessaires en conséquence.

"Bon."

DEUX PIÈCES.

1. Avance ordonnée d'un million en 1776 pour le service politique du Roi.
2. Ordre pour tenir prêt le dit million, et mandat pour l'acquitter.

No. 2.

[TRANSLATION.]

Reimbursement of funds advanced for secret services.

VERSAILLES, December 7, 1776.

It is nearly six months since the King deemed it expedient to order the amount of one million of livres *tournois* to be advanced, applicable to secret political services of his administration, exclusively under his cognizance.

M. de Harvelay, keeper of the royal treasury, has made the advance out of his own funds, and the amount has been applied to the purposes intended by the King. It now remains for me to procure the King's orders for the reimbursement of the loan with the accruing interest. With this view, I have the honor to propose to the King that 500,000 livres be refunded from the interest of public moneys, which, I conceive, may be disposable at the close of the receipts for the present year, and the remainder from that of those for 1777. Should the King accede to this arrangement, I solicit His Majesty to give it sanction by his act, and to authorize the issue of such orders as may be necessary for its consummation.

"Good."

TWO ARTICLES.

- 1st. A loan of one million ordered to be made in 1776 for secret political purposes of His Majesty.
- 2d. An order to hold disposable the aforesaid one million, and to see that it be duly paid.

1ère Pièce.

Monsieur d'Harvelay tiendra à sa disposition un million de livres, pour ne s'en dessaisir que sur l'ordre particulier que je lui en adresserai. Le dit million est pour les affaires du Roi. A Versailles, le Samedi, 4 Mai, 1776.

DE VERGENNES.

2ème Pièce.

Monsieur d'Harvelay payera au porteur de ce mandat la somme d'un million de livres, en conformité de l'ordre du 4 Mai de la présente année, et il en rapportera quittance. Il fera état de ce million et de l'intérêt de cette avance dans le compte qu'il rendra à la fin de cette année de sa gestion des fonds des affaires étrangères. A Versailles, le 5 Juin, 1776.

DE VERGENNES.

Bon pour un million de livres.

1st Article.

M. de Harvelay will hold, subject to my orders, one million of livres, the which he shall not suffer to be taken out of his hands but on the receipt of the particular order which I shall send him in relation to it. The aforesaid million is for matters pertaining to the King's Government.

DE VERGENNES.

VERSAILLES, Saturday, May 4, 1776.

2d Article.

M. de Harvelay will pay the bearer of this order one million of livres, agreeably to the decree of the 4th of May of the present year, and he will deposite the proper acknowledgment. He will account for this advance, and interest thereon, in the statement which he will render at the close of this year of the disposition he shall have made of the moneys appropriated to foreign affairs.

DE VERGENNES.

VERSAILLES, June 5, 1776.

Good for one million of livres.

No. 3.

The first letter of Mr. Arthur Lee, under the name of Marie Johnston, to Mr. Beaumarchais, under the name of Roderique Hortales & Co.

LONDON, May 23, 1776.

Be persuaded that M. le Comte de * * * cannot, in any manner, embarrass you. I pray you to consider, in your arrangements at the cape, that the want of tobacco ought not to hinder your sending out your supplies to the Americans; for tobacco is so weighty an article that it will greatly impede the sailing of the ships, and the essential object is to maintain the war.

M. HORTALES.

No. 4.

Mr. Beaumarchais's answer to the above.

PARIS, June 6, 1776.

I received your letter of the 23d May. I will perform my promises in the way I pointed out. I am about to send to Cape François, in the island of St. Domingo, a ship loaded with merchandise to the value of £25,000 sterling, besides cannon, powder, and stores; but this last article will arrive but in small parcels, on account of the risk. On your part, do not fail to send a ship loaded with good Virginia tobacco; and let your friend send in the ship an intelligent, discreet, and faithful person, with powers to receive the money or merchandise and powder, and to make the remittances in tobacco, which I can no more do without than your friend can without what I send to him; in a word, let him give his notes to my house for what he shall not be able to pay in tobacco, and make certain and solid arrangements with my agent at the cape for the future.

The captain, on his arrival at the cape, must inquire of the first magistrate who is the merchant intrusted with the affairs of Roderique Hortales & Co., and he will introduce him to the correspondent of your humble servant.

M. JOHNSTON.

No. 5.

The second letter of Mr. Lee to M. de Beaumarchais.

Sir:

LONDON, June 14, 1776.

I have but one moment to thank you in for your letter of the 6th June, which I received safe this moment. I will do my utmost to answer your wishes; but I advise you, as I advise my friends, to consider always that the communication of sentiments is difficult; and, for that reason, we ought to do all in our power, without insisting on a certain and immediate return.

[In ciphers.]

Consider, above all things, that we are not transacting a mere mercantile business, but that politics are greatly concerned in this affair.

[In letters.]

I have written on your account to our friend Grayman.

No. 6.

The second letter of Mr. Beaumarchais to M. A. Lee.

[In ciphers.]

PARIS, June 26, 1776.

I refer you to my former letter of the 6th of June, of which I pray you to follow the disposition.

The difficulties which I have met with in my negotiation with the minister have made me take the resolution of forming a company, which shall send out the supplies of powder and stores to your friend, depending, in the mean time, on remittances in tobacco at Cape François, and always under the name of your servant,

RODERIQUE HORTALES & Co.

No. 7.

From M. de Beaumarchais to Mr. Deane.

JULY 18, 1776.

I do not know, sir, if you have any body with you whom you may trust for translating the French letters which treat on important affairs. On my part, I shall not be able to treat with security in English till after the return of a person whom I expect at this moment from London, and who will be an interpreter between us; meanwhile, I have the honor to inform you that I had for some time past the desire of helping the brave Americans to shake off the English yoke. I have already tried several means to open a secret and sure correspondence between the General Congress and a house which I am about to establish on that occasion. I shall exert my endeavors to provide the continent, either by the way of our West Indies, or straight from here if possible, with all such articles which the Americans shall be in need of, and which they cannot any more get from England. I have already mentioned my plan to a gentleman in London, who pretends to be much attached to America; but our correspondence, since I left England, having been carried on with difficulty and in ciphers, I have received no answer to my last, in which I have tried to fix some terms for that great and important affair.

But, since you are vested with a character which permits me to have confidence in you, I shall be very glad to begin anew, in a manner more certain and more regular, a negotiation which was before but touched on. My means are not very considerable, but they may be much increased if we can establish together a treaty of which the conditions shall be honorable and advantageous, and the execution of the same shall be exact.

I cannot grant, either to Mr. Dubourg or to any body else, the confidence of speaking freely of my plan; but when you will have compared the nature of the offers which shall be made to you from every quarter to the disinterested zeal which attaches me to the cause of America, you will perceive what difference there is between treating with common merchants and on the hardest terms, and the good fortune of meeting with a generous friend who shall think himself happy in proving to your nation and to you, its secret representative, how truly he is devoted to them.

I am, sir, yours, &c.

CARON DE BEAUMARCHAIS.

No. 8.

From Mr. Deane to Mr. Beaumarchais.

JULY 20, 1776.

Sir:

In compliance with your request at our interview of yesterday, I send you enclosed copies of my commission, and an extract from my instructions, which will fully satisfy you of my being authorized to make the purchases I have applied to you for. To understand this extract, it is necessary to inform you that I was ordered to make my first application to the ministers, and to procure the supplies wanted of them, by way of purchase or loan; and in case the credit or influence of Congress should not be such, under the present circumstances, as to obtain them from that quarter, I was instructed then to apply elsewhere. My application to the minister, and his answer, I have already acquainted you with. With respect to the credit which will be required for the goods and stores which I propose to engage of you, I hope that a long one will not be necessary. Twelve months has been the longest credit my countrymen have ever been accustomed to; and Congress having engaged large quantities of tobacco in Virginia and Maryland, as well as other articles in other parts, which they will ship as fast as vessels can be provided, I have no doubt but very considerable remittances will be made within six months from this time, and for the whole within a year; this I shall, in my letters, urge Congress to do. But the events of war are uncertain, and our commerce is exposed to be affected thereby. I hope, however, that at least such remittances will be made you that you will be able to wait for whatever sum may remain due after the credit we shall agree on is expired, having the usual interest allowed you.

I send you also an invoice of the clothing, and of many articles of the furniture and stores necessary for our army, in which I cannot be so particular at present as it will be necessary to be hereafter in case you undertake it; but as the articles for the uniforms can at this time be ascertained as well as ever, I have made out a detail of them. Though my instructions speak of but 100 brass cannon, and of arms and clothing for 25,000 men, yet, considering the importance of the articles to America, I shall (if to be obtained) venture in a larger quantity: the probability of some part being taken, with other circumstances, will, I think, fully justify me therein. But it is improper to add on this subject until you resolve whether you will undertake, and on the terms which I presume you will do. As soon as you shall have obtained a translation of this and the enclosed, I will do myself the honor of waiting on you; in the mean time, I am, with the utmost respect and attachment,

Sir, yours, &c.

SILAS DEANE.

No. 9.

From Mr. Deane to M. de Beaumarchais.

PARIS, July 24, 1776.

Sir:

I have considered the letter you honored me with on the 22d, and am of the opinion that your proposals for regulating the prices of goods and stores are just and equitable. The generous confidence you place in the virtue and justice of my constituents affords me the greatest pleasure, and gives me the most flattering prospect of success in the undertaking to their as well as your satisfaction; and permit me to assure you the United Colonies will take the most effectual measures to make you remittances, and to justify, in every respect, the sentiments you entertain of them; but, at the same time, as the invoice for clothing only, and without the incidental charges, amounts to about two or three millions of livres, and as the cannon, arms, and stores will raise the sum much higher, I cannot, considering the uncertainty of the arrival of vessels during the war, venture to assure you that remittances will be made for the whole within the time proposed; but in that case, as I wrote you before, I hope that the interest on the balance will be satisfactory. With respect to cargoes sent from America, either to France or the West Indies, designed as remittances for your advances, I think there can be no objection to their being sent to the address of a house in France, or to your agents, where they may arrive.

I find that cannon, arms, and other military stores are prohibited, and cannot be exported but in a private manner. This circumstance gives me many apprehensions, for, as I cannot have those things shipped publicly, I cannot have them purchased openly, without giving alarms, perhaps fatal to our operations; in this case, various deceptions and impositions may be practised. You know that the ambassador of England is attentive to every thing done by me, and that his spies watch every motion of mine, and will probably watch the notions of those

with whom I am known to be connected. In this situation, and being a stranger in a great measure to your language, I foresee many embarrassments, which I know not how to obviate, and such as I fear may greatly perplex even yourself, notwithstanding your superior knowledge and address. Two things you will agree with me as essential as even the procuring of the cannon, arms, &c. First, that they are good and well laid in, and that they be embarked without being stopped and detained. The fate of my country depends, in a great measure, on the arrival of these supplies. I cannot, therefore, be too anxious on the subject; nor is there any danger or expense so great but what must be hazarded, if necessary, to effect so capital and important an object. I pray you to consider this subject, and to give me your thoughts upon it. I called on you this morning with Doctor Bancroft, to have conversed with you on this subject, but found that you were gone to Versailles. Permit me to urge your early attention to this subject, and to assure you that I have the honor to be, with the highest respect,

Sir, yours, &c.

SILAS DEANE.

No. 10.

Letter of Beaumarchais, under the signature of Roderique Hortales & Co., to the Secret Committee of Correspondence, dated

GENTLEMEN:

AUGUST 18, 1776.

The respectful esteem that I bear towards that brave people who so well defend their liberty under your conduct, has induced me to form a plan concurring in this great work, by establishing an extensive commercial house, solely for the purpose of serving you, in Europe; there to supply you with necessaries of every sort; to furnish you expeditiously and certainly with all articles, clothes, linens, powder, ammunition, muskets, cannon, or *even gold* for the payment of your troops; and, in general, every thing that can be useful for the honorable war in which you are engaged. Your deputies, gentlemen, will find in me a sure friend, an asylum in my house, money in my coffers, and every means of facilitating their operations, whether of a public or a secret nature. I will, if possible, remove all obstacles that may oppose your wishes from the politics of Europe. At this very time, and without waiting for any answer from you, I have procured for you about two hundred pieces of brass cannon, (four pounders,) which will be sent to you by the nearest way; 200,000 lbs. of cannon powder, 20,000 lbs. excellent fusils, some brass mortars, bombs, cannon balls, bayonets, platines, clothes, linens, &c. for the clothing of your troops, and lead for musket balls.

An officer of the greatest merit for artillery and genius, accompanied by lieutenants, officers, artillerists, canoniers, &c., which he thinks necessary for the service, will go for Philadelphia even before you have received my first despatches. This, gentlemen, is one of the greatest presents that my attachment can offer you. Your deputy, Mr. Deane, agrees with me in the treatment which he thinks suitable to his office, and I have found the powers of this deputy sufficient that I should prevail with this officer to depart, under the sole engagement of the deputy respecting him, the terms of which I have not the least doubt but Congress will comply with. The secrecy, gentlemen, necessary in some part of the operations which I have undertaken for your service, requires also, on your part, a formal resolution that all the vessels and their demands should be constantly directed to our house alone, in order that there may be no idle chattering or time lost—two things that are the ruin of affairs. You will advise me what the vessels contain which you shall send into our ports. I shall choose so much of their loading, in return for what I have sent, as shall be suitable to me. When I have not been able beforehand to inform you of the cargoes which I wish, I shall facilitate to you the loading, sale, and disposal of the rest. For instance, five American vessels have just arrived in the port of Bordeaux, laden with salt fish; though this merchandise, coming from strangers, is prohibited in our ports, yet, as soon as your deputy had told me that these vessels were sent to him by you to raise money from the sale for aiding him in his purchases in Europe, I took so much care that I secretly obtained from the farmers general an order for landing it, without any notice being taken of it; I could even, if the case had so happened, take upon my own account these cargoes of salted fish, though it is nowise useful to me, and charge myself with its sale and disposal, to simplify the operation, and lessen the embarrassment of the merchants, &c. of your deputy. I shall have, gentlemen, a correspondent in each of our seaport towns, who, on the arrival of your vessels, shall wait on the captains, and offer every service in my power; he will receive their letters and bills of lading, and transmit the whole to me; even things which you may wish to arrive safely in any country in Europe, after having conferred about them with your deputy, I shall cause them to be kept in some secure place; even the answers shall go with great punctuality through me, and this way will save much anxiety and many delays. I request of you, gentlemen, to send me next spring, if it is possible for you, ten or twelve thousand hogheads, or more if you can, of tobacco from Virginia, of the best quality. You very well understand that my commerce with you is carried on in Europe; that it is in the ports of Europe I make and take returns. However well bottomed my house may be, and however I may have appropriated many millions to your trade alone, yet it would be impossible for me to support it if all the dangers of the sea, of exports and imports, were not entirely at your risk. Whenever you choose to receive my goods in any of our windward or leeward islands, you have only to inform me of it, and my correspondents shall be there according to your orders, and then you shall have no augmentation of price but that of freight and insurance. But the risk of being taken by your enemies still remains with you, according to the declaration rendered incontestable by the measures I shall take by your deputy himself. This deputy shall receive, as soon as possible, full power and _____ to accept what I shall deliver to him, to receive my accounts, examine them, make payments thereupon, or enter into engagements which you shall be bound to ratify as the head of that brave people to whom I am devoted; in short, always to treat about your interests immediately with me. Notwithstanding the open opposition which the King of France, his ministers, and the agents of administration show, and ought to show, to every thing that carries the least appearance of violating foreign treaties and the internal ordinances of the kingdom, I dare promise to you, gentlemen, that my indefatigable zeal shall never be wanting to clear up difficulties, soften prohibitions, and, in short, facilitate all operations of a commerce which my advantage, much less than yours, has made me undertake with you. What I have just informed you of, gentlemen, is only a general sketch, subject to all the augmentations and restrictions which events may point out to us. One thing can never vary or diminish—it is the avowed and ardent desire I have of serving you to the utmost of my power. *You will recollect my signature; that one of your friends in London some time ago informed you of my favorable dispositions towards you, and my attachment to your interest.*

Look upon my house then, gentlemen, from henceforward, as the chief of all useful operations to you in Europe, and my person as one of the most zealous partisans of your cause, the soul of your success, and a man the most deeply impressed with respectful esteem with which I have the honor to be,

RODERIQUE HORTALES & Co.

P. S. I add here, to conclude, that every American vessel, though not immediately armed or loaded by you, will be entitled to my good offices in this country; but yours, particularly addressed to my house, will receive a particu-

preference from me. I ought also to intimate to you, gentlemen, that, from the nature of my connexion, it is to be wished you would use discretion, even in the accounts that you give to the General Congress. Every thing that passes in your great assemblies is known (I cannot tell how) at the court of Great Britain; some indiscreet or perfidious citizen sends an exact account of your proceedings to the palace of St. James.

In times of great exigency, gentlemen, Rome had a dictator; and in a state of danger, the more the executive power is brought to a point, the more certain will be its effect, and there will be less to fear from indiscretion. It is to your wisdom, gentlemen, I make this remark; if it seems to you just and well planned, look upon it as a new mark of my ardor for your rising republic.

R. H. & Co.

No. 11.

From Mr. Deane to M. de Beaumarchais.

SIR:

PARIS, August 19, 1776.

Since the stores and goods have been engaged and getting ready, I have made inquiry of several merchants respecting the charter of vessels for America generally, without mentioning what their cargoes should consist of, and have written in the same way to some of my correspondents; and, in the whole, I find I shall not be able to provide them so early as is necessary at any rate, and I fear not without making their destination and object too public. You will recollect that I mentioned my apprehensions on this subject to you some days since, and now propose (if consistent with your other engagements) that you would take the procuring of the vessels necessary on you, at least so far as to be security for the payment of their charter. It gives me pain to put this additional trouble and expense on you, but I know that you think nothing within your power is too great to be undertaken for the service of the United Colonies of America, whose grateful acknowledgments must equal, though they can never exceed, your generous exertions in their favor at this critical and important period of their affairs. These vessels will return with cargoes on your account, which, with what will probably arrive from other remittances, will enable you to proceed to the greatest extent in executing the great and liberal plan you have proposed. I shall do myself the honor of waiting on you to-morrow morning on this and other affairs; mean time, I am, with the utmost respect and attachment,

Sir, yours, &c.

SILAS DEANE.

No. 12.

Letter of Beaumarchais to the Secret Committee of Correspondence, dated

GENTLEMEN:

SEPTEMBER 15, 1776.

In writing this letter, I imagine you are informed by my first of my active zeal for your interest; I therefore suppose you will do me the honor to acknowledge me among your friends and faithful servants. These titles I adopt with pleasure, because I think myself worthy of them. In addition to the offers of what I possess, I shall presume to make another of those reflections which I think may be useful to you. Living in Europe, and being better able than you to unfold the secret springs which give motion to states in this part of the world, and, above all, persuaded that you have only shaken off the yoke of one of the people that compose it to become a more certain friend to the rest, I will venture to reason with you upon your present situation. Whatever haughty confidence, gentlemen, your enemies may affect, your declaration of independence has thrown them into consternation; flattering themselves no more to regain you by their adroitness, they begin to fear they will not be able to subdue you by force. Their finances shattered, their commerce lessened, their force exhausted, plainly indicate that the present great effort is the last thing they will be able to make against you; and if your courage, gentlemen, is only sufficiently fortunate to bear the weight of the present campaign, it is almost impossible that they will dare to undertake another. But, whilst you are fighting in America to free yourselves from their yoke, the events of Europe concur to hasten the moment of your delivery. The blunder Portugal has lately fallen into of shutting her ports, with still more imprudence than haughtiness, seems to be an act of Heaven in your favor, of which you cannot too soon avail yourselves. From the resentment which Spain has long borne for Portugal, if I had the honor of presiding in your committee, gentlemen, I would not hesitate to persuade you immediately to declare war against Portugal, and without delay to send a fleet to the Brazils. This unexpected and bold measure would be productive of many good effects: the first would be certainly to interest Spain in your success, and perhaps engage her to make a like declaration against Portugal. From that moment, united with Spain in resentment, you become in some sort her allies; for the enemies of our enemies are more than half our friends. Do not entertain a doubt but that Power will then open her American ports to your armed vessels, and send a private order to receive in them your privateers and the prizes they may make upon the Portuguese. And if your declaration is fortunate enough to draw Spain in openly, as I scarce have a doubt but it will, so great a diversion will soon oblige the English to divide their force, and fly to the assistance of Portugal, unless they choose to lose also this sort of a colony, at the same time that you are openly renouncing their authority, which is not probable. And what immense advantage would not this division of their forces give to a collection of yours; and your force and success will be continually increasing, gentlemen, if Spain declares herself openly for the assistance of vessels. Troops and money, which France cannot refuse to that Power when she enters into a war, according to the spirit and letter of the family compact, will render it necessary for England to supply Portugal with more considerable support. Then all the reproaches of England cannot prevent France from opening her ports to you without reserve, and permitting you to draw from thence, by way of trade, plentiful supplies of every sort. "What do you require of us?" the minister of France would say to the English ambassador. The King, our master, furnishes assistance to Spain, much less from a desire of making war, than from faithfully observing his treaties. If he had any other motive than a regard to his engagements, what should hinder him at present from making use of so fine an opportunity to make war upon yourselves? And if he does not make it upon his rivals and almost his enemies, ought he to provoke any of your people to declare it against him? See what has happened to Portugal; do you wish that, in shutting our ports to the Americans, with whom we have no dispute, we should suggest to them our inclination of attacking our American possessions, or of seducing and detaching from us our colonies, by a hope of associating with them? Do you wish they should desolate our island by the multitude of their cruisers, against which even the whole force of England at this time can do nothing? To oblige the English, shall we fall into the absurdity of making war against the Americans on the one hand, whilst, on the other, in assisting Spain, we shall be forced, perhaps, to act in concert with the same Americans against the Portuguese? This, gentlemen, is what our minister would say, and this appears

to me unanswerable; and who knows how far things may be carried in Europe from interests so different, so remote, and at the same time so confounded together? Now all this may and probably will be the fruit of your declaring war against Portugal. I have taken this second opportunity to transmit this advice to you; it seemed to strike your deputy, whose good sense immediately perceives whatever has force or propriety in it. I doubt not but he will write to the same purpose. It is therefore my opinion, gentlemen, that you cannot too soon weigh the importance of this idea, and come to some resolution thereupon, worthy of your bravery. Lay hold of the encouragements which fortune offers, and which my respectful attachment for you points out.

I have the honor to be, &c.

No. 13.

Statement of a verbal report made to the Secret Committee of Correspondence, by Mr. Thomas Story, October 1, 1776, (being a copy of a paper which was before the Committee of Claims in 1808.)

Mr. Thomas Story (who had been sent by the Committee of Secret Correspondence, December 13, 1775, to France, Holland, and England) reported verbally, as follows: On my leaving London, Arthur Lee, Esq. requested me to inform the Committee of Correspondence that he had several conferences with the French ambassador, who had communicated the same to the French court; that, in consequence thereof, the Duke de Vergennes had sent a gentleman to Arthur Lee, who informed him that the French court could not think of entering into a war with England, but that they would assist America, by sending from Holland this fall £200,000 sterling worth of arms and ammunition to St. Eustatia, Martinique, or Cape François; that application was to be made to the governors or commandants of those places, by inquiring for Monsieur Hortales, and that, on persons properly authorized applying, the above articles would be delivered to them.

Philadelphia, October 1, 1776. The above intelligence was communicated to the subscribers, being the only two members of the Committee of Secret Correspondence now in this city; and on our considering the nature and importance of it, we agree in opinion that it is our indispensable duty to keep it a secret, even from Congress, for the following reasons:

1. Should it get to the ears of our enemies at New York, they would undoubtedly take measures to intercept the supplies, and thereby deprive us not only of those succors, but of others expected by the same route.

2. As the court of France have taken measures to negotiate this loan and succor in the most cautious and most secret manner, should we divulge it immediately, we may not only lose the present benefit, but also render that court cautious of any further connexion with such unguarded people, and prevent their granting other loans and assistance that we stand in need of, and have directed Mr. Deane to ask of them; for it appears, from all our intelligence, they are not disposed to enter into an immediate war with Britain, though disposed to support us in our contest with them: we, therefore, think it our duty to cultivate their favorable disposition towards us, draw from them all the support we can, and in the end their private aid must assist us to establish peace, or inevitably draw them in as parties to the war.

3. We find, by fatal experience, the Congress consists of too many members to keep secrets, as none could be more strongly enjoined than the present embassy to France; notwithstanding which, Mr. Morris was this day asked by Mr. Reese Meredith whether Doctor Franklin and others were really going ambassadors to France, which plainly proves that this committee ought to keep this secret, if secrecy is required.

4. We are of opinion that it is unnecessary to inform Congress of this intelligence at present, because Mr. Morris belongs to all the committees that can properly be employed in receiving and importing the expected supplies from Martinique, and will influence the necessary measures for that purpose; indeed, we have already authorized William Bingham, Esq. to apply at Martinique and St. Eustatia for what comes there, and remit part by the armed sloop Independence, Captain Young, promising to send others for the rest. Mr. Morris will apply to the marine committee to send other armed vessels after her, and also to Cape François, (without communicating this advice,) in consequence of private intelligence lately received that arms, ammunition, and clothing can now be procured at those places. But should any unexpected misfortune befall the States of America so as to depress the spirits of Congress, it is our opinion that, on any event of that kind, Mr. Morris (if Doctor Franklin should be absent) should communicate this important matter to Congress, otherwise keep it until part of or the whole supplies arrive, unless other events happen to render the communication of it more proper than it appears to be at this time.

B. FRANKLIN,
ROBERT MORRIS.

Communicated to me this 11th October, 1776, and I concur heartily in the measure.

RICHARD HENRY LEE.

Communicated to me this 10th October, 1776, and I do also sincerely approve of the measure.

WM. HOOPER.

No. 14.

Extract of a letter from Doctor Franklin to the President of Congress, dated

NANTZ, October 8, 1776.

I understand Mr. Lee has lately been at Paris, that Mr. Deane is still there, and that an underhand supply is obtained from the Government of two hundred brass field-pieces, thirty thousand firelocks, and some other military stores, which are now shipping for America, and will be conveyed by a ship of war. The court of England, Mr. Penet tells me, (from whom I have the above intelligence,) had the folly to demand Mr. Deane to be given up, but was refused.

No. 15.

Extract of a letter from Silas Deane, Esq., dated

PARIS, November 6, 1776.

Two hundred pieces of brass cannon and arms, tents and accoutrements for thirty thousand men, with ammunition in proportion, and, I believe, twenty or thirty brass mortars, have been granted at my request; but the unaccountable silence on your part has delayed the embarkation some weeks already.

I yesterday got them again in motion, and a part are already at Havre-de-Grace and Nantz, and the rest on their way there, but am hourly trembling for fear of counter-orders.

Had I received proper powers in season, this supply would, before this, have been in America, and that under the convoy of a strong fleet; the disappointment is distressing, &c.

No. 16.

Extract of a letter from Silas Deane, Esq. to the Secret Committee of Congress, dated

PARIS, November 29, 1776.

The several letters you will receive with this will give you some idea of the situation I have been in for some months past, though, after all, I must refer you to Mr. Rogers to be particular on some subjects. I should never have completed what I have but for the generous, the indefatigable, and spirited exertions of Monsieur Beaumarchais, to whom the United States are on every account greatly indebted; more so than to any other person on this side of the water. He is greatly in advance for stores, clothing, and the like, and therefore I am confident you will make him the earliest and most ample remittances. He wrote you by Mr. McCreery, and will write you again by this conveyance.

I cannot, in a letter, do full justice to Monsieur Beaumarchais for his great address and assiduity in our cause. I can only say he appears to have undertaken it on great and liberal principles, and has, in the pursuit, made it his own. His interest and influence, which are great, have been exerted to the utmost in the cause of the United States, and I hope the consequences will equal his wishes.

No. 17.

Extract from the letter of M. de Beaumarchais to Congress.

GENTLEMEN:

PARIS, December 1, 1776.

With regard to me, gentlemen, my sincere attachment to your cause, and my respectful esteem for your persons, have not suffered me to hesitate and to wait till vessels loaded by you should arrive in this country with the produce of your own in exchange for our merchandise; but on the faith of the powers of your commissioner (a duplicate of which he has left in the hands of our ministry) I have procured from our manufactories all what I have thought might be useful to you in your present situation; and I have begun to send supplies to you by the ship that carries this letter, with a brief account of what it contains for your use, as I expect to send you my invoices, in good order, attested and signed by Mr. Deane, by another ship that will carry you a fresh supply of ammunition, and the invoices of which I shall send by a third ship, and so for all the others.

But, gentlemen, however warm may be the zeal that animates me, my friends will never be sufficient to double and treble my advances if, on your side, you do not send me on my ships, and on your own remittances in country produce, in proportion as you receive my supplies.

What I call my ships, gentlemen, are some French vessels hired for freight, according to a bargain agreed to between a merchant and myself, in presence of Mr. Deane, for want of your own vessels, which we had been long expecting, but did not arrive. Here, enclosed, you have a copy of the agreement.

Now, gentlemen, I beg you will send me my remittances, either in excellent Virginia tobacco, or in indigo, rice, &c. My advances in this expedition must be soon followed by a second as considerable. It amounts to about one million tournois.

[Referred to in the preceding.]

Articles of affreightment of armed vessels and merchandise entered in and agreed to between Messrs. De Monthieu and Roderique Hortales & Co., and Mr. Silas Deane.

We, the subscribers, John Joseph de Monthieu and Roderique Hortales & Co., are agreed with Mr. Silas Deane, agent of the United Colonies, upon the subsequent arrangements:

That I, De Monthieu, do engage to furnish, on account of the Thirteen United Colonies of North America, a certain number of vessels to carry arms and merchandise to the burden of sixteen hundred tons, or as many vessels as are deemed sufficient to transport to some harbor of North America, belonging to the Thirteen United Colonies, all the ammunition and appurtenances agreeably to the estimate signed and left in my possession, and which we esteem would require the above-mentioned quantities of vessels to carry sixteen hundred tons burden, which are to be paid for at the rate of two hundred livres the ton, and that I will hold said vessels at the disposal of said Messrs. Hortales & Co., ready to sail at the ports of Havre, Nantz, and Marseilles, viz: The vessels which are to carry the articles and passengers mentioned in the aforementioned list, and are to depart from Havre, as well as those that are to go from Nantz, to be ready in the course of November next, and the others in the course of December following, on condition that one-half of the aforementioned freight of two hundred livres per ton, both for the voyage to America and back to France, laden equally on account of the Congress of the Thirteen United Colonies and Messrs. Hortales & Co. aforesaid, who are responsible for them, shall be advanced and paid immediately in money, bills of exchange, or other good merchandise or effects, and the other half said Messrs. Hortales & Co. do agree to furnish me with in proportion as the vessels are fitting out, in the same money or other effects as above; over and above this, they are to pay me for the passage of each officer not belonging to the ship's crew the sum of 550 livres tournois, and for every soldier or servant 250 livres, and for every sailor who goes as passenger 150 livres. It is expressly covenanted and agreed between us that all risks of the sea, either in said vessels being chased, run on shore, or taken, shall be on account of the Congress of the United Colonies, and shall be paid agreeably to the estimation which may be made of each of these vessels, agreeably to the bills of sale of each, which I promise to deliver to Messrs. Hortales & Co. before the departure of any of the said vessels from any of the ports of France mentioned above.

Finally, it is agreed that if the Americans detain these vessels longer than two months in their ports, without shipping on board them the returns they are to carry to France, all demurrage, wages, or expenses on them from the day of their arrival to that of their departure, (these two months excepted,) shall be at their charge, and paid by them

or by Messrs. Hortales & Co. in our own name, as answerable for the Congress of the United Colonies. We accept the above conditions as far as they respect us, and promise faithfully to fulfil them, and, in consequence, we have signed this instrument of writing, one to the other, at Paris, 15th October, 1776.

MONTHIEU.

RODERIQUE HORTALES & Co.

SILAS DEANE,

Agent for the United Colonies of North America.

No. 18.

Extract of a letter from Arthur Lee, Esq. to the Secret Committee of Congress, dated

PARIS, January 3, 1777.

The politics of this court are in a kind of trembling hesitation. It is in consequence of this that *the promises which were made me by the French agent, in London, and which I stated to you by Mr. Story and others, have not been entirely fulfilled.*

The changing the mode of conveying what they promised was settled with Mr. Deane, whom Hortales or Beaumarchais found here, on his return from London, and with whom, therefore, all the arrangements were made.

No. 19.

Extract of a statement made by William McCreery to J. Hancock, President of Congress.

BALTIMORE, January —, 1777.

On the 18th of August last, I took charge of a packet directed to the Secret Committee of Correspondence at Philadelphia, from Silas Deane, Esq., at Paris, with directions for him to destroy it in case of danger; and having been taken near the capes of Delaware, the latter end of October last, by the Lively man-of-war, belonging to the King of England, I sunk the packet and all the other papers that I had relating to public matters. During my stay with Mr. Deane, at Paris, which was seven days, he communicated sundry matters to me; I shall therefore recite them here for your satisfaction as they occur to me.

On his way to Paris he visited the greatest foundry of cannon that there is in France, at Angoulême, which he described to me, and requested that I should visit myself on my way to Bordeaux, which was prevented by an accident which happened to me in the neighborhood of the place; but, as I hear of a man who proposes carrying on the work here on a similar plan, I shall omit saying any more about it. What were called manufacturing towns between that and Paris, he said, were unworthy the name; which I found afterwards to be the case.

At Paris he had a most cordial reception from Doctor Dubourg, to whom he had a letter from Doctor Benjamin Franklin. The old gentleman has entirely laid aside his own business, and devotes his whole time to the service of America; and I may venture to assert that few amongst us have more anxiety for our welfare, or undergo more drudgery to serve the cause than he does. During Mr. Deane's first interview with the French minister, the latter asked a number of questions about America: amongst the rest, whether the loss of the fishery would not affect us most severely? and how could we possibly do without trade? To the former of these, he answered that only a part of us used the fisheries, and that the seamen employed therein were all taken into our navy and army; to the latter, that our vessels that might fall into the hands of the English would be but of trifling value, whilst our privateers took the most valuable vessels and cargoes. Every demand that Mr. Deane made on them was cheerfully granted, so as it might be done or executed in a private manner; but as to espousing our quarrels, or receiving Mr. Deane publicly, it could not be done.

Independence, he said, was a matter in the womb of time. When the Americans would declare that, and renounce all connexion with Great Britain, they might then expect every thing that France could do. He wanted to contract with the public, or rather with the Crown, for the arms, &c. which he wanted. The minister, however, avoided that mode; but a creature of the court, a mere man of pleasure, whose real circumstances are perhaps much worse than nothing, offered to supply him with the arms, &c. which he wanted, on credit. He readily guessed that this gentleman was employed by the minister. Doctor Dubourg insisted that this was not a proper man to treat with, and proposed another method. A change being expected in the ministry every day, embarrassed Mr. Deane a good deal, as he wanted to act so as to give umbrage to none, and whom he contracted with I really do not know. He has, however, purchased arms, clothing, accoutrements, and every thing for an army of twenty-five thousand men, together with two hundred brass field-pieces, all of which, I believe, are 4-pounders. These things were to be shipped under the direction and inspection of General Condray, who is to come out to America with them. He is an experienced general, sober, sensible, and indefatigable in every undertaking, and has great interest at that court. There were also coming a number of the young nobility of France, some of whom are sons of the first people at court. Mr. Deane expected that all those things would be shipped in September or October. He intended to make application for a convoy, and had hopes of obtaining it, &c. &c.

No. 20.

Extract from the letter of M. de Beaumarchais to Congress.

GENTLEMEN:

PARIS, February 28, 1777.

I have the honor to fit out, for the service of the Congress, by the way of Hispaniola, the ship *Amelia*, loaded with field and ordnance pieces, powder, and leaden pigs. As the season is too far advanced that the ship might go straightway to your ports, I have charged M. Carabane, my correspondent at Cape François, to reverse the whole cargo on Bermudian, or even on American ships, if he finds any at her arrival in that port, and to transmit to you as soon as possible.

This is the fourth ship I have addressed to you since December last; the other three have steered their course towards your eastern ports.

The first is the *Amphitrite*, of four hundred and eighty tons, Captain Sautrel, loaded with cannon, muskets, tents, entrenching tools, tin, powder, clothing, &c. Left Havre-de-Grace on the 14th of December, 1776.

The second is the Seine, from the same port, Captain Morin, of three hundred and fifty tons, loaded with muskets, tents, mortars, powder, tin, cannon, musket balls, &c.

The third is the Mercury, of three hundred and seventeen tons, Captain Herand, from Nantz, loaded with one hundred thousand pounds of powder, twelve thousand muskets, the remainder in cloth, linen, caps, shoes, stockings, blankets, and other necessary articles for the clothing of the troops.

In my letters of August, September, and December last, the duplicates of which have been delivered to you by the chief officer of those that went over to your service in the Amphitrite, I have requested you to order that my ships might not wait long for the remittances I ask for in the same letters, my design being to send you uninterrupted supplies, and such as may be of the greatest use to you. I hope, on your side, you will, as quick as possible, load again and send me back my vessels.

No. 21.

Letter from Arthur Lee, Esq. to the Secret Committee of Congress.

PARIS, August 16, 1777.

I perceive, by your last letters, that you made a consignment to Hortales & Co., which, in fact, is to M. de Beaumarchais. I think it, therefore, my duty to relate to you all the facts relative to that gentleman, upon which you will judge how far it is fit to continue those consignments. About May twelve months, M. de Beaumarchais was introduced to me in London, as *an agent from the French court*, who wished to communicate something to Congress. At our first interview he informed me that the court of France wished to send an aid to America to the amount of 200,000 louis d'or in *specie*, arms, and ammunition, and that all they wanted to know was, to what island it was best to make the remittance, and that Congress should be apprized of it.

We settled the cape as the place, and he urged me by no means to omit giving the earliest intelligence that it would be remitted in the name of Hortales. At our next meeting he desired me to request that a small quantity of tobacco, or some other production, might be returned, to give it the air of a *mercantile transaction*, repeating, over and over again, that it was for a cover only, and not for payment, as the remittance was gratuitous. Of all this I informed the committee by every opportunity.

At the same time I stated to M. de Beaumarchais that, if his court would despatch eight or ten ships of the line to our aid, it would enable us to destroy the British fleet, and settle the business at one stroke.

I repeated this to him in a letter after his return to Paris; to which the answer was, that there was not spirit enough in his court for such an exertion, but that he was hastening the promised succors. Upon Mr. Deane's arrival, the business went into his hands, and the things were at length embarked in the Amphitrite, Mercury, and Seine.

M. de Vergennes, the minister, and his secretary, have repeatedly assured us that no return was expected for those cargoes, or for what M. de Beaumarchais furnished us. This gentleman is not a merchant, but is known as a political agent, employed by the French court. Remittances, therefore, to him, so far from covering the business, would create suspicions, or rather satisfy the British court that these suspicions are just. At the same time his circumstances and situation forbid one to hope that your property, being once in his hands, could ever be recovered; and, as an attempt to force him to account would hazard a discovery of the whole transaction, this Government would, of course, discountenance or forbid it. These are the facts which I have thought it my duty to state to you. Your better judgment will direct you whether to continue the remittances or not.

I have the honor to be, &c.

A. L.

No. 22.

Extract of a letter from Doctor Franklin and Silas Deane, Commissioners of the United States at Paris, to the Secret Committee of Congress, dated

PARIS, September 8, 1777.

It gave us great joy to hear of the arrival of the Mercury, Amphitrite, and other vessels carrying supplies. Another ship, with a similar cargo, which had long been detained at Marseilles, we hope will soon arrive with you. We hope also that you will receive between twenty and thirty thousand suits of clothes before winter, and, from time to time, quantities of new and good arms which we are purchasing in different parts of Europe. But we must desire you to remember that we are hitherto disappointed in your promises of remittance, either by the difficulties you find in shipping, or by captures; and that, though far short of completing your orders, we are in danger of being greatly embarrassed by debts, and failing in performance of our contracts, and losing our credit with that of the Congress.

No. 23.

Extract of a letter from Silas Deane, Esq. to the Secret Committee of Congress, dated

PARIS, September 20, 1777.

This will be handed you by Mr. Francis, who is agent for Hortales & Co.; you will see by the bills of lading the quantity of stores shipped by that house, and make some judgment of their considerable amount. The vessel in which Mr. Francis comes is loaded with stores which were long since engaged. I still hope they will come in safety, and in season to be of service.

Messrs. Roderique Hortales & Co. have other vessels which will follow this in a short time, which they want to have despatched with tobacco, agreeably to what they formerly wrote you, and Mr. Francis comes partly on that account; I must, therefore, pray you to furnish him with the means of procuring the quantity he will want for them in season.

As the vessels of Messrs. Hortales & Co. will arrive at a time when despatch will be of the utmost consequence, they are desirous to have their cargoes ready on their arrival.

No. 24.

Dr. Arthur Lee to the Secret Committee of Congress.

GENTLEMEN:

PARIS, October 6, 1777.

From Berlin, on the 11th of June, and from this place, the 29th of July, I had the honor of informing you at large of my proceedings in Prussia. Not having received an answer from that court relative to the reception of our privateers and their prizes in Prussian ports, I have written lately to press for one, which I hope will be favorable, as I left so friendly a disposition there that I was desired to communicate His Majesty's warmest wishes for our success. I mentioned, too, the improbability of our enemy's receiving assistance from Russia for the next campaign, and how much their resources were exhausted in Germany.

By Captain Young I received the commands of Congress in their commission to me for the court of Spain. As Dr. Franklin had announced his appointment, with an assurance of his readiness to repair to Madrid as soon as that court thought proper to receive him, it seemed unnecessary immediately to apprise them of the new appointment. During my absence in Germany, a letter was received from Monsieur Gardoqui, at Bilboa, intimating an expectation of returns from you for what was transmitted to you through their house. But, upon application to his court, I am again authorized to assure you that for the supplies already sent no return was expected; but, in future, that remittances of American produce were expected for supplies through the house of Gardoqui. It is impracticable to bring them to such an explanation as to know with certainty whether they mean this in earnest, or only as a cover. Should the transaction transpire, I am inclined to think the latter. However, I wrote to Mr. Gardoqui, in consequence, as follows: "We are now to begin on a new footing; and I shall take care that my constituents be informed that, for all the aids they receive hereafter from your quarter, they are to make returns in tobacco, pitch, tar, &c. to your house. I beg to know by your next whether the same arrangement is to take place for the future with regard to the deposits at the Havana and New Orleans, or whether nothing further is to be transmitted through those channels, that, if so, the trouble of sending thither, and the disappointment, may be prevented. As the winter's campaign is approaching fast, in which blankets are of the greatest utility, I wish you to send as many of them as possible."

Upon this subject of returns, I think it my duty to state to you some facts relative to the demands of this kind from Hortales. The gentleman who uses this name came to me, about a year and a half ago, in London, as an agent from this court, and wishing to communicate something to Congress. At our first interview, he informed me that the court of France wished to send an aid to America of 200,000 louis d'or, in specie, arms, and ammunition; and that all they wanted was to know through which island it was best to make the remittance, and that Congress should be apprized of it. We settled the cape as the place; and he urged me by no means to omit giving the earliest intelligence of it, with information that it would be remitted in the name of Hortales. At our next meeting, he desired me to request that a small quantity of tobacco, or some other production, might be sent to the cape, to give it the air of a mercantile transaction, repeating, over and over again, that it was for a cover only, and not for payment, as the remittance was gratuitous. Of all this I informed Dr. Franklin, chairman of the committee, by sundry opportunities. At the same time, I stated to Monsieur Hortales that, if his court would despatch eight or ten ships of the line to our aid, it would enable us to destroy all the British fleet, and decide the question at one stroke. I repeated this to him in a letter, after his return to Paris; to which the answer was, that there was not spirit enough in his court for such an exertion, but that he was hastening the promised succors. Upon Mr. Deane's arrival, the business went into his hands; and the aids were at length embarked in the Amphitrite, Mercury, and Seine. The minister has repeatedly assured us, and that in the most explicit terms, that no return is expected for these subsidies.

I have the honor to be, &c.

ARTHUR LEE.

To the SECRET COMMITTEE OF CONGRESS.

No. 25.

GENTLEMEN:

PASSY, NEAR PARIS, October 7, 1777.

We received duly your despatches by Mr. McCreery and Captain Young, dated May 2d and 30th, June 13th, 18th, and 26th, and July 2d; the intelligence they contain is very particular and satisfactory. It rejoices us to be informed that unanimity continues to reign among the States, and that you have so good an opinion of your affairs, in which we join with you. We understand that you have also written to us, of later dates, by Captain Holm. He is arrived at Port L'Orient, but, being chased and nearly taken, he sunk his despatches.

We are also of your sentiments with regard to the interests of France and Spain respecting our independence, which interests we are persuaded they see as well as we, though particular present circumstances induce them to postpone the measures that are proper to secure those interests. They continue to hold the same conduct described in our last, which went by Wickes and Johnson, a copy whereof we send herewith, as Johnson is unfortunately taken.

We have lately presented an earnest memorial to both courts, stating the difficulties of our situation, and requesting that, if they cannot immediately make a diversion in our favor, they would give a subsidy sufficient to enable us to continue the war without them, or afford the States their advice and influence in making a good peace.

Our present demand, to enable us to fulfil your orders, is for about eight millions of livres. Couriers, we understand, are despatched with this memorial to Madrid both by the ambassador of Spain and the minister here; and we are desired to await with patience the answer, as the two courts must act together. In the mean time they give us fresh assurances of their good-will to our cause, and we have just received a fourth sum of five hundred thousand livres. But we are continually charged to keep the aids that are or may be afforded us a dead secret, even from the Congress, where they suppose England has some intelligence; and they wish she may have no certain proofs to produce against them with the other Powers of Europe. The apparent necessity of your being informed of the true state of your affairs obliges us to dispense with this injunction; but we entreat that the greatest care may be taken that no part of it shall transpire, nor of the assurances we have received that no repayment will ever be required from us of what has been already given us either in money or military stores. The great desire here seems to be that England should strike first, and not be able to give her allies a good reason.

The total failure of remittances from you for a long time past has embarrassed us exceedingly. The contracts we entered into for clothing and arms, in expectation of those remittances, and which are now beginning to call for payment, distress us much; and we are in imminent danger of bankruptcy, for all your agents are in the same situation, and they all recur to us to save their and your credit. We were obliged to discharge a debt of Myrtle's at Bordeaux, amounting to about five thousand livres, to get that vessel away; and he now duns us by every post for between four and five thousand pounds sterling, to disengage him in Holland, where he has purchased arms for you.

With the same view of saving your credit, Mr. Ross was furnished with twenty thousand pounds sterling to disentangle him. All the captains of your armed vessels come to us for their supplies, and we have not received a farthing of the produce of their prizes, as they are ordered into other hands. Mr. Hodge has had large sums of us. But to give you some idea for the present, till a more perfect account can be rendered of the demands upon us that we have paid, we enclose a sketch for your perusal, and shall only observe that we have refused no application in which your credit appeared to be concerned, except one from the creditors of a Mr. Ceronio, said to be your agent in Hispaniola, but of whom we had no knowledge; and we had reason to hope that you would have been equally ready to support our credit as we have been of yours, and from the same motives—the good of the public, for whom we are all acting; the success of our business depending considerably upon it.

We are sorry, therefore, to find all the world acquainted here that the commissioners from Congress have not so much of your regard as to obtain the change of a single agent who disgraces us all. We say no more of this at present, contenting ourselves with the consciousness that we recommend that change from the purest motives, and that the necessity of it, and our uprightness in proposing it, will soon fully appear.

Messrs. Gardoqui, at Bilbao, have sent several cargoes of naval stores, cordage, sail-cloth, anchors, &c. for the public use, consigned to Elbridge Gerry, Esquire. They complain that they have no acknowledgment from that gentleman of the goods being received, though they know the vessels arrived. We have excused it to them, on the supposition of his being absent at Congress. We wish such acknowledgment may be made, accompanied with some expressions of gratitude towards those from whom the supplies came, without mentioning who they are supposed to be. You mention the arrival of the *Amphitrite* and *Mercury*, but say nothing of the cargoes.

Mr. Hodge is discharged from his imprisonment, on our solicitation, and his papers restored to him; he was well treated while in the Bastille. The charge against him was deceiving the Government in fitting out Cunningham from Dunkirk, who was represented as going on some trading voyage, but as soon as he was out began a cruise on the British coast, and took six sail. He is got safe into Ferrol.

We have received and delivered the commissions to Mr. William Lee and Mr. Izard. No letters came with them for those gentlemen with information how they are to be supported on their stations. We suppose they write to you, and will acquaint you with their intentions.

Some propositions are privately communicated to us, said to be on the part of Prussia, for forming a commercial company at Embden. We shall put them into the hands of Mr. Lee.

We do not see a probability of our obtaining a loan of the two millions sterling from any of the money-holders in Europe, till our affairs are, in their opinion, more firmly established. What may be obtained from the two Crowns, either as a loan or a subsidy, we shall probably know on the return of the couriers, and we hope we shall be able to write more satisfactorily on those heads by Captain Young, who will by that time be ready to return.

With the greatest respect, we have the honor to be, &c.

BENJAMIN FRANKLIN,
SILAS DEANE,
ARTHUR LEE.

Extract of a letter from Arthur Lee to the Committee of Foreign Correspondence.

A letter was received from Monsieur Gardoqui, at Bilbao, intimating an expectation of returns from you for what was transmitted to you through their house; but, upon application to his court, I am again authorized to assure you that, for the supplies already sent, no return was expected.

No. 26.

Extract from the same to the same, dated

PARIS, December 18, 1777.

We have accepted five bills drawn on us by the President, in favor of some returned officers, and shall pay them punctually. But as we receive no remittances for our support, and the cargo* of the *Amphitrite* is claimed from us by Mr. Beaumarchais, and we are not certain that we can keep it, we hope Congress will be sparing in their drafts, except for the interest mentioned in our former letters, of which we now repeat the assurances of payment; otherwise we may be much embarrassed, and our situation rendered very uncomfortable.

No. 27.

Copy of a letter of the American Commissioners to Messrs. Berard, Frères, at Port L'Orient.

GENTLEMEN:

PASSY, December 24, 1777.

M. de Beaumarchais having satisfied us that he had a prior claim upon the cargo of the *Amphitrite*, according to an agreement between him and Mr. Deane, we desire you to deliver the cargo, or the produce, into his hands, or into those of his agent, at his disposition, without any deduction for the advances you may have made on account of the freights.

We are,

B. FRANKLIN,
SILAS DEANE,
ARTHUR LEE.

No. 28.

Letter of Louis XVI. to Charles III., King of Spain, (taken from General History of French Diplomacy,) dated

MONSIEUR, MON FRERE ET ONCLE:

LE 8 JANVIER, 1778.

Le désir sincère que j'ai de maintenir la véritable harmonie, la concordance, et l'unité de système, qui doivent toujours en imposer à nos ennemis, m'engage à exposer à votre Majesté ma façon de penser sur la situation présente des affaires. L'Angleterre, notre ennemi commun et invétéré, est engagée depuis trois ans dans une guerre avec ses colonies d'Amérique. Nous sommes convenus de ne pas nous en mêler; et, regardant les deux

* Of rice and indigo from the United States.

parties sous le nom d'Anglais, nous avons rendu le commerce de nos états libre à celle qui y trouvait le mieux son compte. De cette manière, l'Amérique s'est pourvue d'armes et de munitions dont elle manquait. Je ne parle pas des secours d'argent et autres que nous leur avons donnés, le tout étant passé sur le compte du commerce. L'Angleterre a pris de l'humeur de ces secours, et ne nous a pas laissé ignorer qu'elle s'en vengerait tôt ou tard. Elle a même déjà saisi plusieurs de nos bâtimens de commerce dont nous sollicitons en vain la restitution. Nous n'avons pas perdu de temps de notre côté; nous avons fortifié nos colonies les plus exposées, et mis sur un pied respectable nos marines; ce qui a contribué à augmenter la mauvaise humeur de l'Angleterre.

C'était-là où en étaient les affaires au mois de Novembre dernier. La destruction de l'armée de Burgoyne, et l'état très resserré où est celle de Howe, ont changé totalement leur face. L'Amérique est triomphante, et l'Angleterre abattue; mais, pourtant, avec une grande force en marine qui est encore entière, et avec l'espérance de s'allier utilement avec ses colonies, l'impossibilité étant démontrée de les subjuguier par la force. Toutes les parties en conviennent, Lord North lui-même a annoncé en plein Parlement un plan de pacification pour la première session, et ils y travaillent fortement de tous les côtés. Ainsi, il nous est égal que ce ministre ci soit en place, ou tout autre. Par des motifs différens, ils s'unissent contre nous, et n'oublient pas nos mauvais offices. Ils tomberont avec autant de forces sur nous que si la guerre n'avait pas existé. Cela posé, et les griefs que nous avons contre l'Angleterre étant notaires, après avoir pris l'avis de mon conseil, et notamment de M. d'Ossun, j'ai pensé qu'il était juste et nécessaire, ayant avisé aux propositions que font les insurgens, de commencer à traiter avec eux, pour empêcher leur réunion à la métropole.

J'expose ma façon de penser à votre Majesté. J'ai ordonné qu'on lui communiquât un mémoire où ces raisons sont plus détaillées. Je désire bien vivement qu'elles aient son approbation, connaissant le poids de sa droiture. Votre Majesté ne doute pas de la vive et sincère amitié avec laquelle

Je suis, monsieur mon frère et oncle, &c.

[TRANSLATION.]

SIR, MY BROTHER AND UNCLE:

The sincere desire which I feel of maintaining the true harmony and unity of our system of alliance, which must always have an imposing character for our enemies, induces me to state to your Majesty my way of thinking on the present condition of affairs. England, our common and inveterate enemy, has been engaged for three years in a war with her American colonies. We had agreed not to meddle with it; and, viewing both sides as English, we made our trade free to the one that found most advantage in a commercial intercourse. In this manner, America provided herself with arms and ammunition, of which she was destitute. *I do not speak of the succors of money and other kinds which we have given her, the whole ostensibly on the score of trade.* England has taken umbrage at these succors; and has not concealed from us that she would be revenged, sooner or later. She has already, indeed, seized several of our merchant vessels, and refused restitution. We have lost no time on our part. We have fortified our most exposed colonies, and placed our fleets upon a respectable footing, which has contributed to aggravate the ill-humor of England.

Such was the posture of affairs in November last. The destruction of the army of Burgoyne, and the straitened condition of Howe, have totally changed the face of things. America is triumphant, and England cast down. But the latter has still a great unbroken maritime force, and the hope of forming a beneficial alliance with her colonies; the impossibility of their being subdued by arms being now demonstrated. All the English parties agree on this point. Lord North has himself announced, in full Parliament, a plan of pacification for the first session; and all sides are assiduously employed upon it. Thus, it is the same to us whether this minister or any other be in power. From different motives, they join against us, and do not forget our bad offices. They will fall upon us in as great strength as if the war had not existed. This being understood, and our grievances against England notorious, I have thought, after taking the advice of my counsel, and particularly that of M. d'Ossun, and having consulted upon the propositions which the insurgents make, that it was just and necessary to begin to treat with them, to prevent their reunion to the mother country. I lay before your Majesty my views of the subject. I have ordered a memoir to be submitted to you, in which they are presented more in detail. I desire eagerly that they should meet your approbation. Knowing the weight of your probity, your Majesty will not doubt the lively and sincere friendship with which

I am, &c.

No. 29.

[TRANSLATION.]

Copy of Count Lauragais's testimonial.

PARIS, February 8, 1778.

I was present in Mr. Arthur Lee's chambers in the Temple, London, some time in the spring of the year 1776, when Mr. Caron de Beaumarchais made offers to Mr. Lee to send supplies of money and stores, through the Blands, to the Americans, to the amount of two hundred thousand louis d'or; and he said he was authorized to (*pour faire*) those proposals by the French court.

B. C. D. LAURAGAIS.

Doctor Lee to the Secret Committee of Congress, dated

PARIS, February 15, 1778.

I have before written to you the reason I had to conceive that M. de Beaumarchais's demands of payment for the supplies furnished in the Amphitrite, Mercury, and Flomand are unjust. The above testimonial from Count Lauragais will corroborate what I informed you relative to his having himself proposed the supplies to me as a subsidy from the court. Mr. Wilkes knows it more accurately, but his situation prevents him from giving it under his hand. The ministry, as you will see by your joint letter, have often given us to understand that we were not to pay for them; yet still Mr. Beaumarchais, with the perseverance of such adventurers, persists in his demand. He alleges some promise or agreement made with Mr. Deane. I should suppose Mr. Deane would have apprized you of it if any such exists; but certainly Dr. Franklin and myself are kept so much in the dark about the existence of such agreement as to expose us to much unnecessary plague from this Mr. Beaumarchais, who I cannot think has any right to make the demand in question. A copy of the above declaration has been given to Count Maurepas; but I have not heard his sentiments upon it.

No. 30.

Extract of a letter from Messrs. Franklin, Lee, and Deane, to the Secret Committee of Congress, dated

PARIS, February 16, 1778.

We have, to avoid disputes at a particular time, delivered up the cargo * * * brought by the Amphitrite to Mr. Beaumarchais. We hear that he has sent over a person to demand a great sum of you on account of arms, ammunition, &c. &c. We think it will be best for you to leave that demand to be settled by us here, as there is a mixture in it of public and private concern, which you cannot so well develop.

No. 31.

Extract of a letter from Messrs. Franklin, Lee, and Adams, to the Secret Committee of Congress, dated

PASSY, July 29, 1778.

We have not yet seen Mr. Beaumarchais, but the important concern with him shall be attended to as soon as may be.

No. 32.

Messrs. Franklin, Lee, and Adams, to the Count de Vergennes.

SIR:

PARIS, September 10, 1778.

By some of the last ships from America, we received from Congress certain powers and instructions, which we think it necessary to lay before your excellency, which we have the honor to do in this letter.

On the 13th of April last, Congress resolved "that the commissioners of the United States in France be authorized to determine and settle with the house of Roderique Hortales & Co. the compensation, if any, which, by them, for the use of the United States, previous to the 14th day of April, 1778, over and above the commission allowed them in the sixth article of the proposed contract between William Ellery, James Forbes, W. H. Drayton, and William Duer, Esqs., Committee of Congress, and John Baptiste Lazarus Theveneau de Francis," &c.

In the letter of the Committee of Commerce to us, in which the foregoing resolution was enclosed, the committee express themselves thus: "This will be accompanied by a contract entered into between John Baptiste Lazarus de Theveneau de Francis, agent of Peter Augustin Caron de Beaumarchais, representative of the house of Roderique Hortales & Co., and the Committee of Commerce. You will observe that their accounts are to be fairly settled, and what is justly due paid for us; as, on the one hand, Congress would be unwilling to evidence a disregard for, and contemptuous refusal of, the spontaneous friendship of His Most Christian Majesty, so, on the other, they are unwilling to put into the private pockets of individuals what was graciously designed for the public benefit. You will be pleased to have their accounts liquidated, and directed in the liquidation thereof, that particular care be taken to distinguish the property of the Crown of France from the private property of Hortales & Co., and transmit to us the accounts so stated and distinguished. This will also be accompanied by an invoice of articles to be imported from France, and resolves of Congress relative thereto. You will appoint, if you should judge proper, an agent or agents to inspect the quality of such goods as you may apply for to the house of Roderique Hortales & Co. before they are shipped, to prevent any impositions."

On the 16th of May last, Congress resolved "that the invoice of articles to be imported from France, together with the list of medicines approved by Congress, be signed by the Committee of Commerce, and transmitted to the commissioners of the United States at Paris, who are authorized and directed to apply to the house of Roderique Hortales & Co. for such of the said articles as they shall have previously purchased or contracted for; that copies of the invoice be delivered to Mr. Francis, agent for Roderique Hortales & Co., together with a copy of the foregoing resolution; and that the articles to be supplied by the house of Roderique Hortales & Co. be not insured, but that notice be given to the commissioners in France that they may endeavor to obtain a convoy for the protection thereof."

We have the honor to enclose to your excellency a copy of the contract made between the committee and Mr. Francis, a copy of Mr. Francis's powers, and a copy of the list of articles to be furnished according to that contract, that your excellency may have before you all the papers relative to this subject. We are under the necessity of applying to your excellency upon this occasion, and of requesting your advice.

With regard to what is past, we know not who the persons are who constitute the house of Roderique Hortales & Co., but we have understood, and Congress has ever understood, and so have the people in America in general, that they were under obligations to His Majesty's good-will for the greater part of the merchandise and warlike stores heretofore furnished under the firm of Roderique Hortales & Co. We cannot discover that any written contract was ever made between Congress or any agent of theirs and the house of Roderique Hortales & Co., nor do we know of any living witness, or any other evidence, whose testimony can ascertain to us who the persons are that constitute the house of Roderique Hortales & Co., or what were the terms upon which the merchandise and munitions of war were supplied, neither as to the price nor the time or conditions of payment.

As we said before, we apprehend that the United States hold themselves under obligations to His Majesty for all these supplies, and we are sure it is their wish and their determination to discharge the obligation to His Majesty as soon as Providence shall put it in their power. In the mean time, we are ready to settle and liquidate the accounts according to our instructions, at any time and in any manner which His Majesty and your excellency shall point out to us.

As the contract for future supplies is to be ratified or not ratified by us, as we shall judge expedient, we must request your excellency's advice as a favor upon this head, and whether it would be safe or prudent in us to ratify it, and in Congress to depend upon supplies from this quarter; because, if we should depend upon this resource for supplies, and be disappointed, the consequences would be fatal to our country.

B. FRANKLIN,
ARTHUR LEE,
JOHN ADAMS.

His Excellency COUNT DE VERGENNES.

To all whom it may concern.

Whereas Roderique Hortales & Co., of Paris, have shipped, or cause to be shipped, or laden on board sundry ships or vessels, considerable quantities of cannon, arms, ammunition, clothing, and other stores, most of which have been safely landed in America, and delivered to the agents of the United States for the use and service thereof; and whereas the said Roderique Hortales & Co. are willing and desirous to continue supplying these States with

cannon, mortars, bombs, arms, ammunition, clothing, and every sort of stores that may be wanted or required, and also with specie, provided satisfactory assumption be made and assurance given for the payment in France of the just cost, charges, and freight of the cargoes already shipped, as well as those to be hereafter shipped, and of specie to be advanced: and whereas some cargoes of American produce have already been shipped to the address of Roderique Hortales & Co., or their assigns, for sale on account of the United States of America, the nett proceeds whereof are to be applied in part to the discharge of their claims:

Now know ye, that John Baptiste Lazarus Theveneau de Francis, agent of Mr. Peter Augustin Caron de Beaumarchais, as representative of the house of said Roderique Hortales & Co., by him especially appointed and empowered to act fully and effectually in all things on his behalf, as appears by a certain letter of attorney or instrument of writing, bearing date the 10th day of September, A. D. 1777, a copy whereof is hereunto annexed, doth for and on behalf of the said Hortales & Co., represented by Mr. Beaumarchais as aforesaid, in virtue of the powers in him vested, contract, agree, and engage to and with the Hons. William Ellery, James Forbes, William Henry Drayton, and William Duer, Esqs., a Committee of Commerce, properly appointed and authorized by the delegates of the United States of America in Congress assembled, to enter into, execute, ratify, and confirm this contract, for and on behalf of the said United States, as follows:

1st. That the costs and charges of the several cargoes already shipped by the said Roderique Hortales & Co. shall be fairly stated at the current prices and usual mercantile charges in France, of the dates at which they were shipped.

2d. That the freight of the said cargoes shall be charged agreeably to the contract made by and between Mr. Beaumarchais, Mr. Silas Deane, and Mr. Monthieu.

3d. That all orders for cannon, mortars, bombs, arms, ammunition, clothing, or other stores, which may hereafter be transmitted to Messrs. Roderique Hortales & Co., or delivered to their agents in America by the said committee, or any other persons properly authorized by Congress to transmit or deliver such lists or orders, shall be executed and shipped with all possible despatch.

4th. That all articles to be hereafter shipped to America, in virtue of this contract, shall be provided as nearly to the orders as possible, at not higher than the current prices, and attended with the most moderate charges, not higher than the usual mercantile charges of the place from whence they are exported.

5th. That good-ships shall be chartered or bought on the most moderate terms for transporting the stores to America, and carrying back such cargoes as the committee shall choose to ship in them.

6th. That agents appointed under the authority of Congress shall have free liberty to inspect the quality and require the prices of all articles to be shipped for the account of the United States, with power to reject such as they judge unfit or too highly charged; they shall also be party in the charters and purchases of ships to be employed in this service.

7th. That bills on the house of Roderique Hortales & Co. aforesaid, for twenty-four millions of livres tournois annually, shall be duly honored and paid; the bills to be drawn at double usance, and at the following periods, viz: in the months of May, July, September, November, January, and March, for four millions each two months.

In consideration whereof, the said William Ellery, James Forbes, William Henry Drayton, and William Duer, Esqs., commercial committee of Congress, by virtue of the powers and authorities delegated to them by the Congress, do, for and on behalf of the said United States, covenant, agree, and engage with the said Roderique Hortales & Co., by their said agent, as follows:

1st. That remittances shall be made by exports of American produce and otherwise to the said Roderique Hortales & Co., or their agent, for the express purpose of discharging the debt already justly due, or hereafter to become justly due, in consequence of this agreement.

2d. That all cargoes of merchandise shipped on account of the United States for France, and appropriated towards the discharge of the said debt, shall be addressed to the house of Roderique Hortales & Co., or their assigns, for sale; subject, however, to the inspection and control of an agent appointed under the authority of Congress, who shall have liberty to inspect the quality of such merchandise, assent to or reject the prices offered, postpone the sales, and do every thing for the interest of his constituents.

3d. That the customary interest of France, not exceeding six per cent. per annum, shall be allowed on the debt already due, or that from time to time may be due, to the said Roderique Hortales & Co. in virtue of this agreement, computing the interest on money from the time of its being paid, and on goods by them exported from the usual periods of commercial credits on such goods.

4th. That any payments of continental currency in America, required by the said Roderique Hortales & Co., or their agents, and agreed to by Congress, shall be computed at the current or equitable course of exchange at the date of the payment, and interest be discounted on the amount from that date.

5th. That the remittances to be made for the purpose of extinguishing the debt now due, or to become due, to the said Roderique Hortales & Co., shall be made at such times and seasons as shall be most safe and convenient for the American interest, but are to continue until the entire debt, principal and interest, shall be fully and fairly discharged.

6th. That a commission of two and a half per centum shall be allowed to the said Roderique Hortales & Co. on the amount of the invoices, freight, or other charges and moneys paid and disbursed by them for account of the United States.

7th. That the customary commissions in France shall be also allowed the said Roderique Hortales & Co. on the amount of all payments made to them on account of the United States.

Provided always, That the seventh article of this agreement, respecting the annual supply of twenty-four millions of livres, shall not be considered as absolutely binding upon either of the parties to this contract, unless the same shall be ratified by Roderique Hortales & Co. and the commissioners of the United States at Paris; for which purpose it is agreed to be submitted to them, any thing herein contained to the contrary notwithstanding.

But it is nevertheless to be understood that the United States may and shall have liberty to draw, in the course of five or six months from the date hereof, upon the said Roderique Hortales & Co. for the sum of one hundred thousand pounds sterling, equal to two million three hundred thousand livres tournois, which shall be duly paid.

In witness whereof, the contracting parties have hereunto set their hands and seals this sixteenth day of April, in the year of our Lord one thousand seven hundred and seventy-eight.

J. B. L. THEVENEAU DE FRANCIS,
WILLIAM ELLERY,
JAMES FORBES,
WM. HENRY DRAYTON,
WILLIAM DUER.

Signed, sealed, and delivered in presence of

CHARLES THOMSON, *Secretary of Congress.*

Copy of the powers given to John Baptiste Lazarus Theveneau de Francis.

Before the counsellors of the King, the notaries of the court-house of Paris, undersigned, was present Mr. Pierre Augustin Caron de Beaumarchais, representing in France the house of Roderique Hortales & Co., living in the city of Paris, in Old Temple street, and parish of St. Gervais, who, by these presents, did make and constitute his procurator general Mr. John Baptiste Lazarus Theveneau de Francis, just about to embark for America, to whom he gives power, for and in the name of the said house of Roderique Hortales & Co., to manage and administer all the affairs of the said house and company, as well actively as passively, and consequently to solicit and recover all debts relative to all the cargoes, past, present, and future, sent by the said house to America; to receive all moneys and make all purchases relative to the returns of the said cargoes, and to pay all expenses relative to them; to settle all accounts with correspondents of the said house of Roderique Hortales & Co., whether upon invoices or otherwise; to call, if necessary, for the reciprocal correspondence, registries, and accounts current; to debate the interests of the said constituent and company; to allow the articles in the said accounts; to close and settle them by receipts of every kind; to give, by the said constituted procurator, all quittances, discharges, and valid liquidations, either for specie, merchandise, or produce; and to accept all bills and orders drawn by him; in default or refusal of settlement, and after settlement made, to do, in the name of the said constituent and company, all conservatory acts, pursuits, and necessary works; to appear before all judges who may be concerned to present demands, and to pursue them effectually to final judgment; to treat, compose, and transact at the prices, charges, clauses, and conditions which the said constituted procurator shall judge most useful to the interests of the said constituent and company; to make all oppositions and arrests that shall be necessary, in case of bodily restraint, to carry it into execution; to give discharges; to consent to all things; to stop processes; to constitute procurators and lawyers in any cause; to propose and agree to arbitrations and arbiters; to choose his residence; and, in general, to manage for the greatest interest of the said constituent and his house whatever circumstances shall require not provided for in these presents, and without having need of more special power; the aforesaid constituent promising to acknowledge all agreeable, until revocation of this power, to which also shall be submitted all treaties made or to be made with the said constituted procurator, whether anterior or posterior to these presents; and the said constituted procurator being obliged, as is just, to render accounts of his mission the most exactly, faithfully, and legally that may be.

Made and passed at Paris, at the Studios, in the year one thousand seven hundred and seventy-seven, the tenth day of September; and a minute of these presents, lodged with M. Mornet, one of the undersigned notaries, hath been signed. Sealed the same day.

DE MAUFORT,
MORNET.

The above instrument was executed by a public officer, in my presence.

Attest:

S. DEANE.

Extract of a letter from the Count de Vergennes to Mr. Girard.

The plenipotentiaries (Dr. Franklin and his colleagues) have just addressed to me an official note, which embraces two objects: the first concerning the settlement of the account of M. de Beaumarchais, under the name of the house of Roderique Hortales & Co.; and the second concerning the ratification of the contract which Congress, or rather the Committee of Commerce in their name, have formed with the Sieur Theveneau de Francis, agent of the Sieur Caron de Beaumarchais. Dr. Franklin and his colleagues wished to know the articles which have been furnished by the King, and those furnished by M. de Beaumarchais on his own account; and they intimate that Congress are persuaded that all, or at least a great part of what has been sent forward, is on account of His Majesty. In reply, I have informed them that the King has furnished nothing; that he simply permitted M. de Beaumarchais to provide himself from his arsenals, on condition of replacing the articles; and, further, that I would with pleasure interpose to prevent them from being pressed for the reimbursement of the articles of a military nature.

With respect to the contract formed with the Sieur Francis, the commissioners have the power of ratifying or rejecting it; and they apply for my advice as to what they should do. As I do not know the house of Roderique Hortales & Co., and cannot undertake for them, it is impossible for me to form an opinion of their solidity or punctuality in fulfilling their engagements. You will be pleased, sir, to communicate these two replies to Congress. I am persuaded that they will feel the justice of them.

No. 33.

Extract of a letter from Messrs. Franklin, Lee, and Adams, to the Secret Committee of Congress, dated

PASSY, November 7, 1778.

We are very unhappy that we are not able to send to Congress those supplies of arms, ammunition, and clothing which they have ordered; but it is absolutely impossible, for want of funds; and Mr. Beaumarchais has not yet informed us whether he will execute the agreement made for him with you or not.

No. 34.

Extract of a letter from Dr. Lee to the Secret Committee of Congress, dated

PARIS, January 5, 1779.

We wrote to Mr. Beaumarchais, upon our receiving your letter and the agreement with his supposed company, that we were ready to settle accounts with him whenever he chose. He has made no answer.

No. 35.

Extract of a letter from the same to the same, dated

PARIS, February 25, 1779.

Mr. Deane is entirely at a loss to understand what I mean by saying almost every thing remained to be paid for. I will tell him some gross sums, which may satisfy him without descending to a multitude of lesser.

| | | | | | |
|----------------------------|---|---|---|---|-----------|
| Mr. Beaumarchais's demand, | - | - | - | - | 6,000,000 |
| Mr. Monthieu's, | - | - | - | - | 674,000 |
| Mr. Williams's, | - | - | - | - | 300,000 |
| | | | | | <hr/> |
| | | | | | 6,974,000 |
| | | | | | <hr/> |

No. 36.

Extract of a letter from Arthur Lee to the Chairman of the Secret Committee, dated

APRIL 20, 1779.

Three months before Mr. Deane's arrival, Mr. Beaumarchais settled with me in London the sending these supplies of money and munitions of war by the cape, under the firm of Hortales & Co., and that I should apprise Congress of it, which I did by Mr. Story and other opportunities, as the gentlemen of the secret committee know. The very despatches by Mr. Carmichael, which Mr. Deane stands charged with having opened, and most certainly detained, gave also, if my memory does not much deceive me,* the same intelligence. Upon Mr. Beaumarchais's return to Paris, he wrote me several times concerning these supplies, mentioning the difficulties which are in the execution, from the timidity of the court, but that he was putting it into the mercantile train, which would soon overcome all difficulties. I did not fail to press the despatch of them, and proposed, too, the sending some ships of war to protect our coast, exactly similar to what we were afterwards instructed by Congress to obtain.

I do not state this to assume any merit to myself for these supplies. I had none. Mr. Beaumarchais sought me out in London. He found me by means of Mr. Wilkes, and communicated to me what I was to convey to Congress; that the sum of two hundred thousand louis d'or from this court was ready for our support. It was, therefore, no address of mine that procured this aid. I was only the instrument of conveying this intelligence. As far as I know, the merit is due to Mr. Beaumarchais. I never refused it to him. But I objected to his making demands directly contrary to what he had repeatedly assured me, and not only desired but urged me to report to Congress. I did so, and I never retract one iota of that information.

When the business was thus settled and in this train, Mr. Deane arrived.

No. 37.

Extract of a letter from B. Franklin to Robert Morris, Esq., dated

PASSY, August 12, 1782.

The plan you intimate for discharging the bills in favor of Beaumarchais, though well imagined, was impracticable. I had accepted them, and he had discounted them, or paid them away, or divided them among his creditors. They were therefore in different hands, with whom I could not manage the transactions proposed. Besides, I had paid them punctually when they became due, which was before the receipt of your letter on that subject. That he was furnished with his funds by the Government here, is a supposition of which no foundation appears. He says it was by a company he had formed; and when he solicited me to give up a cargo in part of payment, he urged, with tears in his eyes, the distress himself and associates were reduced to by our delay of remittances. I am glad to see that it is intended to appoint a commissioner to settle all our public accounts in Europe. I hope he will have better success with M. Beaumarchais than I have had. He has often promised solemnly to render me an account in two or three days. Years have since elapsed, and he has not yet done it. Indeed, I doubt whether his books have been so well kept as to make it possible.

No. 38.

Extract of a letter from Robert Morris, Esq. to the Minister of France, dated

JANUARY 13, 1783.

As to M. de Beaumarchais's bills, I expected that some arrangements might have been taken with relation to them, according to our conversations; for, although you declared that you had no instructions on that subject, yet you saw, with me, that our funds would not bear such a deduction, and the line of conduct which you advised was precisely that which I pursued, as I shall presently have occasion to mention.

Extract from the same letter.

It was not, therefore, until the investigation of Mr. Grand's accounts that I was struck with the deficiency above mentioned, and which arose from the difference of one million due on the former transactions more than I had calculated, and two millions and a half to Mr. Beaumarchais. The moneys which I supposed to be at my sole disposal were, I found, subject to Mr. Franklin's order, and therefore Mr. Grand, instead of six millions, possessed only two and a half, to answer my bills drawn in 1782. I had written to Dr. Franklin in the manner agreed between us as to M. de Beaumarchais, but the money was paid before the letter arrived. I should not, however, do that justice to Mr. Franklin which I ought, if I did not observe that I think he was perfectly right in causing these bills to be paid. You will consider, sir, that they had been drawn in 1779, and negotiated for three years through different parts of Europe and America, on the public faith and credit of the United States. It is a moderate calculation to suppose that a thousand different people were interested in the sum of three and a half millions; protesting the bills, therefore, would have sent them back again from one person to another, affixing a stigma on our character wherever they went.

No. 39.

Extract of a contract concluded on the 25th of February, 1783, between His Most Christian Majesty and the United States of North America, signed by Count de Vergennes and Benjamin Franklin.

ARTICLE 2. For better understanding the fixing the periods for the reimbursement of the six millions at the royal treasury, and to prevent all ambiguity on this head, it has been found proper to recapitulate here the amount of the preceding aids granted by the King to the United States, and to distinguish them according to their different classes:

In the third class are comprehended the aids and subsidies furnished to the Congress of the United States, under the title "of gratuitous assistance from the pure generosity of the King;" three millions of which were granted before the treaty of February, 1778, and six millions in 1781; which aids and subsidies amount in the whole to nine millions of livres tournois. His Majesty here confirms, in case of need, the gratuitous gift to the Congress of the said thirteen United States.

* My situation in London prevented me from keeping copies of my despatches, which might have been evidence against my life.

No. 40.

Extract of a letter from B. Franklin to Mr. Grand, Banker at Paris, dated

PHILADELPHIA, July 11, 1786.

I send you, enclosed, some letters that have passed between the Secretary of Congress and me, respecting three millions of livres, acknowledged to have been received before the treaty of February 17, 1778, as *don gratuit* from the King, of which only two millions are found in your account, unless the million from the farmers general be one of the three. I have assured that all the money received from the King, whether as loan or gift, went through your hands; and as I always looked on the million we had of the farmers general to be distinct from what we had of the Crown, I wonder how I came to sign the contract acknowledging three millions of gift, when in reality there were only two, exclusive of that from the farmers. And as both you and I examined the projet of the contract before I signed it, I am surprised that neither of us took notice of the error. It is possible that the million furnished ostensibly by the farmers was in fact a gift of the Crown; in which case, as Mr. Thomson observes, they owe us for the two ship loads of tobacco they received on account of it. I must earnestly request of you to get this matter explained, that it may stand clear before I die, lest some enemy should afterwards accuse me of having received a million not accounted for.

No. 41.

Letter from Mr. Durival to Mr. Grand.

Sir:

VERSAILLES, August 30, 1786.

I have received the letter which you did me the honor to write the 28th of this month, touching the advance of a million which you say was made by the general farm to the United States of America, the 3d of June, 1777. I have no knowledge of that advance; what I have verified is, that the King, by the contract of the 25th February, 1783, has confirmed the gratuitous gift which His Majesty has previously made of the three millions hereafter mentioned, viz:

One million delivered by the royal treasury the 10th of June, 1776, and two other millions advanced also by the royal treasury in 1777, on four receipts of the deputies of Congress, of the 17th January, 3d April, 10th June, and 15th October of the same year.

This explanation will, sir, I hope, resolve your doubt touching the advance of the 3d of June, 1777. I further recommend to you, sir, to confer on this subject with Mr. Girard, who ought to be better informed than we, who have no knowledge of any advances but those made by the royal treasury.

I have the honor to be, &c.

DURIVAL.

No. 42.

From the same to the same.

VERSAILLES, September 5, 1786.

I laid before the Count de Vergennes the two letters which you did me the honor to write touching the three millions, the free gift of which the King has confirmed in favor of the United States of America.

The minister, sir, observed that this gift has nothing to do with the million which the Congress may have received from the general farm in 1777; consequently, he thinks that the receipt which you desire may be communicated to you cannot satisfy the object of your view, and that it would be useless to give you the copy which you desire.

I have the honor to be, &c.

DURIVAL.

No. 43.

Copies of sundry papers relative to the lost million.

DEAR SIR:

PARIS, September 9, 1786.

The letter you honored me with covered the copies of three letters which Mr. Thomson wrote you to obtain an explanation of a million, which is not to be found in my accounts. I should have been very much embarrassed in satisfying him, and proving that I had not put that million in my pocket, had I not applied to Mr. Durival, who, as you will see by the answer enclosed, informs me that there was a million paid by the royal treasury on the 10th of June, 1776. This is the very million about which Mr. Thomson inquires, as I have kept an account of the other two millions, which were also furnished by the royal treasury, viz: the million in June and April, 1777; the other in July and October of the same year, as well as that furnished by the farmers general in June, 1777.

Here, then, are the three millions exactly, which were given by the King before the treaty of 1778, and that furnished by the farmers general. Nothing, then, remains to be known but who received the first million in June, 1776. It could not be by me, who was not charged with the business of Congress until January, 1777. I therefore requested of Mr. Durival the copy of the receipt for the one million. You have the answer which he returned to me. I wrote to him again, renewing my request; but as the carrier is just setting off, I cannot wait to give you his answer; but you will receive it in my next if I receive one. In the mean while, I beg you will receive the assurance of the sentiments of respect with which I have the honor to be, &c.

GRAND.

Dr. B. FRANKLIN.

No. 44.

VERSAILLES, September 10, 1786.

I have laid before M. the Count de Vergennes, as you, sir, seem to desire, the letter which you did me the honor to write yesterday. The minister persists in the opinion that the receipt, the copy of which you request, has no relation with the business with which you were intrusted on behalf of Congress, and that this piece would be useless in the new point of view in which you have placed it. Indeed, sir, it is easy for you to prove that the money in question was not delivered by the royal treasury into your hands, as you did not begin to be charged with the business of Congress until January, 1777, and the receipt is of the date of 10th June, 1776.

I have the honor to be, with particular attachment, &c.

DURIVAL.

Mr. GRAND.

No. 45.

Postscript from Mr. Grand.

PARIS, September 12, 1786.

I hazard a letter, in hopes it may be able to join that of the 9th at L'Orient, in order to forward to you, sir, the answer I have just received from Mr. Durival. You will therefore see, sir, that notwithstanding my entreaty, the minister himself refuses to give me the copy of the receipt which I asked for. I cannot conceive the reason for this reserve, more especially since, if there has been a million paid, he who received it has kept the account, and must in time be known.

I shall hear with pleasure that you have been more fortunate in this respect in America than I have been in France, and repeat to you the assurance of the sentiments of regard with which

I have the honor to be, &c.

GRAND.

No. 46.

Letter from Doctor Franklin to Charles Thomson, Esq.

DEAR FRIEND:

PHILADELPHIA, January 25, 1787.

You may remember that in the correspondence between us in June last, on the subject of a million, *free gift* of the King of France, acknowledged in our contract to have been received, but which did not appear to be accounted for in our banker's accounts, unless it should be the same with the million said to be received from the farmers general, I mentioned that an explanation might doubtless be easily obtained by writing to Mr. Grand or Mr. Jefferson. I know not whether you have accordingly written to either of them, but, being desirous that the matter should be speedily cleared up, I wrote myself to Mr. Grand a letter upon it, of which I now enclose a copy, with his answers, and several letters from Mr. Durival, who is *Chef du Bureau des Fonds* (and has under his care *la finance*) *des Affaires Etrangères*. You will see by these letters that the million in question was delivered to somebody on the 10th June, 1776, but it does not appear to whom. It is clear that it could not be to Mr. Grand, nor to the commissioners from Congress, for we did not meet in France until the end of December, 1776, or beginning of January, 1777; that banker was not charged before with our affairs. By the ministers refusing him a copy of the receipt, I conjectured it must be money advanced for our use to Beaumarchais, and that it is a *mystère du cabinet*, which perhaps should not be further inquired into, unless necessary to guard against more demands than may be just from that agent; for it may well be supposed that, if the court furnished him the means of supplying us, they may not be willing to furnish authentic proofs of such a transaction so early in our dispute with Britain.

Pray tell me, has he dropped his demands, or does he still continue to worry you with them?

I should like to have these original letters returned to me, but you may, if you please, keep copies of them.

It is true the million in question makes no difference in your accounts with the King of France; it not being mentioned or charged as so much lent and to be repaid, but stated as freely given. Yet, if it was put into the hands of any of your agents or ministers, they ought certainly to account for it. I do not recollect whether Mr. Deane had arrived in France before the 10th June, 1776; but, from his great want of money when I joined him a few months after, I hardly think it could have been paid him.

Possibly Mr. Jefferson may obtain the information though Mr. Grand could not; and I wish he may be directed to make the inquiry, as I know he would do it directly; I mean, if, by Hortales & Co.'s further demands, or for any other reason, such an inquiry should be thought necessary.

I am ever, my dear friend, yours, most affectionately,

B. FRANKLIN.

CHARLES THOMSON, Esq.

No. 47.

[TRANSLATION.]

*The Minister Plenipotentiary of the United States to the French Republic, to the Commissary of Exterior Relations.*SAINPORT, June 21, 1794, (*3d Messidor*.)

During the last war, there were furnished by France to the United States of America sundry sums of money, either as loans or gratuities.

The first of these advances was one million. It appears to have been made on the 10th of June, 1776, and is charged as part of the gratuities; but it is not known to whom it was paid, or for what purpose expended. Doctor Franklin, in adjusting the accounts of the United States with the French minister, neglected to demand information on this subject; and afterwards, when the banker of the United States applied, in the months of August and September, 1786, to Mr. Durival, he was answered that his demand had been communicated to the Count de Vergennes, and that this minister persisted in believing that the receipt in question could be of no use to the banker, since he was not charged with the pecuniary affairs of the United States before the month of January, 1777, and that this payment had been made on the 10th of June, 1776. Our ministers were also told that it was unnecessary to insist on information regarding a payment which did not form a part of the sums to be reimbursed by the United States. Doctor Franklin concluded that this advance had been placed in the hands of the Sieur Beaumarchais, and that it was a mystery of the cabinet, an explanation of which ought to be a matter of indifference to us, unless it should be necessary to oppose this sum against the claims of the Sieur Beaumarchais for supplies shipped by him to the United States.

This casualty has occurred; but, independent of it, you will perceive that the payment of it having been acknowledged by the United States, the receiver, whoever he be, ought to render to them an account of its expenditure. Besides, mysteries serve too often no other purpose than to hide dilapidations, of which the people are the victims.

It is, therefore, given me in charge to solicit a communication of the documents which relate to the free gift of one million made by France to the United States on the 10th of June, 1776. I believe they may be found amongst the papers of the Sieur Durival, then principal of the Office of Foreign Affairs; and I address myself to you on this occasion with the more confidence, as I am fully persuaded of the good-will of the French Government towards the United States.

GOUV. MORRIS.

No. 48.

[TRANSLATION.]

The Commissary of Exterior Relations to the Minister Plenipotentiary of the United States.

LIBERTY, EQUALITY, FRATERNITY, OR DEATH.

AT PARIS, 19th Messidor, 2d year of the Republic, one and indivisible.

By your letter of the 3d of this month, you requested a communication of the documents which relate to the employ of a million advanced to the United States on the 10th June, 1776.

I communicated this request to the Committee of Public Safety, which has found it to be due from its justice to give the satisfaction to the United States which had been refused to them by the ministers under the old regime. In consequence of which, I have caused the necessary search to be made, and I enclose, herewith, a copy of a receipt, dated June 10, 1776, which appears to be the one necessary to the United States in adjusting their accounts.

Mystery, as you very well remark, does not suit two people united by all the ties of friendship and a common interest.

BUCHOT.

[TRANSLATION.]

AT PARIS, June 10, 1776.

I have received from Monsieur Du Vergier, agreeably to the orders, transmitted to him, of Monsieur the Count of Vergennes, dated 5th current, the sum of one million, for which I will account to my said Sieur Count de Vergennes.

CARON DE BEAUMARCHAIS.

Good for one million of livres tournois.

BUCHOT.

No. 49.

[TRANSLATION.]

The Minister of Finance to Citizen De la Rue.

PARIS, 24th Fructidor, 8th year of the French Republic, one and indivisible.

I have communicated, citizen, to the treasury and to the national accountant's office, the petition by which you ask, as being heir to Caron de Beaumarchais's estate, that a certificate be delivered to you, in order to prove that the payment of a million, said to have been made the 10th June, 1776, to Beaumarchais, by the *ci-devant* royal treasury for the United States of America, was never effected.

It results, from the information received by the director of the public treasury, that the account of the year 1776 was rendered, by citizen Lavalette, senior ancient guard of the treasury, to the *ci-devant* chamber of accounts, where it was judged; and that the books and journals of that year and of the subsequent years have not been deposited at the treasury, but have remained in the custody of that ancient guard; therefore, the director has it not in his power to undertake the verification by you demanded. He declares, nevertheless, that if the payment of one million has been made the 10th June, 1776, it must have been carried as expenses, with the vouchers, in the accounts of that year.

As to the commissioners of the national account office, they have announced, by their letter of 12th instant, that they have ordered the most exact research to be made in the accounts of the *ci-devant* royal treasury of the year 1776, rendered by citizen Lavalette, ancient guard of the treasury, of the million which is thought to have been paid on the 10th of June for account of the United States of America; but that not a single article relative to that payment has been found in the said accounts and in those subsequent.

Such is, citizen, the result of the researches which have been made on the subject of your petition. These informations must answer instead of the declaration which you wish for.

GAUDIER, *Minister of Finance.*

PARIS, 8th Vendémiaire, 8th year.

The Minister of Exterior Relations certifies as true the signature of the Minister of Finance above mentioned.

CH. MAU. TALLEYRAND.

By the minister:

D. HERMARA.

[L. s.]

PARIS, October 2, 1800.

The undersigned, envoys extraordinary and ministers plenipotentiary of the United States of America, certify that the above signature of Ch. Mau. Talleyrand is that of the Minister of Exterior Relations of the French republic.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

15th CONGRESS.]

No. 399.

[1st SESSION.]

INTEREST ON DEBENTURE BONDS.

COMMUNICATED TO THE SENATE, FEBRUARY 26, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Hill and others, inhabitants of the city of New York, and of the town of Salem, reported:

That the petitioners were holders of certain debentures, issued in their favor about eighteen years ago by the proper officers of the customs at the ports where they reside. The claimants were paid under an act of the last session of Congress. Interest on the amount so paid is now claimed. The debentures were issued on the exportation of merchandise to New Orleans, then under the dominion of Spain. A law of the United States was at that time in force, disallowing the benefit of drawback on goods exported to the dominions of a foreign state immediately adjoining the United States. Some time after the enactment of said law, a Treasury circular was issued requiring the proper officer to withhold the payment of debentures outstanding on exportations to the port aforesaid. Before this circular had been received, considerable sums had already been paid; for the remainder, payment was refused. In the session of 1799-1800, an act passed making it lawful to ship goods to Orleans, with benefit of drawback thereafter. In 1801-'02, the collector of New York petitioned Congress to acquit him on the payments he had made, and for authority to pay the outstanding debentures, which was not granted. In 1803-'04, an act was passed for the relief of Samuel Corp, who held upwards of \$15,000 of these claims. The collector of New York was relieved by Congress in 1814, so far as he had made payments contrary to law. From these facts, it appears that debentures were issued erroneously, and the payment of them, so far as Congress was concerned, was an act of liberality optionally performed. The committee, in confirmation of this opinion, refer to a letter from the Secretary of the Treasury, herewith reported. That payment was so long withheld, appears to have arisen from the negligence of the claimants, as the person most deeply interested was relieved in 1803-'04, which was such an indication of the liberal temper of Congress as could not have been overlooked. The committee believe the relief already extended to the claimants is all that can reasonably be afforded to them, and therefore respectfully submit the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

15th CONGRESS.]

No. 400.

[1st SESSION.]

PRIZE MONEY PAID INTO DISTRICT COURT OF NEW YORK, AND LOST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1818.

Mr. EDWARDS, from the Committee on the Judiciary, to whom was referred the petition of Noah Brown and others, reported:

That the petitioners state that they were the owners of the private armed American brig the Warrior, and, during the late war between the United States and Great Britain, captured a British vessel called the Dundee, and carried the same into the port of New York, and there filed, in the district court for the southern district of New York, a libel against said vessel, the Dundee, and another against fifty packages, bales, &c. of merchandise, the cargo on board said vessel; that a decree of condemnation was had in the premises, and the proceeds of the sale of said vessel and cargo were paid by the marshal into the said court, and a decree rendered directing the same to be paid to the petitioners; that they have applied for the same, and were informed that the court was not possessed of the said funds, but that they had been taken away by some person or other; that they have not received the same, or any part thereof; and therefore pray that the amount of said decree may be paid to them by the United States.

Upon the foregoing facts, your committee are of opinion that the United States, having used due precaution in the appointment and selection of its officers, cannot and ought not to be responsible for their misconduct in office, and are at a loss to see upon what principle of justice the petitioners can claim indemnity for the injury of which they complain. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners is unreasonable, and ought not to be granted.

15th CONGRESS.]

No. 401.

[1st SESSION.]

SHOES AND FORAGE FOR A COMPANY OF MOUNTED VOLUNTEERS IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1818.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the petition of John Cowen, of the State of Tennessee, reported:

The petitioner states that, during the late war, he commanded a company of mounted volunteers in General Coffee's brigade, from the 28th day of September, 1814, until the 28th day of March, 1815; that, whilst in the

service, he necessarily expended for himself and company the sum of \$460 for shoeing horses, the United States having failed to provide means for that purpose; that he obtained an order for the amount from N. B. Rose, brigade quartermaster, on the assistant deputy quartermaster at Nashville, but it was not paid. He therefore asks Government for a repayment of that amount.

The committee think this item of the petitioner's charge against Government should not be allowed. The circumstance of his having obtained an order on the assistant quartermaster at Nashville, so far from being in favor of, is rather an argument against, his claim. The United States allow to each soldier of the militia, in addition to his other compensation, forty cents per day for the *use and risk* of his horse, and it certainly must be supposed to include the expense of shoeing his horse. The only exception to the rule is when the horse is killed in battle. In this case, Government expressly admits, by statutory provision, that forty cents per day is not to cover the loss. It therefore appears to the committee that, if Government had ever intended to pay for the expense of shoeing horses, as a charge distinct from that for their *use*, it would also have been excepted from the general rule of allowance.

An act was passed at the second session of the fourteenth Congress for the relief of William Chism, which may be relied on as a departure from the principle now assumed by the committee. The committee would, however, respectfully suggest that occasional aberrations from general principles may be found in the proceedings not only of this, but all other legislative bodies with which they have any acquaintance. No precedent similar to the one above stated has offered itself to their attention, and they would regard it more as a lesson to induce caution than as an example for imitation.

The petitioner has also raised against the United States one other charge of \$52 75. This sum, he says, was necessarily expended for forage and subsistence for the use of his company while on their march. This part of his claim does not appear to be supported by satisfactory evidence. The committee, therefore, recommend that the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 402.

[1st Session.]

HOUSES AND OTHER PROPERTY IN MARYLAND DESTROYED BY THE ENEMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1818.

Mr. _____, from the Committee of Claims, to whom was referred the report of the Commissioners of Claims in the case of Tobias E. Stansbury, Jun., and William Stansbury, reported:

That, from the evidence adduced in this case, it appears that, some time in the night of the 11th of September, 1814, a company of cavalry commanded by Captain Benjamin Wilson, and a battalion of riflemen commanded by Major Beale Randal, arrived at the farm then in the occupancy of the claimants, and took possession of the dwelling-house, and such of the out-houses as were not filled with grain and hay, and occupied the same till about one o'clock in the afternoon of the succeeding day, when a squadron of the enemy ascended the river, and, on coming up against the house, commenced a discharge of rockets and shot; some of the rockets, it is alleged, fell very near the house; upon which the troops retreated, and several of them, who are witnesses in this case, state that, when they were about half a mile from the farm, they discovered that two stacks of hay upon said farm were on fire.

Frederick O'Brien states that he resided on a farm situate immediately on the Patapsco river, near the city of Baltimore, and adjoining the farm in the occupancy of the claimants; that, on the night of the 13th of September, 1814, a party of the enemy came to his house with lanterns, and proceeded to the farm of the claimants, and burnt their dwelling-house, granary, barn, and a large brick building, called the still-house, but which for many years had been used as a granary or barn; and "that there were many houses and farms in view, and convenient to said property, but that none of the houses, except those of the claimants, were burnt by the enemy."

The claimants allege that their property, of the description and value set forth in the following list, was destroyed, viz:

| | | | | | |
|--|---|---|---|---|--------------------|
| Wheat in the straw, the production of 53½ bushels sowing, averaging ten bushels to one sowing, amounting to 535 bushels, at \$1 50, | - | - | - | - | \$802 50 |
| Oats in the straw, the product of 68½ bushels sowing, averaging fifteen bushels to one sowing, amounting to 1,027½ bushels, at 75 cents, | - | - | - | - | 770 62½ |
| Wheat and oat straw, | - | - | - | - | 175 00 |
| Six tons of timothy hay, at \$20, | - | - | - | - | 120 00 |
| Thirty barrels of corn, at \$4, | - | - | - | - | 120 00 |
| Crop of flax, | - | - | - | - | 20 00 |
| Thirty bushels large potatoes, | - | - | - | - | 30 00 |
| Farming utensils in general, | - | - | - | - | 75 00 |
| One seine and rope, | - | - | - | - | 150 00 |
| Household and kitchen furniture, consisting of mahogany bedsteads, tables, &c. | - | - | - | - | 160 00 |
| Amounting, in the whole, to | - | - | - | - | <u>\$2,423 12½</u> |

If the burning of the property was in consequence of a military occupation by the United States, the claimants are entitled to remuneration to the amount of its value; and that such was at least a pretext for the burning, is pretty evident, if the witness O'Brien is to be believed, who states that no other buildings were burnt, although there were many in the vicinity. The committee are, however, of opinion that the evidence is insufficient to establish any part of the claim; there being none, except the affidavit of one of the claimants, who states "that the foregoing estimate is just and true, according to the best of his knowledge and belief;" and the affidavit of Colonel Josias Green and Thomas I. Jones, who, without saying any thing as to their means of knowledge, "depose and say that they have no personal knowledge of the burning and destruction of the property of Tobias E. Stansbury,

Jun., and William Stansbury, by the British, on the 13th of September in the year 1814, but that they have heard and believe that the same was burnt and destroyed by them, and that the annexed estimate, sworn to by Tobias E. Stansbury, Jun., is a correct estimate of the damage sustained on that occasion."

Admitting the evidence was perfectly satisfactory as to the loss, and the amount of it, the committee are of opinion that a case is not made out in which, by a law of the 9th of April, 1816, or upon any other proper grounds, the claimants would be entitled to relief, unless the Government should proceed upon the principles of remunerating for all losses resulting from the acts of the enemy, whether lawful or otherwise. It is believed by the committee that the Government can in no case be bound to remunerate for losses incident to a state of war, except where property shall have been destroyed by its officers or agents; or where the Government shall have imparted to it a character which, by the usages of civilized warfare, would justify its destruction by an enemy.

This being admitted, it presents a question of some difficulty to determine what acts of the Government will, and what will not, give to the property of its citizens that character. On this point the committee respectfully suggest what appears to them the only safe and correct rule, and one by which they shall be governed in their decisions, unless overruled by the House.

If the buildings of the citizens shall be occupied as places of deposite for military supplies, and the burning of them shall be necessary to effect the destruction of such supplies, or if occupied as places of defence or as barracks, they might, while thus occupied, legally be destroyed, and the owners claim compensation from the Government. It is, however, believed that the circumstance of troops having temporarily and partially occupied the house of a citizen whose family and effects shall not have been removed from it, can no more give to it a military character than the removal of the family of a citizen into "*barracks*" in the occupancy of troops would give to such barracks the character of private property.

The committee are aware that the rule they are disposed to adopt may be thought somewhat a rigid one, so far as it affects their suffering fellow-citizens; and it certainly is more so than they would willingly act upon, were there no considerations to be taken into view other than simply a question between the Government and the sufferers; but the committee are of opinion that, in connexion with this subject, there are considerations of national policy which ought not, and cannot, with safety, be overlooked.

It is the duty of all Governments, particularly that of the United States, to circumscribe within the narrowest possible limits the losses and sufferings to which their citizens shall be exposed during a state of war; and it is with a view to that object that, by the usage of civilized warfare, private property and citizens unarmed, except upon the high seas, are exempt from destruction or capture.

The committee apprehend it will readily be perceived that, to whatever extent the Government shall remunerate for losses by the acts of an enemy, it will, to the same extent, so far sanction their legality as to preclude itself from even uttering a complaint against an enemy who in future wars shall commit the like acts; while the direct tendency of extending remuneration to cases not strictly legal would be to invite an enemy to spread his devastations far and wide, not for the purpose of producing individual calamity, but to effect national bankruptcy; and thus subdue and conquer with the torch a nation who could not be overcome by the bravery or skill of fleets and armies legally employed.

The buildings of the claimants were partially occupied by troops of the United States, from some time in the night of the 11th of September until about one o'clock in the afternoon of the succeeding day, and were destroyed on the night of the 13th. It is therefore believed that, unless the committee are altogether erroneous in the view they have taken of the subject, it cannot be said that the burning was justifiable on the grounds of a military occupation. They therefore recommend the adoption of the following resolution:

Resolved, That such is the character of the loss alleged to have been sustained by the claimants, that, were the proof satisfactory as to the amount, it ought not to be allowed.

[15th CONGRESS.]

No. 403.

[1st SESSION.]

ARREARS OF PAY WITHHELD FROM AN OFFICER OF THE BRITISH ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the memorial of Captain Archibald W. Hamilton, reported:

The petitioner represents that he is a native of the State of New York, and entered the service of His Britannic Majesty as an ensign in the year 1809; that he continued to act in various stations in the West Indies until the regiment to which he belonged received orders to embark; that he did not know, and was unable to ascertain, the destination of the troops; that, as soon as he understood they were destined for the United States, he immediately tendered his resignation, and refused from that moment to perform a tour of duty; that, when the British forces were landing for the purpose of invading New Orleans, he positively refused to accompany them, representing to the commanding officer that he was an American by birth and in sentiment; that he stated his sole object in entering the British service was to acquire a knowledge of his profession, and again tendered his resignation, which was rejected; that, being resolute in his determination not to serve against his country, he was confined, and from that time to the day of his release he suffered hardships and indignities which devotion to country alone could have supported.

The petitioner further represents that, through the solicitation of his remaining friends, his resignation was finally accepted, and that his pay was discontinued from the 24th day of February, 1815; that his pay previous to that time was twelve shillings and eight pence sterling per day; that he had, as his arrears of pay, in the hands of the British Government, the sum of one hundred and thirty-seven pounds five shillings and six pence sterling, which, upon due application, he was unable to obtain, in consequence of the facts above stated; that, as soon as he returned to this country, he made application for an appointment in the army of the United States, but the reduc-

tion consequent on peace has hitherto prevented his obtaining employment. He therefore prays Congress to take his case into consideration, and grant him such relief as, in their judgment, he may merit.

In support of these allegations, the petitioner adverts to some *recommendatory* and some *complimentary* letters, which, whatever may be the credit of the source from whence they come, cannot be received as evidence by the committee.

But, putting the evidence entirely out of view, the committee feel no hesitation in saying that his claim is utterly inadmissible upon principle. That the Congress of the United States should be called upon to compensate for the loss complained of by the petitioner, who was actually in the ranks of the enemy throughout the late war, appears to be a pretension as extravagant as it is unprecedented. It is believed no nation was ever required to pay its enemies for their hostility. Although serving in "various stations in the West Indies," he must be considered as aiding and abetting the enemy; as identified with them; as supplying, whilst on that service, the place of some officer who was pressing and instant in hostile aggression upon his native land; who, but for this substitution, might have been ordered to that service, and thus have relieved his country from one of her enemies.

The petitioner did not pretend to assert his right to quit the enemy's service at the commencement of hostilities. He continued patiently (as it must be presumed) in their service until ordered to New Orleans, or on the voyage thither. The fact of his having thus remained in the enemy's service would, to use a modern phrase, denationalize him; and well might they have supposed from it that he preferred to be a British subject rather than a citizen of the United States. That his resignation was not accepted under such circumstances, can be readily imagined. No Government, although generally permitting officers to return when they please, would accept a resignation in the hour of battle, or at the moment of undertaking a hazardous enterprise.

The petitioner, anxious to maintain the character of an American citizen, should have tendered his resignation the instant hostilities commenced. If it had been accepted, he should have returned home and joined the standard of his country. If not accepted, he should have surrendered himself a prisoner of war. Instead of this, we find him remaining in service, enjoying all the honors and emoluments of a British officer, until the embarkation for New Orleans, or when on the voyage to that place. Then, and not until then, we find the petitioner entertaining scruples; then, and not until then, we find him tendering his resignation, lest he should imbrue his hands in a brother's blood. However much the committee might respect the motive alleged, they must still think the time for the indication of that motive most unfortunately selected.

The first object of the petitioner, when he had returned to the United States, seems, from his memorial, to have been an appointment in the army. In this, the committee are informed, he has already succeeded. The only object, then, for which his petition could have been referred to them was to obtain from the United States that pay to which, as a British officer, he was entitled from the British Government. The committee think it is not *altogether reasonable* that the United States should pay for services rendered unto their enemies. If the state of things in 1809 was so *profoundly pacific* as to justify an American citizen in leaving his country and entering the service of the very nation with whom, of all others, we were most likely to be at war; if the petitioner has been deceived by that Government to which he so *auspiciously* attached himself, the committee have only to recommend that he should, by *expostulation*, not by *prayer*, endeavor to reinduce its sense of justice, and obtain from it a compliance with its contracts. For this purpose they offer the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and documents.

15th CONGRESS.]

No. 404.

[1st SESSION.]

LOSS ON THE CONTRACT FOR BUILDING THE FRIGATE JAVA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1818.

Mr. WILLIAMS, from the Committee on Naval Affairs, to whom was referred the petition of William Flannigain and William Parsons, reported:

The petitioners state that, in the month of April, 1813, they entered into a contract with the agent of the United States for building a forty-four gun frigate at Baltimore; that the price stipulated was sixty-three dollars per ton, carpenter's measure, making the sum of \$94,994 72; that the said frigate, afterwards called the Java, was faithfully built by them in every respect; but as to the time of delivery, there was some delay (produced by the blockade of the Chesapeake) which was unavoidable; that she was safely launched, and delivered to the officers of the United States appointed to receive her.

The petitioners further state that the sum stipulated was, in reference to the then prices of materials and labor, the lowest for which the work could have been undertaken; that, in consequence of a great rise in the price of materials, and the difficulty of transporting many of them, which was obliged to be done by land, by means of the occupation of the Chesapeake by the enemy, they sustained a great loss, so that the sum actually expended by them in the purchase of materials and payment of workmen, independent and exclusive of any compensation for their risk, labor, and personal services, amounted to \$107,246 89, exceeding the amount paid them by Government the sum of \$12,252 17. They therefore pray Congress to take their case into consideration, and make them such additional compensation as, in their judgment, they may merit.

From the statements exhibited to the committee, they are of opinion that the case presented by the petitioners is substantially correct, and that they did sustain a considerable loss; and were this a solitary case, the committee would feel a strong disposition to recommend it to the favorable attention of the House; but when it is considered how many transactions of large amount are performed by individuals under contracts with the Government, that were a practice of opening those contracts to become common for the purpose of readjusting them upon principles other than those which influenced the parties at the time they were made, a system would be introduced by which the Government would be exposed to great trouble, loss, and imposition; and, indeed, so objectionable, in the opinion of the committee, would be such a state of things, that they feel it their duty to oppose the commencement of it in this case, and recommend to the House the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

15th CONGRESS.]

No. 405.

[1st Session.]

LOSS OF CLOTHES BY A COMPANY OF VOLUNTEERS IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Giles Kellogg and the company under his command, reported:

It appears that the President of the United States accepted the services of Captain Kellogg and company, who had volunteered under the act of the 6th February, 1812. On the 28th of December, 1812, the said company was ordered by his excellency Governor Tompkins to march to Ogdensburg. On the 23d of February, 1813, while Captain Kellogg and company were stationed at Ogdensburg under the command of Captain Benjamin Forsyth, the enemy from Prescott surprised, attacked, and carried the position of the American forces. The retreat ordered by Captain Forsyth was necessarily so precipitate that Captain Kellogg and company could save none of their clothing except what was worn. In this action the petitioners say they suffered to a great amount, having provided at their own expense such clothing as was suited to the inclement season in which they were called into service.

The petitioners further state that, having been routed from Ogdensburg, as aforesaid, they provided themselves with clothing, and remained in service on Horse island, in the vicinity of Sackett's Harbor, under the command of Lieutenant Colonel John Mills. On the 29th of May, 1813, that station was attacked by the enemy; that they continued fighting under the command of Colonel Mills till a retreat was ordered to the main land; that here again they were subjected to great loss, not having been able to save any of their clothing. For the losses, in consequence of the retreat from Ogdensburg and Horse island, as aforesaid, the petitioners ask indemnification from Congress.

The committee are of opinion that under the act of the 6th of February, 1812, the petitioners are not entitled to relief. In the first section of that act, it is provided "that the volunteers shall be clothed, and, in case of cavalry, furnished with horses at their own expense, but armed and equipped at the expense of the United States." In the second section, it is provided "that they shall be under the same rules and regulations, and be entitled to the same pay, rations, forage, and emoluments of every kind, (*bounty and clothing* excepted,) as the regular troops of the United States."

By the practice of Government, the petitioners are not entitled to relief. The claim of Commodore Barney's flotilla men furnishes a case in point. Congress then decided that, for the loss of the clothes of troops engaged in the military service, Government could not be accountable, and the claim of Barney's flotilla men, founded upon that principle, was rejected. The committee cannot see any reason now for departing either from the law of 1812, or from the usage of the Government in all similar cases heretofore decided. They recommend that the prayer of the petitioners be rejected.

15th CONGRESS.]

No. 406.

[1st Session.]

INDEMNITY ASKED BY AN OFFICER OF THE ARMY AGAINST CERTAIN JUDICIAL PROCEEDINGS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 4, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Robert Purdy, of the State of Tennessee, reported:

It appears the petitioner was, in the year 1809, a lieutenant colonel in the service of the United States, and was stationed at Hiwassee garrison. In order to enforce temperance and subordination among the troops, it became necessary to prohibit the introduction of spirituous liquors within the limits of his encampment. Early in December, 1809, one William S. Leuty was discovered to be introducing and selling spirituous liquors within the limits of the encampment, for which he was immediately arrested, his spirits destroyed, and himself conducted to the guard-house. After the release of the said Leuty, repeated violations were committed, and great insubordination produced. At length, on the 13th of December, 1809, it became necessary to attack the source from whence those evils arose, and to order the destruction of two log cabins belonging to the said William S. Leuty, from which, it is alleged, spirits were secretly issued into the cantonment.

The petitioner further states that, in consequence of the measures to which he thus found it necessary to resort, he was prosecuted in an action for false imprisonment, on which the amount of the judgment and costs of suit was \$415 96; in an indictment for forcibly entering, pulling down, and destroying the log cabins, on which the amount of fine and costs was \$47 58; in an action of trespass for damages, on which the amount of judgment and costs was \$253 16. In these three causes the attorney's fees amounted to \$100, making an aggregate of \$816 90. He, therefore, asks a reimbursement of this sum from Congress.

The committee think the petitioner is not entitled to the relief for which he prays. It appears to them that no officer should, under any pretext whatsoever, be allowed in a state of peace to invade the rights of the citizen. That the rights of the citizen were invaded in this case, the three several judgments of the court furnish the most ample evidence. The committee have noticed with great disapprobation the imprudent and rash conduct of Colonel Purdy in forcibly entering, pulling down, and destroying the houses of Leuty. This act proves that he was not, himself, a good example of the conduct he wished to enforce. While he was contending for subordination to the military authority, he offended with a high hand against the civil authority. This offence was infinitely more dangerous to the happiness and the liberties of the country in general than any insubordination to the military authority, which he complained of, and which he might have been disposed to resist. Had he combined the prudence of the citizen with the vigilance of the disciplinarian, he might have found other means to check the licentiousness of his camp.

The committee recommend that the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 407.

[1st SESSION.]

VESSEL CAPTURED BY THE ENEMY WHILE CARRYING THE MAIL BETWEEN BALTIMORE AND QUEENSTOWN, MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 4, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Greenbury Griffin, of the State of Maryland, reported:

The petitioner states that he was, in the year 1813, the owner of a sloop called the Jefferson, of Baltimore, of the burden of fifty-one tons or thereabouts, which was employed in the transportation of the mail between Baltimore and Queenstown, on the eastern shore of Maryland; that on or about the 13th of April, 1813, the sloop was despatched with the mail from Queenstown to Baltimore, and on the 16th day of the same month, being on her return voyage, was captured by the boats from the enemy's squadron. The petitioner, therefore, prays Congress to grant him indemnification for the loss of his sloop.

The committee are of opinion that the petitioner is entitled to no relief. If his prayer be granted, every contractor for the transportation of the mail in the United States would, by the same rule, be entitled to remuneration for the breaking down of his stage, or the death of a horse. It is believed the Government never did, nor ever will, assume a principle of such extent. They, therefore, recommend that the petitioner have leave to withdraw his petition and accompanying documents.

15th CONGRESS.]

No. 408.

[1st SESSION.]

EMBEZZLEMENT OF THE FUNDS OF THE DISTRICT COURT OF NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 5, 1818.

Mr. HUGH NELSON made the following report:

The Committee on the Judiciary, to whom was referred the resolution of the House of Representatives to inquire whether the funds of the district court of New York had been faithfully applied, have investigated this subject, and submit the following report:

That they have had recourse to the records of the district courts of New York, and to the accounts of sundry banks usually made the places of deposite for the funds of those courts. It appears that, up to the 19th of November, 1812, the funds of the district court of New York had been generally deposited in the bank of the Manhattan Company; that on this day an order was made by Judge Van Ness that the deposites made in the Manhattan Company should be transferred to the bank styled the City Bank; that, under this order, there was transferred from the Manhattan Company to the City Bank the sum of \$108,683 88, to the credit of Charles Clinton, as clerk of the district court. It appears that Charles Clinton was removed from the office of clerk of the district court of New York on the 18th day of March, 1813, and that Theron Rudd was forthwith appointed his successor by the order of Judge Van Ness. It is well known to the House that the district court of New York was composed of two judges, the honorable Judge Tallmadge and the honorable Judge Van Ness. From the documents before the committee, it appears that these judges did not harmonize very well on the subject of their clerk, and that the removal of one and the appointment of another clerk was performed by each of these judges at two different times in the year 1813, until the State of New York was divided into two districts, the northern and southern, and separate courts and judges allotted to these separate districts—Judge Tallmadge to the northern, and Judge Van Ness to the southern district. On the 11th April, 1814, Theron Rudd was appointed clerk of the southern district of New York, and so continued until after the middle of May, 1817. On the 8th-March, 1813, an order was made by Judge Van Ness, directing that the funds standing on the books of the City Bank to the credit of Charles Clinton, as clerk of the court, should be transferred to the credit of Theron Rudd, as clerk of the said court. It appears that, in obedience to this order, there was transferred, on the books of the City Bank, to the credit of Theron Rudd, the sum of \$78,206 67. It further appears that funds to a very large amount were deposited, from time to time, in the City Bank, during the time that Theron Rudd officiated as clerk, to his credit; the whole of which appears to have been drawn out up to the 3d of May, 1817. It further appears to your committee that, in obedience to the act of Congress in such case made and provided, on the 28th of April, 1817, the court of the southern district of New York made an order that the funds of the court should be transferred and deposited in the Branch Bank of the United States in the city of New York; and, by an account from this bank, it appears that Theron Rudd did deposite in the said bank the sum of \$31,636, and that the balance of these funds in this bank on the 31st December, 1817, amounted to the sum of \$12,724 69. It further appears to your committee that, shortly after this order for depositing the funds of the court of the southern district of New York in the Branch Bank of the United States, Theron Rudd absconded beyond the jurisdiction of the said court, and has recently returned within the same. It further appears that there remains unaccounted for, of the funds of the district courts of New York, by Theron Rudd, the sum of \$64,906 15½ of the public moneys of the United States, and the sum of \$52,400 86 belonging to the individual suitors in the said court, amounting, in the whole, to the sum of \$117,307 01, which appears to have been deposited under the control of the said Theron Rudd, and by him to be wholly unaccounted for.

It further appears to your committee that, on the 3d August, 1814, during the late war, and, as is suggested, when an attack on the city of New York was apprehended, an order was made by the said court of the southern district of New York that all moneys hereafter to be paid into the court by the marshal or other persons who are

bound to pay the same, be paid by them to the clerk of this court, and that the said clerk deposite the same to his credit, as clerk of the court, in some bank or banks north of the Highlands, in the State of New York, until the further order of the court. As there was no bank specifically designated in this order, your committee knew not where to make application to obtain satisfaction as to the execution of the same. But your committee beg leave to state that, by the accounts furnished by the City Bank, there does not appear to be any money deposited after the 2d of August, 1814, to the credit of this court, or its clerk, except in one single instance, when, on the 9th July, 1816, Theron Rudd appears to have made a deposite of \$3,040; so that, from the 3d of August, 1814, to the 15th of May, 1817, your committee have been able to procure no evidence of the disposition of money paid into court during that period, except that single sum of \$3,040 just alluded to, and except so far as the balances appearing upon the records of the court, and by which your committee can alone ascertain what moneys should be in court to answer any order of court made, or to be made, for the payment of money, may include the sums paid in during that period. Your committee cannot but presume that, during this period of two years and nine months, there must have been paid into court much more than the above \$3,040. Where this money may have been deposited, your committee have not been able to ascertain. It appears to your committee that, after Theron Rudd absconded, an attachment was issued from the southern district court, which being afterwards executed on Theron Rudd, then in custody of an officer in a civil suit by an individual, the district attorney of New York, by order of the Secretary of the Treasury, dismissed this attachment, and commenced a civil suit in behalf of the United States against the said Theron Rudd. By all which preceding facts and statements it doth appear to your committee that the funds of the district court have not been faithfully applied, but that they have been most grossly and nefariously purloined.

SIR:

MARSHAL'S OFFICE, STRATFORD, CONN., *February 28, 1818.*

On the 3d of December last I received a letter from Mr. Huntington, district attorney, dated December 2, enclosing a writ of attachment in favor of the United States against Theron Rudd. The morning after I received the writ I proceeded with expedition to Salisbury, and arrived there with a faithful deputy on the 5th of December, when I found that Rudd had, on the Sunday previous, (November 30,) absconded out of this State. Had the writ been forwarded to me a few days sooner, I should most certainly have arrested him. Prudent measures were immediately taken to catch him in case of his return into this district.

In the neighborhood where he had resided, I was informed by respectable gentlemen that Rudd had purchased, a short time since, valuable farms for his father and brothers-in-law, situated in the State of New York, near the borders of Connecticut. My informants did not personally know the fact, but spoke of it as being notorious. It was evident that they believed the farms were bought with the public moneys which Rudd had embezzled. As this information may possibly be of some service in pursuing the inquiry lately instituted by the House of Representatives on the subject of Rudd's default, I have thought it proper to communicate it to you.

I am, with great respect, sir, your most obedient servant,

ROBERT FAIRCHILD.

Hon. W. H. CRAWFORD, *Secretary of the Treasury.*

15th CONGRESS.]

No. 409.

[1st SESSION.]

COMPENSATION FOR APPREHENDING AN OFFENDER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 5, 1818.

Mr. HUGH NELSON made the following report:

The Committee on the Judiciary, to whom was referred the memorial of James Ferguson, praying compensation for his property destroyed on the high seas by a certain Frederick Jacobson and others, engaged in the most villanous project for the destruction of Jacobson's own vessel and the cargo on board, of which Ferguson was in part owner, to defraud the insurers, from whom they obtained a high insurance on that vessel and a reputed valuable cargo, when *they* had almost no cargo on board; and, also, some remuneration for the hardships, hazards, and perils which he encountered, even to the risk of his life, in pursuing and bringing to justice the said Jacobson, and the expenses which he incurred in this long and arduous pursuit, have considered this case; and although they highly applaud the intrepid and indefatigable exertions of the petitioner in bringing to public justice so nefarious an offender, and think that he deserves well of his country and of all society, yet, as they find no principle in any of the proceedings of this Government which could justify reward for private enterprise in the warding off injury from private property, or for rendering assistance in bringing felons to their merited punishment, find themselves constrained to recommend to the House the following resolution:

Resolved, That the prayer of the petitioner cannot be granted.

15th CONGRESS.]

No. 410.

[1st SESSION.

MONEY LOST BY A MARINE OFFICER.

COMMUNICATED TO THE SENATE, MARCH 9, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the memorial of John Hall, praying that Congress may pass a law authorizing the allowance of one hundred and fifty doubloons, in the settlement of his accounts at the Navy Department, which he states to have been robbed from him, reported:

That in the year 1815, as appears by the memorial of your petitioner, he was a major of the marine corps of the United States, on board the American squadron then stationed in the Mediterranean, and was ordered to repair to Marseilles to purchase clothing for the marines under his command. In compliance with this order, he sailed to Marseilles in the United States schooner Hornet, and after he arrived there he carried his money, with which he was to purchase his clothing, on shore, and deposited it in the trunk of Mr. James H. Clarke, a purser in the United States service, who lodged at a public hotel. The petitioner occupied the same room with Mr. Clarke. On the night of the 3d December, he was robbed of one hundred and fifty doubloons by some person who was not known, but supposed to be the servant of Mr. Clarke, a Neapolitan. To prove these facts, the memorialist refers to certificates of Major Samuel Archer, of the United States army; John Martin Baker, Esq., United States consul at the Balearic islands; the United States consul at Marseilles, and the police officers of that city; all which accompany this report.

The committee are of opinion that, even if all the facts were positively proved by the evidence submitted, (which they conceive are not,) it would be improper to grant relief in cases similar to this. The utmost prudence and precaution ought to have been used on the part of the memorialist, which does appear to be the fact. The money might have been deposited in the hands of the landlord, who would have been responsible for its redelivery.

Your committee, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

15th CONGRESS.]

No. 411.

[1st SESSION.

PROPERTY DESTROYED BY THE ENEMY IN VIRGINIA IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 10, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Mottrom Ball, reported:

That the petitioner claims payment for a dwelling-house and kitchen, with sundry property therein contained, near the mouth of Coan river, Northumberland county, Virginia, destroyed by the enemy on the 7th of August, 1814, in consequence (as he alleges) of the said houses being occupied as barracks at that time by troops in the service of the United States, the value of which he estimates at \$1,400. It appears by the evidence in this case that troops were stationed on claimant's farm in the year 1813, and some huts erected and works of defence thrown up near to claimant's dwelling-house; that this encampment was continued, and troops stationed there in August, 1814, at the time of its destruction by fire; that one company of said troops, which had arrived there about ten days previous to the latter date, without tents, did, by order of the commandant of the regiment, (who is since dead,) take possession of claimant's house and kitchen, (the claimant having recently removed therefrom,) and used the same as barracks until the morning of the 7th of August aforesaid, when the enemy appeared in considerable force off Coan; several of their tenders entered the river, and commenced a fire with artillery on the American troops, who, finding that resistance was unavailing, (the enemy being able to cover the landing of their troops under a fire from heavy artillery on board their vessels,) retreated; when the enemy landed, they burnt the said dwelling-house and kitchen and huts erected by the troops, and levelled the works of defence, &c.

Your committee are of opinion that, from the permanent encampment of troops on the farm and near the dwelling-house, the erection of huts and works of defence thrown up, the dwelling-house and kitchen occupied by soldiers only did impart to said houses such a military character as gave the enemy a plausible pretext for their destruction as public property, and gives the petitioner a just claim on the Government for remuneration. For this purpose they report a bill.

15th CONGRESS.]

No. 412.

[1st SESSION.]

EXTENSION OF THE PROVISIONS OF THE ACT TO PAY FOR PROPERTY CAPTURED
OR DESTROYED BY THE BRITISH FORCES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 11, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the resolution of the House of Representatives of the 2d of January, instructing them to inquire into the expediency of providing by law for extending the provisions of an act entitled "An act providing for the payment of claims for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," passed 9th of April, 1816, reported:

That, in order to determine the propriety of continuing the above-recited act, or of extending its provisions, they have deemed it necessary to notice some of the practices which have grown up under the law. They would invite the attention of the House to a report of the Secretary of War, made on the 20th of February, in compliance with a resolution directing him to lay before the House an account of the sums awarded to the different claimants by the commissioner, under the act of the 9th of April, 1816; the species of property for which they were respectively awarded; distinguishing what sums have been paid, and the causes which delay or prevent the payment of the residue. Besides the documents from the Commissioner of Claims, the report embraces a statement from the late Acting Secretary of War, (marked C,) with documents marked 1 and 2, and a statement from the Third Auditor. These papers develop the fact that, on the frontiers of the State of New York, a system of fraud, forgery, and perhaps perjury, has been in operation, which the committee believe has never been witnessed in this country, and which they would hope has been rarely equalled in any other.

With these facts before them, the committee think it may well be questioned whether, in a national point of view, it would not have been better that the law of April, 1816, had never been passed. It is the duty of a good Government to attend to the morals of the people as an affair of primary concern. When a law, originating in its benignity, and aimed gratuitously for the benefit of any suffering portion of the community, presents facilities or holds out temptations to fraud, forgery, and perhaps perjury; when not only real sufferers, but others who have no claim to relief, combine for the purpose of successfully accomplishing their urgent pretensions, the law itself becomes a matter of very doubtful propriety.

In the report of the Secretary of War of the 20th February, in obedience to a resolution of the House calling for any information tending to show the propriety of continuing the office of claims for one year longer, it is stated by the commissioner that the average number of adjudications in each quarter since the institution of that office is three hundred and one; that it is impossible to form a correct estimate of the number of claims which will be unacted on at the time the law expires; but if the number should not exceed four hundred, of which there are now more than one hundred, and his health continue, he may act upon them by the 1st day of July.

It is further stated by the commissioner that, besides the cases specially submitted to the jurisdiction of his office, there are on its files nearly two hundred cases arising under the ninth section of the law of the 9th of April, 1816; that there are commissions not returned in (as is believed) upwards of sixty cases, some arising under the ninth section, and others under the third and fifth sections; some of which commissions, owing to the remoteness of the parts to which they have been sent, are not returnable till the 1st of June next.

The committee think the cases which will not be acted on when the law expires had better be transferred to the War Department for adjudication. At present, all claims of \$200 and upwards, decided by the commissioner, must be revised by the Secretary before they can be paid; and all claims arising under the ninth section must be reported to Congress. The same errors of judgment which should be guarded against in a claim of large amount ought equally to be avoided in small claims, especially if often repeated, which must be the case as the law now stands. Correctness, certainty, and despatch are the benefits likely to result from the proposed transfer.

The committee cannot but express their deep regret that any portion of the people of this country should so far forget the obligations of morality and social order as to engage in practices such as have been developed. Still more do they regret that a law originating in the benign and charitable dispositions of Government should be prostituted to purposes of such iniquity. If any people ever had reason to be virtuous and happy, it must be the people of the United States. The opportunities of life are so numerous and easy, the rewards of honest exertion so perfectly secured to every individual, that any departure from correct principles must be the result of a deep-rooted and causeless depravity. Against such offences, the denunciations of reason will be of no avail. They are to be restrained only by the penalties of the law, which should, in cases of the kind, always be promptly and rigidly executed.

Viewing the practices which have arisen under the law, the committee feel no hesitation in saying that the act of the 9th of April, 1816, and the act in amendment thereof, passed 3d of March, 1817, should be permitted to expire after the 9th of April next ensuing. The committee offer to the House the following resolutions:

1. *Resolved*, That it is inexpedient to continue longer than the 9th of April, 1818, the act entitled "An act to authorize the payment for property lost, captured, or destroyed while in the military service of the United States, and for other purposes," passed the 9th of April, 1816, and the act in amendment thereof, passed 3d of March, 1817.

2. *Resolved*, That all claims which shall not have been acted on in the office of the commissioner on the 9th of April next be transferred for adjudication to the office of the Third Auditor of the Treasury Department; and the said Auditor, in making up his decisions, shall be governed in all respects by the same rules, regulations, and restrictions as have been prescribed to the Commissioner of Claims.

3. *Resolved*, That the Committee of Claims be directed to report a bill, pursuant to the foregoing resolution.

4. *Resolved*, That the Attorney General be directed to cause to be instituted in the courts of the United States for the State of New York any suit or suits which may be necessary to recover from individuals the money they have fraudulently obtained from the Government of the United States under the act of the 9th of April, 1816, and the act amendatory thereto, passed 3d of March, 1817.

5. *Resolved*, That the Attorney General be directed to cause to be instituted in the courts of the United States for the State of New York such prosecutions as may lead to the conviction and punishment of those persons who may have been guilty of the crimes of *perjury* and *subornation of perjury* in support of fraudulent claims against the Government of the United States, under the aforesaid acts of the 9th of April, 1816, and 3d of March, 1817.

[15th CONGRESS.]

No. 413.

[1st SESSION.]

SURVIVING OFFICERS OF THE REVOLUTION.

COMMUNICATED TO THE SENATE, MARCH 12, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom had been referred the memorial of a committee on behalf of the surviving officers of the revolutionary army, soliciting an equitable settlement of the half-pay for life as promised by the resolves of Congress, reported:

That the committee have, with the most earnest attention, considered the subject of the memorial, desirous alike of doing justice to the honorable men submitting the claim, and to that community whom they feel the strongest obligations to serve with fidelity.

The various resolves of Congress out of which the present claim arises were resorted to in a moment of extreme peril, the end of which could not be foreseen; and the peculiar circumstances of the time left little in the power of the public authorities but promises of reward to those who should continue in the service to the end of the war. These promises, however, being made, were binding on the public, and vested rights in the officers to the promised benefit who fulfilled the required service. The features of this compact could be changed only by consent of both parties. That it has so been changed, the memorialists admit, but under circumstances, on their part, they allege, hardly optional. The United States may accede to the proposal now made, but it is not enough there be power to do this; there ought also to be perfect fitness. That the officers of the army have suffered from the depreciated state of the public paper, there is no doubt. Many may have sold their certificates for small value; but this evil was not due to the arrangement of commutation, but to the condition of public affairs. There appears nothing in the resolves of the old Congress to prevent the transfer of certificates of half-pay for life; the same necessity of sale would have existed in the one case as in the other, and the same sufferings would have arisen, working, however, more injustice to the public by the increased amount. The proposal of the 22d of March, 1783, offering to commute the half-pay for life into five years' whole pay, was offered to the free acceptance of the officers of the army. The chances of human life were to be taken into the balance in trying the question. It was offering a benefit which, taking the ordinary chances, was fairly equivalent. What was the actual result, it is not necessary now to inquire. Individuals had the chances to survive a long period; and to give to the survivors at this time what they ask, would appear to the committee to be injustice to those who are deceased. Indeed, this consideration offers a strong evidence of the propriety of the commutation, as the benefits of that arrangement were more equal. Those who survived the war but a few years would not only have received but a small benefit, but their loss to their families was a misfortune which those of the survivors have not suffered. In this view, the latter are in a preferable condition, and have the least to complain of. The committee forbear to enlarge upon these points further than to remark that it seems evident there were good reasons for making the propositions of 1783, and good reasons for accepting them. They were offered to lines and corps, not to individuals; and, in their acceptance, it is fairly presumable that some consideration was had to public feeling and opinion as well as to mere benefit, and that a majority of the illustrious men who formed the officers of the army of the Revolution, in accepting the commutation, acted with that regard to their country which had induced them to enter into its service, in which they so nobly encountered sufferings that proved their virtue permanent. Some, it is probable, from the beginning, assented with reluctance, and those who have survived a long series of years feel how much, individually, they have surrendered. This feeling the committee do not condemn; but, with sentiments of the utmost deference for the petitioners, they must suppose it has had much weight with them in offering their claim with so much confidence. The memorialists allege their case is distinct from all other creditors, as no change of compensation was made to any other class. This seems liable to be controverted. The whole public debt of the Revolution has been arranged upon principles different from the original contract—by consent of the creditors, it is true; but the funding law was but a modification of the commutation, such as the creditors agreed to, and, like the commutation, was most advantageous, or at least convenient, in their opinion.

The memorialists refer to a report made to the House of Representatives in 1810, which centres in the conclusion that the claim is reasonable, and ought to be granted. The committee, in traversing the same question, feel bound to come to a different result—the more so, as a bill has lately passed both Houses of Congress, granting benefits to officers of the revolutionary army who may be in indigent circumstances; but even this benefit is only made prospective. Therefore,

Resolved, That the petitioners have leave to withdraw their petition.

[15th CONGRESS.]

No. 414.

[1st SESSION.]

INDEMNITY TO A JUDGE ADVOCATE.

COMMUNICATED TO THE SENATE, MARCH 12, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Asahel Clark, reported:

That the petitioner acted as judge advocate of a court-martial detailed in the State of New York, in the year 1812, for the trial of militia deserters, under orders of General Dearborn. The petitioner received three hundred dollars from two delinquents who had been fined one hundred and fifty dollars each, by the advice of the court and General Dearborn. This receipt was had in preference to imprisoning the men, as the decree of the court could not be made public while the court was sitting. When the proceedings of the court were approved, the petitioner paid over the money aforesaid to the paymaster general of the State of New York, by direction of the governor of that State. Suits have since been brought against him for the recovery of said money back, in which judgments have been obtained for the amount received by the petitioner, with interest, through the misconduct of the presiding offi-

cer in withholding the records of the court, and who has since left the country. Thus the petitioner alleges he has been prevented from making a successful defence, though he has used due diligence; having delayed the trial a long time, in the hope of producing the records and sentence of the court.

From this statement of facts, it appears the petitioner is an innocent sufferer, having become involved in this concern without fault or intention. He has had his claim before the Secretary of War, but has been advised the equitable authority of this officer does not extend to the allowance of a settlement of it.

The committee believe the petitioner's case merits relief, and therefore report a bill.

15th CONGRESS.]

No. 415.

[1st Session.]

RATIONS AND HOSPITAL STORES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 13, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of James Hicks, of the State of Vermont, reported:

It appears the petitioner, in the year 1813, furnished to the troops at Bennington rations and hospital stores to the amount of \$1,003 68; of this sum it is alleged that a balance of \$363 68 is yet due. The petitioner, therefore, prays Congress to allow him the balance, with interest.

It further appears to the committee that the petitioner, on the 25th of June, 1813, signed duplicate receipts to Elias Fasset, colonel of the 30th regiment of infantry, in full for four thousand nine hundred and fifty-six rations furnished the troops at Bennington as aforesaid, but took at the same time Colonel Fasset's due bill for \$363 68.

The committee think the petitioner is not entitled to the relief he asks. By his own act he has released the United States from any liability to pay this claim. Colonel Fasset has charged the United States with \$1,003 68 paid James Hicks. Colonel Fasset is himself indebted to Government upwards of \$3,000, and it does not appear reasonable that the United States should, by any act of the petitioner, be made liable to pay the money twice, viz: first to Colonel Fasset, and then to the petitioner. The committee recommend that the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 416.

[1st Session.]

SAW-MILL AND OTHER PROPERTY DESTROYED NEAR NEW ORLEANS IN 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 13, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Thaddeus Mayhew, reported:

That the petitioner claims payment from the United States for property used, lost, and destroyed by the army of the United States, and burnt and destroyed by the British army in consequence of the same being used as barracks and for military depositories by the United States troops; the sum total of his losses he states at \$15,898 50.

If your committee believed the Government bound to remunerate this individual for all the property destroyed, as aforesaid, they would protest against the extravagant prices to which every article in the schedule of his losses is extended; but believing as they do, that, under the principles on which the Government has heretofore acted, a small part only will be paid, they abstain from making any observation in that respect.

The claimant's property is represented to lie on the right bank of the Mississippi, about six miles below New Orleans, and one mile below the encampment of General Morgan's troops; \$14,600 of the sum first mentioned is stated to be for a saw-mill and bridge over the mill-race, and plank and scantling stated to have been burnt and destroyed by the British troops on the 8th of January, 1815, when on their retreat, in consequence of said saw-mill having been used as barracks for troops in the service of the United States, and as a place of military deposite. In support of this claim, General Morgan testifies that, on the morning of the 8th of January, 1815, and for some time previous thereto, the saw-mill, dwelling-house, and out-buildings belonging to the claimant were occupied by a detachment from his command and by his orders as a military post, as a deposite for military stores, and as barracks for the military forces; that the same were in the neighborhood of several batteries under command of Commodore Patterson; and concludes by giving it as his decided opinion that the enemy set fire to and burnt the saw-mill, plank, scantling, &c., in consequence of its being thus occupied and used according to his order. Other witnesses testify to the same fact, and state their belief in the correctness of General Morgan's opinions as to the cause of the burning by the enemy.

Your committee are of opinion General Morgan is entirely mistaken in *his opinion* as to the cause of this burning by the enemy. If the temporary occupation of this saw-mill as barracks and for a military deposite had been the cause of its being burnt by the enemy, surely they would have burnt the dwelling-house and other out-buildings which were also stated by him to be occupied and used under the same order and for the same purposes.

Your committee believe the British troops, in the destruction of this saw-mill, were governed by the same barbarous motives that influenced them to burn a saw-mill one mile higher up the Mississippi, on the farm of Jourdan and others, where General Morgan had his main encampment, for which no plea of military occupation is set up. The committee think this part of the petitioner's claim ought to be rejected, unless the Government should determine to pay for every act of wanton destruction of private property by the enemy.

The balance of the petitioner's claim, amounting to \$1,298 50, consisting of beds and bedding, crockery ware, chairs, tables, writing-desk, trunks of clothing, kitchen furniture, &c., ending with planks and slabs, and damage done to his dwelling-house, stated all to have been taken for the use of United States troops, and lost or destroyed by *them*, it does seem strange to your committee that General Morgan should have permitted many of the foregoing articles to have been taken and destroyed by the army under his command, as he seems, from his testimony, to have been acquainted with the fact. There is other testimony that the articles were had by the troops, and used or lost and destroyed.

The committee are of opinion that the latter part of this claim ought to be allowed, and therefore report a bill.

15th CONGRESS.]

No. 417.

[1st SESSION.]

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 13, 1818.

Mr. FORNEY, from the Committee on Military Affairs, to whom was referred the petition of Sarah Smith, reported:

That the petitioner sets forth that she is the widow of Francis N. Smith, deceased, late a sergeant in Captain Fink's company, thirteenth regiment United States infantry, who was taken prisoner at Queenstown, in Upper Canada, and died at Quebec while detained as a prisoner to the British. She prays to be placed upon the same footing with widows and heirs of soldiers who died in the service of the United States. It does appear to the committee that the circumstance of Francis N. Smith having died while detained as a prisoner does not take away from the widow any right which she would otherwise have possessed if her said husband had died whilst in the performance of his duty. Your committee are therefore of opinion that there exists no necessity for any legislative interference in her behalf.

15th CONGRESS.]

No. 418.

[1st SESSION.]

DEPREDACTIONS BY THE CHEROKEES IN 1782.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 14, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the memorial of Samuel Douthet, reported:

The memorialist states that he is the husband of Polly Ann Motlow, whose father, Malachia Motlow, was killed in the year one thousand seven hundred and eighty-two, in the defence of the United States, by the Cherokee Indians and Tories, allies of Great Britain; and that, at the time of his death, he was possessed of one likely negro man, named Cyrus, worth five hundred dollars; also, of five likely horse beasts, worth one hundred dollars each, together with household furniture worth fifty dollars; all which came in possession of the Cherokee Indians, and was by them withheld from the wife of the memorialist: that, at the time of the Hopewell treaty with the Cherokee nation, the said wife of the memorialist was under the age of legal discretion; by which treaty, as the memorialist states, all felonies, robberies, thefts, and outrages, committed by the Cherokees, were by the United States to be forgotten, and that this act of oblivion and amnesty has operated as an estoppel or foreclosure to a recovery against the offending nation; and the memorialist now prays for compensation for the property lost, with a reasonable allowance for its detention.

The committee further report that it does not appear that Malachia Motlow was in the service of the United States at the time of his death, or at any previous time; that it does not appear that this claim ever did exist against the United States—if it did, it is not supported by sufficient testimony; that the treaty of Hopewell, made with the Cherokee nation of Indians on the twenty-eighth day of November, in the year of our Lord one thousand seven hundred and eighty-five, did not operate as an estoppel or foreclosure to a recovery against the offending nation, but, on the contrary, the first article of that treaty does provide that "the headmen and warriors of all the Cherokees shall restore all the prisoners, citizens of the United States, or subjects of their allies, to their entire liberty; they shall also restore all the negroes and all other property taken during the late war from the citizens, to such person, and at such time and place, as the commissioners shall appoint." With this view of the case, the committee are of opinion that the memorialist is not entitled to any relief or compensation from the United States; and therefore submit the following resolution:

Resolved, That the prayer of the memorialist ought not to be granted; and that he have leave to withdraw the papers accompanying his memorial.

15th CONGRESS.]

No. 419.

[1st Session.]

CONTRACT FOR ARMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 14, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Adam Kinsley and Thomas French, of the town of Canton and State of Massachusetts, reported:

That the petitioners represent that they entered into a contract with Tench Cox, purveyor of public supplies, in the year 1808, to manufacture for the United States four thousand stands of arms, to be delivered at Boston, in the State aforesaid, at different periods mentioned in their agreement; for which they were to receive from the United States \$10 75 for each stand so delivered; that they were to make and finish each stand of said arms in a style of workmanship equal to a pattern gun selected by said Cox, and delivered to them to work by; that, nevertheless, the inspector for the United States of said arms utterly refused to receive from them arms made according to said pattern gun, declaring it unfit to be the guide of his decision, requiring of them a style of execution far more expensive than that contracted for; that, under this embarrassment, and with a considerable sacrifice of component parts of the guns, rendered useless by the change required by the inspector, they proceeded to fulfil their contract with arms *such* as would be received by the inspector, under an expectation that the Government would remunerate them for their sacrifice and extra expense. They state that other contractors, who engaged about the same time to manufacture arms for the United States, *and at the same price*, and to whom large sums of money were advanced, *refused* to comply with their contracts, in consequence of the inspector requiring of them arms of superior quality and workmanship, *have* been permitted to retain in their hands the money so advanced, and are now indulged in delivering arms in discharge of the same at \$14 the stand, of a quality *not* superior to those delivered by the petitioners, &c.

It is satisfactorily proven to the committee that the inspector, on behalf of the United States, did require and receive of the petitioners arms of superior quality to those they were bound by contract to deliver; and *they* are of opinion the petitioners ought to be placed on an *equality* (as relates to *remuneration*) with others who engaged to manufacture arms for the United States on or about the same time; and for that purpose report a bill.

15th CONGRESS.]

No. 420.

[1st Session.]

ROPEWALK, &c. BURNT BY THE ENEMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 16, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Daniel Renner and Nathaniel H. Heath, reported:

That the petitioners ask payment from the United States for the destruction of their ropewalk, with sundry property therein contained, in the city of Washington, to the amount of \$30,451; which ropewalk, with its contents, appears to have been wantonly destroyed by the British troops, during their invasion of said city, in the month of August, 1814. The petitioners allege as a reason why the Government ought to pay the value of their property thus destroyed, that they had made seasonable provision to save the moveable part of their establishment from falling into the hands of the enemy, by hiring and engaging a number of boats to convey the same up the Potomac to a place of safety, some time before the arrival of the British troops in the said city; that, when they called for said boats thus engaged, on the 20th of August, 1814, to their astonishment they were informed said boats were impressed and taken by an officer, by order of General Winder, for the use of Government. A second attempt was then made to save their property by procuring wagons to transport the same to a place of safety, which wagons were likewise taken from them by impressment for the use of Government; and, lastly, by the engagement of carts sufficient to have removed and saved their property, which carts were, in like manner, taken by impressment for the removal of public property.

Your committee are of opinion that the allegations of the petitioners are fully supported by testimony that the intervention of officers of Government, in wresting from the claimants every description of means provided by them for removal of their property, was the cause of the moveable part thereof being destroyed by the enemy. The conduct of the petitioners, at the period aforesaid, sufficiently shows what was the opinion generally entertained by our citizens at that day as to the destruction of private property of this description by the enemy. In this case, no claim is set up of military deposite, or military occupation, as is the pretext for payment in many other cases, where property of like description was destroyed by the enemy. The claimants seem to have been well aware what would be the fate of their property in case the enemy did invade the city, and made great exertions to save it; and it would not be presuming too much to say they would have effected that object but for the intervention of the officers of Government in taking from them the means of doing so.

It is believed that the exertions of the petitioners in procuring the means to remove their private property brought within the reach of the officers of the Departments the means whereby records, documents, and papers of the nation were saved, of great value, and not to be neglected for any individual interest; and that the petitioners have a reasonable and just claim on the Government for the removeable part of their establishment, consisting of rope, spun yarns, and hemp; deducting therefrom what reasonably would have been the cost of transporting the same to a place of safety, and back to the ropewalk, after the danger ceased, and damage done to the materials by such removal, with, perhaps, some deduction from the prices at which the articles are charged.

Included in the sum stated of their loss is \$5,650, estimated as the value of the ropewalk, which your committee think ought to be rejected, as the same would have been burnt by the enemy if the materials of cordage and hemp had been removed therefrom. The balance of the claim, (\$24,767,) as stated by the claimants, is for—

| | | | |
|---|---|---|-------------|
| 81,000 lbs. best navy yarns, tarred and ready for use, at 17 cents per lb. | - | - | \$18,770 00 |
| 27,000 lbs. common tarred yarns, at 15 cents per lb. | - | - | 4,050 00 |
| 25,000 lbs. best bolt-rope yarns, at 17 cents per lb. | - | - | 4,250 00 |
| 9,000 lbs. common spun yarns, at 13 cents per lb. | - | - | 1,170 00 |
| 7,000 lbs. best South Branch hemp, at 12 cents per lb. | - | - | 840 00 |
| Cordage ready made, | - | - | 610 00 |
| 14 bbls. tar, at \$5 50 per bbl. | - | - | 77 00 |
| | | | 24,767 00 |
| Deduct therefrom, as above suggested, what would have been the cost of removal, damage done the materials thereby, and overcharge in price 20 per cent. | - | - | 4,953 40 |
| | | | \$19,813 60 |

Should it be satisfactorily proved that the above quantity of cordage and hemp was destroyed, the committee are of opinion that the latter sum will be no more than a reasonable compensation; but they have not been able to satisfy themselves as to the quantity. They therefore recommend the passage of an act authorizing the Secretary of the Navy to pay for whatever quantity may be satisfactorily shown to have been destroyed, not exceeding in amount the above sum of \$19,813 60; and for that purpose report a bill.

15th CONGRESS.]

No. 421.

[1st SESSION.]

BREACH OF CONTRACT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 16, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Ebenzer Stevens and Lucretia Stevens, late Lucretia Sands, Austin L. Sands, Joshua Sands, and Robert Morris, and Joshua Mowall, Jun., assignees of Comfort Sands, reported:

That your committee have examined the statement of facts set forth in their petition, and find that they are supported by the documents accompanying the same. Your committee beg leave to refer this House, for their consideration, to the documents hereunto annexed, viz: A report of the late Auditor of the Treasury, (No. 1,) dated 15th March, 1790; a report of the late Secretary of the Treasury, [See No. 17, page 26,] dated 24th February, 1791; a report of the late Comptroller of the Treasury, [See No. 131, page 263,] dated 19th March, 1802; a letter of the Secretary of the Treasury, (No. 4;) and also to the award mentioned in the above documents, [See No. 523.] These documents contain a detailed statement of all the material facts for and against the justice of the claim of your petitioners.

Upon due consideration of these facts, and the reasons assigned for the opinion expressed in some of these documents, your committee are of opinion that the petitioners are entitled to relief, and that their proportion of said award ought to be paid to them by the United States, and for that purpose your committee beg leave to report a bill.

No. 1.

TREASURY DEPARTMENT, AUDITOR'S OFFICE, *March* 15, 1790.

I have examined the claims of Tench Francis, Comfort Sands, and others, late contractors for the moving army, under the firm of Sands, Livingston, & Co., and of Comfort Sands, Richardson Sands, and Joshua Sands, late contractors for the post of West Point and its dependencies, under the firm of Comfort Sands & Co., for damages sustained by them from the late Superintendent of Finance having failed to make good the stipulated payments, or from his having withdrawn the contracts; and find that said claims are founded on an award signed by Isaac Roosevelt, William Malcolm, Elbridge Gerry, and Henry Remsen, Esqs., and dated at New York on the 25th day of October, 1787; who, together with John Daniel Mercer, Esq., were authorized by and in consequence of the several resolutions of Congress of the 27th day of May, the 27th day of June, and the 4th day of November, in the year 1785, to inquire into and determine the damages before mentioned, and to report their opinion to Congress.

I have examined Isaac Roosevelt, William Malcolm, and Henry Remsen, Esqs., three of the referees who signed said award, and sundry documents on which they formed their opinion, and find that James Milligan, Esq., late Comptroller of the Treasury, was notified and duly heard on the part of the United States; that said award was regularly made in conformity to the powers with which the referees were vested, and that their determination was seasonably reported to Congress.

I do therefore report that said award of referees is binding on the United States, and, in consequence thereof, that the said United States are indebted to the late firm of Sands, Livingston, & Co., the sum of thirty-three thousand six hundred and seventy-five dollars and five ninetieths; and, also, to the late firm of Comfort Sands & Co. the further sum of six thousand six hundred and twenty-one dollars and eighty-nine ninetieths.

The award of the referees before mentioned, and the documents submitted to my inspection, are herewith transcribed for the decision of the Comptroller of the Treasury thereon.

OLIVER WOLCOTT, JUN., *Auditor.*To NICHOLAS EVELEIGH, Esq., *Comptroller of the Treasury of the U. S.*

No. 4.

TREASURY DEPARTMENT, *March 29, 1802.*

SIR:

I have the honor to enclose a communication from the Comptroller, together with sundry documents relating to the claim of Comfort Sands and others.

By an act of the 2d March, 1799, the accounting officers of the Treasury were authorized and empowered to examine and decide upon the validity of a certain award or report made on the 25th day of October, 1787, by Isaac Roosevelt and others, referees nominated for the purpose between the United States and Comfort Sands and others, late contractors for the American army. The Comptroller, in the enclosed communication, states the result of that examination, and the decision thereon.

In his judgment, the report of the referees is not an award in a legal sense, and therefore not binding and obligatory against the United States; and he further states it as his opinion that if the award should be admitted as such, yet its amount could not, under the proviso annexed to the law, be paid to the parties, unless they shall disprove the evidence which seems to establish the existence of a copartnership in the contract between them and Daniel Parker and William Duer, who are indebted to the United States in a sum as large as the amount of the award. Of the correctness of that decision, on both points, the documents will, it is believed, afford sufficient proof.

That decision being final and conclusive under the law, the claimants cannot receive any relief under its provisions, and no other mode of redress, if they are entitled to any, being left to them, except through Congress, the Comptroller's communication and the accompanying documents are for that purpose transmitted.

The length of time (near twenty years) which has elapsed since this claim was first preferred renders it extremely desirable that it should receive from Congress an ultimate decision; and if it shall be thought either that the Comptroller's opinion is erroneous, or that, setting aside the award, the claimants are, on the original ground of their contract, entitled to damages, or that the proviso annexed to the law is not, in its strict sense, grounded on justice, it is respectfully submitted whether, all the facts being now in the possession of Congress, the most eligible mode to afford relief will not be, as suggested by the Comptroller, a simple grant of money, with directions to pay it.

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

ALBERT GALLATIN.

The Hon. the SPEAKER of the *House of Representatives.*

15th CONGRESS.]

No. 422.

[1st SESSION.]

VESSEL CAPTURED BY THE ENEMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 18, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Samuel H. Garrow, of the town of Mobile, in the Alabama Territory, reported:

That it appears, by the papers submitted to the committee, that, near the close of the late war, a sloop called the *General Jackson*, belonging to Garrow & Wilson, was in the service of the United States, for the purpose of transporting troops to Mobile Point for the defence of Fort Bowyer, and that, after landing the men, she was captured by the enemy. Garrow, in the month of January, 1817, presented his claim for the value of said vessel to the Commissioner of Claims, who made a report in favor of allowing for said vessel \$3,500, deducting therefrom any sums which might have been paid to Garrow. The Secretary of War, in revising the report, obtained from the Third Auditor a certificate stating that John A. Watson, (since dead,) who acted as assistant deputy quartermaster general, and who is said to have impressed said sloop, had made a return to that office of outstanding claims against Government in that quarter, in which it was stated that \$800 were due Garrow & Wilson for the *hire* of the *General Jackson*. Opposite the return, it was remarked by said Watson that he had understood the owners had to pay \$600 for the ransom of said vessel. The Secretary of War authorized an award for \$600. From this decision the claimant appeals to Congress, averring that it is erroneous, and contrary to the third and fifth sections of the act of 1816.

The committee are of opinion that the petitioner is not entitled to receive from Government more than \$800, the *hire* of the vessel. They cannot understand the return of John A. Watson, assistant deputy quartermaster general, in any other light than as evincing a contract between him and the petitioner, and the \$800 stated to be due for the *hire* of said vessel to transport troops to Mobile Point (an inconsiderable distance) is certainly sufficient to cover the risk incident to such service. Besides, it does not appear that the vessel was captured in consequence of having been in the public service, as she had landed the men, and had retired to Bon Secour creek as a place of safety.

The committee submit a resolution that the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 423.

[1st Session.]

DEFICIENCY IN THE QUANTITY OF CERTAIN GROUND SOLD IN NEW YORK FOR THE
BENEFIT OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, MARCH 20, 1818.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of John G. Bogert, of the city of New York, reported:

That it appears by the memorial of the petitioner that, in the year 1805, sundry judgments, to a considerable amount, were obtained in favor of the United States against Edward Livingston, Esq., then of the city of New York; to satisfy said judgments, the whole of said Livingston's estate, both real and personal, was taken in execution, advertised, and sold by the marshal of the district of New York. Among the property so advertised and sold, there were three lots lying on Mott and Mulberry streets, numbered on a plat (which was exhibited on the day of sale) 134, 135, and 119, which lots were purchased and paid for by the petitioner, and a deed for the same executed by the marshal to him.

The petitioner further states that said lots, since the purchase, have lain vacant until a short time past, when he ordered a survey to be made for the purpose of enclosing them. Upon such survey it was found that more ground had been sold by the marshal as the property of Livingston than really existed, and that in fact there were no such lots as were purchased by the petitioner, numbered 134, 135, and 119. The petitioner, therefore, prays that the money so paid by him to the marshal, for the benefit of the United States, may be refunded to him with interest.

To prove the facts alleged in the memorial, the petitioner produces the deposition of the marshal of the district, who deposes that said lots were advertised and sold by him as the property of Livingston, and the money thereon received from the petitioner for the benefit of the United States. He also deposes that, upon further examination and survey, no such land exists as is mentioned in said lots, but is included in the Roman Catholic church ground. The deposition of Edward Doughty, surveyor of the city of New York, also goes to prove the last-mentioned fact.

The committee are of opinion that the prayer of the petitioner is reasonable, and ought to be granted, so far as relates to the payment of the principal; they, therefore, report a bill for that purpose.

15th CONGRESS.]

No. 424.

[1st Session.]

HOUSES AND OTHER PROPERTY DESTROYED BY THE ENEMY IN MARYLAND IN 1814.

COMMUNICATED TO THE SENATE, MARCH 20, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Richard Frisby, reported:

That the petitioner is owner of a farm on Fairlee point, situate on the waters of the Chesapeake, in Kent county, Maryland. In the year 1814, a squadron of British ships landed upon it a part of their crews, and conflagrated the buildings, together with a large quantity of grain, and carried away four servants, three of whom were slaves. General Phillip Reed, with a small militia force, was in sight of the property when it was on fire, and very soon after brought the enemy to action, and signally defeated them, killing their leader, Sir Peter Parker. It does not appear that either the house or buildings were at any time occupied as barracks, or as a station for General Reed's troops, but his videttes and look-out parties were frequently passing about the house, and he himself had left it but a few minutes before it was set on fire. The petitioner states that he was actively engaged, at the time of the destruction of his buildings and property, on the committee of vigilance and safety, in preparing for the defence of Baltimore; and General Reed, who attended the committee, was of opinion the destruction was, in some degree, owing to the representations made by a neighbor to the enemy of the activity and zeal of Mr. Frisby in the cause of his country. General Reed was also of opinion that the enemy were influenced in committing this outrage by the appearance of his troops at intervals in the vicinity of the buildings. The appraised value of the property destroyed, including the servants, by two good and judicious men, amounts to \$8,490. From the evidence produced, the committee do not feel justified in recommending the allowance of this claim. They are unable to distinguish this disgraceful act of the enemy from those which the British admiral avowed it, at this period, to be his intent to commit, in utter disregard of the usages of civilized warfare, and which the message of the President of the 20th December, 1814, says, "he had given earnest of in the plunder and wanton destruction of private property." No case, the committee believe, has been relieved by Congress in the absence of every circumstance that could be held to soften the heinousness of an act of wanton desolation. They therefore submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[15th CONGRESS.]

No. 425.

[1st SESSION.]

LOSS OF VOUCHERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 20, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Sampson S. King, reported:

That the petitioner states he was appointed captain in the army of the United States in April, 1812, and was ordered on recruiting service, in which he continued, chiefly, until 1st January, 1814, when he was ordered to Erie, in Pennsylvania; that during the time aforesaid he transmitted accounts, weekly, to the War Department; that after he went to Erie he recruited several men, but sent on no accounts, not being on the recruiting service, until about the 1st July following, when at Buffalo, he made out a full account of recruits, also of contingent expenses, from the vouchers then in his possession, a copy of which he sent on to the War Department, by which account it appeared the United States were in his debt more than \$500; that there were then other accounts against him on account of the United States, for which he then had no vouchers, some of which he has not yet been able to discharge; that several times, while on the recruiting service, he was out of money, and obliged to use his own money and credit; that during all that time he did not receive more than \$300 for contingent expenses; that on the morning of 3d of July, 1814, he crossed the Niagara river and joined General Scott; that on the evening of that day his baggage (among which was his trunk containing his papers) was sent over to him; that on the 5th of that month he was badly wounded and sent back to Buffalo; after the battle of Niagara, when he was so ill of his wound that the doctors despaired of his life, his trunk was brought to his room, full of water; that, so soon as he was able to attend, he opened his trunk, and found his papers almost entirely destroyed, by reason of which his accounts at the War Department remain unsettled; that he applied by petition to Congress in 1815 for relief, and was informed *then* that a general law would pass that session to embrace his case, but which law did not pass; that he *would* have applied at the last session of Congress but was *all* winter lying ill of his wound.

In this case Colonel Brady testifies that, at the time Major King states his baggage or papers were injured, many officers complained of the loss of baggage, and others of having it much injured.

Richard Abbey, who was a sergeant in (the then) Captain King's company, and was also wounded on same day, testifies as to the destruction of many of the papers in said trunk, in consequence of their being wet, &c.

There is also evidence of Captain King getting money from the Monongalia Bank of Brownstown, on his own account, to enable him to continue the recruiting service, some of which he paid up after his return from the lines.

The committee are of opinion the petitioner is entitled to relief, and for that purpose report a bill.

[15th CONGRESS.]

No. 426.

[1st SESSION.]

LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 20, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of John Delafield, stating that he is holder of forty-three loan office certificates, issued in 1777, of \$400 each, nominal, amounting, by the scale of depreciation, to \$12,128 12 principal, which, together with the interest due thereon, he prays may be funded, reported:

That they have examined the claim presented in said petition, and, on such examination, find that the same subject was presented to the House of Representatives at the first session of the fourteenth Congress, and a report of a committee to whom it was referred made thereon, accompanied with a bill in favor of the claimant, which was not decisively acted upon. [See No. 296, page 463.] They also find the same subject was presented to the House of Representatives at the second session of the same Congress, and another report of a committee to whom it was referred made thereon, accompanied with a bill in favor of the claimant, which was not acted upon. [See No. 325, page 496.] Your committee also find a report of the Secretary of the Treasury, in 1792, on the petition of William Smith, for the payment of loan office certificates, of like description, stating the reasons why said certificates were not paid. [See No. 296, page 464.] They also find in the report of the Secretary of the Treasury of 1795, of the outstanding loan office certificates, a reference to the description of certificates of which those of the petitioner form a part, viz: of \$200,000 sent to the loan office in Georgia, September 24, 1777. [See No. 66, page 173.] On an examination of the journals of Congress of this period, and by a minute inquiry at the Treasury Department for the particulars of the transaction between the loan office of Georgia and the continental treasury, and by the statement from the Treasury Department in answer to the inquiries of your committee, herewith presented, it appears that, in about three months after the remittance of the \$200,000 of loan office certificates (of which those of the petitioner form a part) to the loan office in Georgia, a draft was made on said loan office for \$202,423, in favor of Joseph Clay, Esq., deputy paymaster general, for pay and subsistence of the continental troops in Georgia. This draft, by the statement from the Treasury Department, appears to have been paid and settled with said Joseph Clay, and that there was no other fund of the United States in the loan office in Georgia at the time the order was drawn to satisfy said draft but the \$200,000 of loan office certificates aforementioned; and from which statement your committee draw this inference: that the certificates in question were not only used for the purpose of the United States, but for the pay and subsistence of the continental troops.

Your committee beg leave to refer to the several reports heretofore made on the subject, and the documents accompanying said reports, copies of which are herewith presented; and they also herewith present a bill in favor of the petitioner.

SIR:

NEW YORK, *September 29, 1816.*

I have employed a considerable portion of time in the investigation of the claims of individuals against the United States, for certificates issued in the State of Georgia, countersigned by Edward Davies. William Ervin was the first president in Georgia under the republican Government in 1775, and was known by the title of "President of the General Committee of Safety." Archibald Bullock succeeded him in January, 1776, in the execution of his functions, as President of the Executive Council. Under his administration, the Legislature was called in November, and in December a convention for the purpose of framing a constitution, the operations of which were commenced in February, 1777. About this time Bullock died, and was succeeded by Button Gwinnett, who called a meeting of the Legislature in May, and was approved by John Adam Treutlen, who was appointed Governor of the State. During this session of the Legislature, three continental battalions were authorized to be added to one formerly raised, and formed into a brigade, under the command of Brigadier General McIntosh. Governor Treutlen applied to the General Government for funds to bring this measure into operation.

Certificates of the United States were forwarded to Treutlen to enlist, clothe, and subsist these battalions, and to fit out a small naval establishment, under the command of Commodore Bowen.

Mr. Shefall Shefall, who is now living in Georgia, was deputy commissary general under his father, in Georgia, for the continental army, and he recollects to have passed off some of the certificates before mentioned, signed by Edward Davies, to purchase clothing and subsistence for the army.

Shefall is well known to some of the members now in Congress from Georgia as a man of honor and truth. Governor Treutlen remained in office until January, 1778, when he was succeeded by John Honstoun, and between this date and May, 1778, William O'Bryan and Nehemiah Wade succeeded Edward Davies as commissioners of the loan office in Georgia, according to the best information that I have been able to obtain.

Savannah was taken by the British late in December, 1778, and the State soon after fell into the hands of the enemy. There was no Governor, nor was there any meeting of the Legislature in Georgia until November following. The western division of the State was alternately in the hands of the British and Americans. In March, 1779, all the continental troops of Georgia fell into the hands of the enemy, when General Ash was defeated at Brier creek; consequently, O'Bryan and Wade were not appointed in 1779. Soon after Charleston was taken by the British, Governor Howley, of Georgia, fled from Augusta to North Carolina, with his Treasurer, Secretary of State, and several members of his council, and narrowly escaped capture by the enemy, who were then spreading their military posts over the western division of South Carolina. Before the Governor left Georgia, all the papers belonging to the Executive and Treasury were destroyed by fire.

From these circumstances, it is not probable that any official paper can be obtained, at this distant period, which would give better evidence of the appointment of Edward Davies than is above stated.

The patriots of that day are almost all gone to sleep with their fathers, and those who remain were too young to have more than an imperfect recollection of the circumstances in question.

I regret that neither the archives of the State nor the papers preserved by individuals will furnish the documents you mention to prove the appointment of Davies by Governor Treutlen; but that Davies had such an appointment, and acted in capacity of a commissioner of loans in the State of Georgia, is a fact which does not, with me, admit of a doubt.

In addition to the difficulties above stated, it will be recollected that the city of Savannah was destroyed by fire in the year 1796, and that very little property, much less papers, escaped conflagration.

I have the honor to be your most obedient servant,

HUGH McCALL.

To the CHAIRMAN of the committee on the petition of John Delafield.

I do certify that my father, Mordecai Shefall, was commissary general of the continental troops in Georgia, under the command of General McIntosh and General Home, from the month of July, 1777, until the 29th of December, 1778, and that I was deputy commissary general under him for the same period, at which time we were both taken prisoners in Savannah, when it was taken by the British army.

In the latter part of the year 1777, Edward Davies received an appointment from John Adam Treutlen, then Governor of Georgia, similar to that of commissioner of loans, and countersigned a number of certificates of the United States, several of which were paid by him to my father, and by my father to James Rae, commissioner of purchases, for the subsistence and other uses of the continental army.

Given under my hand, at Savannah, this 7th day of November, 1816.

SHEFTALL SHEFTALL.

The undersigned, residents of Savannah, Georgia, do certify that we have been acquainted with Shefall Shefall, Esq. for many years; that his character stands fair; his knowledge of the events of the revolutionary war is supposed to be superior to any person now living here; and that full faith and credit ought to be attached to all certificates he may have granted.

W. STEPHENS, *District Judge, Georgia.*

A. S. BULLOCH, *Collector of Customs.*

JOHN P. WILLIAMSON, *Justice I. C. C. C.*

OLIVER STURGES, *Justice I. C. C. C.*

ED. HARDEN, *Justice Inf. Court Chatham County.*

SAVANNAH, *January 1, 1817.*

WASHINGTON CITY, *March 18, 1818.*

I, George M. Troup, of the State of Georgia, but at present of Washington, do hereby certify that full faith and credit ought to be given to the oath, declaration, or certificate of Shefall Shefall, Esq., of the city of Savannah, on any subject or matter of fact whatsoever, he being a man and magistrate of known probity and integrity.

GEO. M. TROUP.

I do certify that, some time in the month of May, 1780, Richard Howley, then Governor of Georgia, was at Augusta, with his Executive Council, of which I was a member, and aid-de-camp to the Governor. Soon after

Charleston was taken by the British, Governor Howley and the Executive Council retreated through South Carolina, and narrowly escaped capture by the British, who were then spreading their military posts over the western part of that State.

A short time before we left Augusta, the house containing all the papers belonging to the *Executive and Treasury Departments* was consumed by fire, and none of the papers were saved from the conflagration except some Georgia paper money, which we carried on with us to bear our expenses.

Given under my hand, at Savannah, this 5th day of November, 1816.

PETER DEVEAUX.

SIR: TREASURY DEPARTMENT, *March 17, 1818.*
In reply to your letter of the 13th instant, I have the honor to transmit the enclosed report from the Register of the Treasury.

I remain, with respect, your most obedient and very humble servant,

WM. H. CRAWFORD.

The Hon. NATHANIEL RUGGLES, of the *Committee of Revolutionary Claims.*

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 16, 1818.*

The Register begs leave to state to the Secretary of the Treasury, in relation to the items of reference contained in the letter to the Treasury Department from the Committee on Pensions and Revolutionary Claims, dated the 13th March, 1818, that, in pursuance of the resolution of Congress of 15th August, 1777, in the words following: "That another warrant shall issue in the manner prescribed by the preceding resolution, in favor of the Board of War, for \$300,000, to be remitted by them to the deputy paymaster general, for the pay and subsistence of the continental troops in Georgia," the following warrants did issue, to the amount of three hundred thousand dollars, viz:

| | | | | |
|--------------|---|---|---|------------------|
| 1777. | | | | |
| September 2, | On the Treasurer, in favor of James Mease, clothing generally, | - | - | \$20,000 |
| " 2, | On the Treasurer, in favor of Georgia delegates, | - | - | 19,000 |
| " 16, | On the Treasurer, in favor of Georgia delegates, | - | - | 25,000 |
| October 8, | On the Treasurer, in favor of William Hornby, | - | - | 5,000 |
| " 9, | On the Treasurer, in favor of B. Walker, | - | - | 500 |
| " 10, | On the Treasurer, in favor of William Hornby, | - | - | 20,000 |
| November 6, | On the Treasurer, in favor of T. Taylor, | - | - | 200 |
| " 26, | On the Treasurer, in favor of Georgia delegates, | - | - | 270 |
| December 1, | On the Treasurer, in favor of Georgia delegates, | - | - | 800 |
| " 18, | On the Treasurer, in favor of Georgia delegates, | - | - | 6,807 |
| 1778. | | | | |
| March 17, | Warrant in favor of Joseph Clay, on the loan office in the State of Georgia, for two hundred and two thousand four hundred and twenty-three dollars, to be drafted by the commanding officer in said State for the subsistence of continental troops, being the residue of \$300,000 ordered to the military chest in said State, | - | - | 202,423 |
| | | | | <u>\$300,000</u> |

In reply to the first question proposed by the Committee on Pensions and Revolutionary Claims—

"Was the amount of warrant on the loan office in Georgia paid to Joseph Clay?"

The Register states that, on the 13th of December, 1786, he recorded the accounts of Joseph Clay, Esq., late deputy paymaster general, in blotter No. 9, as adjusted at the Treasury the 19th September, 1785; and that said Clay, on said settlement, did account for the sum of two hundred and two thousand four hundred and twenty-three dollars, as upon reference to the said records will more fully appear in ledger A, folio 14, wherein Joseph Clay is charged with said sum; and in said blotter, pages 3226 and 3256, said Clay's account is recorded.

In reply to the second question proposed by the committee—

"Were there any funds in the loan office in Georgia, except the \$200,000 in loan office certificates, sent to Georgia the 24th September, 1777, out of which the draft in Joseph Clay's favor could have been paid?"

The records of the Treasury do not show that there were any; the said records show that the only warrant drawn on the commissioner of loans in Georgia was the warrant for \$202,423 above stated.

In reply to the third question proposed by the committee—

"Have you any knowledge of any loan office certificates ever having reached Georgia, excepting the \$200,000 aforementioned?"

It does not appear that any others were sent to that State until March, 1779, when \$402,000 were sent to the commissioners of loans in Georgia, which certificates were stopped by William Parker, one of the commissioners of the loan office of the State of South Carolina, as being unsafe to go forward in the then situation of Georgia, (invaded by the enemy,) and were returned by him, and received, cancelled, and passed to the credit of the late Treasurer Hillegas, as appears by blotter No. 15, page 8420.

In 1780 and 1781, certain other loan office certificates, \$567,500 amount, were transmitted by Francis Hopkinson, Esq., treasurer of loans, to the commissioners of loans in Georgia, and are charged to the said commissioners in ledger A, folio 289.

Respectfully submitted.

JOSEPH NOURSE, *Register.*

Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

15th CONGRESS.]

No. 427.

[1st SESSION.]

SEIZURE OF THE SHIP "AMERICAN EAGLE."

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 21ST OF MARCH, 1818.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the petition of Gelston and Schenck, reported:

That information was received by the Executive Government in 1809 that a ship called the American Eagle was fitting out in New York for Petion, who had purchased her. This information was communicated to Mr. Gelston (the collector of New York, and one of the petitioners) by a letter from the Secretary of the Treasury, dated 12th December, 1809, with instructions from the President "that, if that be the fact, her departure should be stopped, as embraced by the act of the 5th June, 1794."

The correspondence which ensued between the Secretary of the Treasury and Mr. Gelston shows on the part of the Government a just anxiety to enforce the act of 1794, and in Mr. Gelston a prudent (and, if they were untaught by subsequent events, the committee would say an extreme) reluctance to incur the responsibility involved in the seizure of the vessel. While any thing was left to the discretion or judgment of Mr. Gelston, he inquired, examined, reported, but made no seizure; but, on the 6th of July, 1810, he was informed by a letter from the Secretary of the Treasury "that, in the opinion of the President, the ship American Eagle ought to be immediately seized and libelled as being fitted out for illegal purposes, *unless the owner should give satisfactory proof of the contrary.*" It does not appear that any attempt at this proof was offered by the owner, but, on the contrary, the committee believe that such proof could not have been given, and that the ship was fitted out for the use of Petion. Under this positive instruction of the President, the vessel was seized on the 10th of July, 1810, and libelled in the district court, by which she was acquitted and restored to the claimant, Mr. Hoyt, on the 24th of August, 1812. The judge decided that, "if the vessel was destined for, or had been even sent to Petion, it would not have been in violation of the laws of the United States," and refused to give a certificate of probable ground of seizure.

Without the protection which such a certificate would have afforded, the petitioners were immediately sued in the State court of New York by Mr. Hoyt. By this court the decision of the district court and the want of a certificate were considered as decisive of the illegality of the seizure, and as limiting the question before it to an inquiry into the loss sustained by the plaintiff in consequence of the seizure, or, in other words, into the deterioration of the vessel in the interval between her seizure and her restoration to the plaintiff. The verdict was for \$107,369 43.

The attempt of the petitioners to protect themselves from this verdict by appeals to the court of errors of New York, and to the Supreme Court of the United States, has been unsuccessful. In both, the doctrine is insisted on that the legality of the seizure, after the decision in the district court, could not be re-examined in the State court. The judgment of the Supreme Court of the United States, in February term, 1818, adjudges that the judgment of the State court be affirmed, with costs and damages, at the rate of 6 per centum per annum on the amount of the judgment.

During the pendency of these appeals, an application to the Chancellor of New York was also tried, but with no better effect. The petitioners, declaring their belief that the ship was intended for Petion, prayed that Hoyt might be required to make answer as to that fact. But this suit was dismissed, as the committee understand, on the ground that the fact alleged could have no effect upon the verdict. The letter from the Secretary of the Treasury, and those from his predecessors in office, contain a full view of the case of which the committee have drawn an imperfect outline. It appears that the seizure was made under instructions from the President of the United States in consequence of information which has been proved, since the decision of the cause, to have been correct; that the illegality of the seizure results from the act of Congress receiving a construction different from that which the Executive Government supposed it would bear; that the petitioners became obnoxious to a suit in the State court because the judge of the district court did not consider this construction as affording probable ground of seizure; that the large amount of damages is, in a great measure, attributable to that delay in the trial of the cause which resulted from the inability of the judge to hold a court; and that the circumstances which produced or increased the verdict of damages are in no degree imputable to the petitioners.

As the committee believe that the seizure of the vessel in question was made by the petitioners under instructions which they could not have disregarded without a breach of official duty, they recommend that the following clause be added to the appropriation bill: For discharging the judgment obtained by Gould Hoyt against David Gelston and Peter Schenck, in an action of trespass for seizing the ship American Eagle, under instructions from the Treasury Department, a sum not exceeding ——— dollars.

SIR:

TREASURY DEPARTMENT, *March 18, 1818.*

In reply to your letter of the 17th instant, which was received this morning, I have the honor to state that the agent of Mr. Gelston has been furnished with copies of the correspondence between this Department and the petitioner, touching the seizure of the ship the American Eagle, which, together with the reports of the late Secretary of the Treasury to the Senate and to the committee of the House of Representatives, referred to in your letter, contain all the information in the possession of this Department relative to the case of the petitioners.

In reply to the questions contained in the paper enclosed in your letter, I beg leave to observe that there is just reason to apprehend that the discovery of the testimony referred to will not enable the defendant to open the final judgment against him so as to obtain a re-hearing of the cause, or secure the admission of the evidence recently discovered. This apprehension is founded upon the fact that, pending the action against the petitioner, a bill in equity was filed, seeking the discovery of the facts now established by the testimony recently obtained, in which the existence of the facts was stated, and that they were within the knowledge of the plaintiff at law. An injunction was obtained, which was afterwards dissolved upon motion and argument, on the ground that, if the evidence sought by the bill should be obtained by compelling the plaintiff in the action to answer, it would be no defence or justification in the action.

I also understand that, in every stage of the proceeding, the refusal of the judge before whom the libel against the American Eagle was tried to certify reasonable cause of seizure has precluded the defendant from making any effectual defence. The counsel for the petitioner understands the decision of the Supreme Court to have proceeded,

amongst other grounds, upon the idea that, where the court refuses to certify reasonable cause of seizure, the defendant, in an action brought against him for such seizure, is precluded from showing by evidence that there was such reasonable cause.

As the court of chancery in the State of New York has determined that the evidence recently discovered furnishes no ground of defence in the action which has been determined against the petitioner, there seems to be no reasonable ground of expectation that an injunction can be obtained from that tribunal to stay the proceedings upon the judgment against the petitioner.

It is not believed that any effort to obtain a revision of the decision of the court, upon the motion to certify reasonable cause of seizure, will be successful. No effort of this kind has occurred in the history of our jurisprudence, within my knowledge. But, if this course should be pursued with success, it cannot be effected in time to stay or prevent the execution of the existing judgment.

In the opinions presented in this letter the Attorney General concurs. It becomes, therefore, necessary for Congress to determine, at this time, whether the petitioner ought to be indemnified against a judgment which has been obtained against him for pursuing the instructions of a Department to which, in contemplation of law, he ought to be subject. I cannot refrain from adding my opinion to that of my predecessors in office, in favor of the application of the petitioner.

I have the honor to be your most obedient and very humble servant,

WM. H. CRAWFORD.

Hon. WM. LOWNDES, *Chairman Committee of Ways and Means.*

15th CONGRESS.]

No. 428.

[1st SESSION.]

INTEREST AND DEPRECIATION.

COMMUNICATED TO THE SENATE, ON THE 25TH OF MARCH, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Eli Hart, reported:

That the petitioner states he advanced \$16,000 to John G. Camp, while he acted as deputy quartermaster general in the United States army on the Niagara frontier in the months of October and November, 1814. This advance appears to have been made on the pressing solicitation of the quartermaster, who was then much in want of public funds for the service. This advance was not made with any view to profit or interest, but merely an engagement for repayment within thirty days. In this the quartermaster failed, further than the reimbursement of \$3,000 at said time; \$8,000 of the remainder was not reimbursed until February or March following; and \$5,000, completing the repayment, not till April. These latter payments were made in treasury notes, which were then at a discount. The petitioner claims interest on the two sums last paid, and an allowance for loss on the treasury notes with which those payments were made. Major Camp deposes that the petitioner never had any interest, directly or indirectly, in the concerns of his department, and that he could have had no motive in furnishing him the money but a view of accommodating the army at a moment when the quartermaster's department was wholly destitute of funds.

The committee are aware that many claims have been made by the officers and agents of the Government for an allowance for losses on treasury notes, none of which have been allowed; nor do they think such an allowance would be proper, as they were either receiving commissions or pay as officers. In the case of Mr. Hart, he was only a citizen, who advanced his private funds for the relief of the army from patriotic motives solely.

The committee, therefore, think the claim reasonable, and report a bill for its allowance.

15th CONGRESS.]

No. 429.

[1st SESSION.]

DAMAGES CLAIMED FOR THE DEPRIVATION OF THE EXCLUSIVE RIGHT TO TRADE WITH THE OSAGE INDIANS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 26, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Gregoire Sarpy, reported:

That the petitioner states that, at the time of the cession of Louisiana to the United States, he enjoyed, under a grant from the Spanish Government, "the right to trade exclusively" with the Osage Indians; that, after the cession, by the laws of the United States the trade was thrown open to every individual, by reason of which the benefits accruing to him from the said grant were entirely destroyed; that, by the treaty of cession, the United States were bound to protect the rights and property of the citizens of Louisiana. He prays compensation equal in value to the damages he has sustained in consequence of the permission granted by the Government to others to

trade with the Osages: these damages are estimated at about the sum of \$8,000 annually. Your committee find that the exclusive privilege to trade with the Osage Indians was, in the year 1802, granted to four individuals, on the performance of certain conditions; the individuals to whom this grant was made were the petitioner, Manuel Lisa, Charles Sanguinet, and Francis M. Benoit. Subsequently, in the year 1803, this grant appears to have been revoked, at the instance of the petitioner, and a new grant made to himself individually.

Your committee doubt the regularity of the revocation of the original grant. No testimony is adduced to show that any of the original grantees had notice of the application of the petitioner to obtain a new grant to himself alone. If they had no notice, the petitioner could have, in justice, or on any other principle, no claim to this exclusive right, notwithstanding the grant which he obtained in the year 1803; and, if he had no claim to this privilege, his petition cannot be allowed. Your committee recommend the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

15th CONGRESS.]

No. 430.

[1st SESSION.]

LOSSES ON THE NIAGARA FRONTIER DURING THE WAR WITH GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 27, 1818.

Mr. RICH, from the Committee of Claims, to whom had been referred two reports of the Commissioner of Claims, containing the testimony taken by Archibald Clarke, Robert W. Stoddard, and Oliver C. Comstock, in one hundred and fifty-eight cases from Buffalo and its vicinity, on the Niagara frontier, in which payment is demanded under the provisions of the act of the 9th of April, 1816, for buildings and other property destroyed by the enemy, between the 19th of December, 1813, and the 1st of January, 1814, both days inclusive, reported:

That, during the period above mentioned, nearly every building on thirty-six miles of the frontier, from Fort Niagara to Buffalo, both inclusive, except the fort and its appendages, (which were captured on the night of the said 19th of December,) were, with their contents, destroyed by the enemy; which, it is alleged, was in consequence of a military occupation by the United States.

The law of the 9th of April, 1816, was intended to grant relief to the citizens whose property might have been destroyed in consequence of some act of the Government, and to such only ought it to be confined in its application. But from the circumstance of there having been a war between the United States and Great Britain, and the enemy, during its progress, having destroyed the property of the citizens, it does not follow that this Government has been the cause of such destruction, unless it shall have given to the property a character which, by the usages of civilized war, would render the destruction legal; for one nation may as rightfully destroy the property of the citizens of another in peace as in war, except under the circumstances above mentioned.

The committee have endeavored to ascertain, from the mass of testimony in these cases, whether the burning on the Niagara frontier was of such a character as to entitle the claimants to relief under the provisions of the above-recited act; and their examination has resulted in a unanimous opinion that it was not.

It appears from the evidence that, at different periods of the war, particularly in the fall of 1812 and winter of 1813, many of the buildings on the frontier were occasionally and partially occupied for military purposes; but very few are alleged to have been so occupied as to exclude from them the families or their effects; in most cases it is stated that the buildings were used for barracks.

From the fore part of July, 1813, till after the commencement of the burning, there were but few troops on the American side of the Niagara river; consequently, during that period, there must have been but a very partial occupation by the United States. It is stated that, for some time before the villages between Fort Niagara and Black Rock were burnt, (the 19th of December, 1813,) there were only about forty draughted militia on the whole frontier; that, between the 19th and the 29th, the neighboring militia, to the number of from two to three thousand, had assembled at Black Rock and Buffalo, and sheltered themselves from the inclemency of the weather with the families of the citizens.

On the morning of the 29th of December the enemy landed at Black Rock, and, having burnt the village at that place, proceeded to Buffalo; which latter place capitulated on the express condition that public property should be surrendered, and that the citizens and their effects should be protected. After having burnt a few buildings, the hand of desolation was staid till the 1st of January, when all were reduced to ashes, except a very few, (which are supposed to have escaped more from accident than design,) and that, too, without allowing to the inhabitants an opportunity to withdraw their moveable effects; thus turning them adrift in the most inclement season of the year, with little other means of subsistence than their hands and the clothes they wore.

That some of the buildings, particularly at Buffalo, were so occupied as to give them an unquestionable military character, is undoubtedly true; and, had no others been burnt, the committee would not have stopped to inquire whether the occupation by the United States had been the cause of their destruction. But they have yet to learn that, because a building may have been occupied for military purposes at a remote period anterior to its destruction, or because a few militia may for the moment have taken shelter with a hospitable family, the destruction of the building, with the effects of the family, can upon any legal principles be justified—more particularly when the enemy shall have possessed himself of it by a capitulation like the one above mentioned; and, if not justified, the owner cannot claim remuneration upon any legal grounds.

It is urged by some of the claimants that, as these buildings were occupied almost exclusively for military purposes, they are entitled to relief, although their neighbors should be excluded from it on account of there having been no military occupancy. But the committee can perceive no grounds for a discrimination: all shared the same fate; and it is preposterous to suppose all did not originate in the same motives on the part of the enemy. Therefore, whatever remuneration shall be made to one, ought to be made to another, except so far only as there shall have been a difference in the amount of their losses.

Although the claimants have no legal demands upon the Government, the committee are of opinion that it would ill comport with the munificent character of the country to entirely withhold relief in a case of such extreme suffering. It is believed that the valuation of the property, reported by the Commissioner of Claims, is, relatively, as correct as it is practicable to obtain. Still, all valuations, as well of buildings as furniture, after their destruction, and particularly the latter, must be extremely vague: it is not, therefore, believed that a correct amount of the losses sustained has been exhibited.

The value of the buildings appears to have been assessed by several persons, who are represented to be competent judges of that description of property, and to have formed their opinion upon the best evidence of which the nature of the case would admit. Still, the committee feel no hesitation in expressing a belief that the buildings have been estimated very considerably above their true value. The personal property, consisting of furniture, merchandise, farming utensils, &c. appears in most cases to have been estimated by the claimants, who have made out lists of such as they claim to have possessed, and its price, supported generally by the testimony of witnesses, who express a belief that the items are true and the prices reasonable. But, admitting that no other than true lists have been exhibited, it is believed that any one who will take the trouble to look at them will feel perfectly satisfied that the prices annexed are enormously high.

Some of the sufferers have lost no other property than buildings, and others nothing but personal effects. Some have lost personal effects to a large amount, while their neighbors had but little to lose; others have lost large quantities of merchandise, which, it is presumed, would not have been carried to the frontier, except for the purpose of trade with the army in the vicinity; others have lost merchandise who were permanent residents on the frontier, and would probably have had more or less of it, had there been no army in existence; but it is believed that, in consequence of the army, their stocks were considerably enlarged.

The committee can perceive no reason why those who removed their property into the vicinity of the army, for the purposes of trade, should not take upon themselves all the risk incident to that situation. Considering, also, that merchandise is a species of property, the loss of which does not present so strong a claim upon the Government as that of buildings and the ordinary effects of families, and believing it impracticable to distinguish between such as would not have been there but for the army and that which otherwise would, it is recommended that it be altogether excluded.

On an attentive examination of the whole subject, the committee are perfectly satisfied that no rule can be adopted for relieving the claimants from any portion of their sufferings, but such as will be arbitrary in its application. Still, with a view of affording such charitable relief as will, in some tolerable degree, remove their present wants, and such as shall be no more than the Government would extend to other citizens in a like condition, and with a view to as equitable a distribution among the sufferers as the nature of the case will admit, it is proposed that the Secretary of War be directed to pay to the claimants fifty per cent. on the amount of their claims for buildings, and thirty per cent. on their personal property, exclusive of merchandise; and for that purpose the committee report a bill.

15th CONGRESS.]

No. 431.

[1st Session.]

INDEMNITY FOR JUDICIAL PROCEEDINGS AGAINST AN OFFICER OF THE ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 27, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of George W. Wells, of New York, reported:

That the petitioner represents that, during the late war, he arrested sundry persons suspected of traitorous intercourse with the enemy, for which he has since been amerced in \$5,716 83 damages, and \$687 04 costs of suit; that, being unable to pay the sums aforesaid, he has been confined in the jail of St. Lawrence county, and prays Congress to relieve him from this unsought and undeserved condition of distress.

It appears that Lieutenant Wells acted in company with Major Loring Austin, whose case has been reported, [see No. 379, page 545.] and to which the committee beg leave to refer the attention of the House for a more thorough knowledge of the merits of the case of Lieutenant Wells.

The committee would, at all times, speak with the utmost deference and respect of the judicial proceedings of any court; but they cannot fail to remark that, in the case of Lieutenant Wells, the damages appear to be unusually high, and scarcely to have been dictated by a proper regard to the merits and situation of the respective parties. When it is remembered that Lieutenant Wells acted pursuant to an order from General Pike; that the persons arrested were suspected of treachery; that probably they could not have been so suspected if they had taken as decided a stand for their country as became the whole body of the American people; that the state of the war on that frontier rendered this measure of caution in General Pike expedient, if not absolutely necessary—the committee cannot see how damages so enormous could have been awarded. But to extend to Lieutenant Wells the same relief which is proposed to be granted to Major Austin, his compatriot and fellow-soldier, the committee respectfully report the following resolution:

Resolved, That the prayer of the petitioner ought to be granted.

15th CONGRESS.]

No. 432.

[1st Session.]

SECRETARY AND AID-DE-CAMP OF GENERAL LAFAYETTE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 28, 1818.

[TRANSLATION.]

To the Congress of the United States of America:

A free people will not consider a just claim as impaired by any delay in presenting it. Such is the sentiment with which I am impressed in addressing my petition to Congress. I shall explain, in a few words, my claim to its favor, and the circumstances which force me to speak of it.

My name is not distinguished by brilliant achievements, but it is associated with those of General Lafayette. It was under his orders that I served as secretary and aid-de-camp during the American war.

General Washington saw me fulfil the duties of this station; and I rely on the favorable testimony of Mr. Jefferson, of General Hamilton, General Duportail, of Colonels Duhoumis, Rochefontaine, and of all the officers who served under General Lafayette, who saw me engaged in the honorable career which they pursued.

At my departure from America, I considered myself as carrying with me a sufficient reward for my services in the esteem of my chiefs and of my brothers in arms. Although without fortune, a sentiment of which I am proud prevented me from thinking of my own interests, and led me to rely for future provision upon the friendship of the patron who had given me his, and to whom I was attached by sentiments of esteem. I should have thought myself unworthy of the great cause which he had embraced if I had directed his attention from it by speaking of my own affairs, or had engaged him to address others on such a topic.

The circumstances which have separated us have left me without resource, and without hope of advancement in my native country. In this position, I have naturally turned my eyes to the country which my services have procured me. I have seen America, uniting generosity to justice, extend a parental liberality to those who became her children by fighting in her cause; and I have thought that I might suggest to her Government that, having served as secretary and aid-de-camp in the staff of General Lafayette; having been charged with the American correspondence; having never quitted the side of my general in camps or in the midst of battles; and having, on all those accounts, acquired the esteem of General Washington, from whom I received a brevet, I might have a title, according to the rules established by Congress, to the pension which it accords to the officers who embraced and defended the cause of American independence. I have thought that a freeman might, without a blush, accept, nay, even solicit, this from a free nation which he has faithfully served, and which is too just to refuse to the man whose circumstances force him to ask a place in the honorable list of those whose services it rewards.

POIREY.

MADAME:

NEW YORK, June 3, 1790.

It gives me infinite pleasure, in acknowledging the receipt of your letter of the 14th of January last, to transmit the brevet commission that was desired for M. Poirey. Aside of his services in America, which alone might have entitled him to this distinction, his attachment to the Marquis de la Fayette, and your protection, added claims that were not to be resisted. And you will, I dare flatter myself, do me the justice to believe that I can never be more happy than in according marks of attention to so good a friend to America, and so excellent a patriot, as Madame la Marquise de la Fayette; nor did she need any excuse for making use of her own language to be the interpreter of so much politeness and persuasion as she has found means to convey in one short letter. In truth, that language, at least when used by her, seems made on purpose to have fine things communicated in it; and I question whether any other, at least in the hands of any other person, would have been equally competent to the effect.

By some accident, your letter reached me only a few days ago. This fact is the sole reason of your not hearing sooner from me, and must be an apology for any seeming neglect on my part. I request you will present my compliments to the gentlemen who desired to be so cordially remembered to me. Mrs. Washington and her two youngest grandchildren (who live with us) join me in offering our affectionate regards to your family, in whose welfare, believe me, Madame, no one is more deeply interested than he who has the honor to subscribe himself, with the purest sentiments of respect and esteem,

Your most obedient and most humble servant,

GEO. WASHINGTON.

À Madame, MADAME LA MARQUISE DE LA FAYETTE.

I do but justice to M. Poirey when, being called upon as a witness of his services in the American Revolution, I certify that, from the beginning of the year 1779, he has been, as my secretary, constantly and usefully devoted to employments, the object of which was to promote the interest of the United States in the cabinet and the field.
Done at Paris, April the 8th, 1801.

LA FAYETTE.

MONSIEUR LE PRÉSIDENT:

NEW YORK, Août, 11^{ème} 1801.

Le signataire du mémoire ci-joint m'a prié de vous le faire parvenir et de l'appuyer auprès de vous. Je ne me connois aucun droit à vous recommander personne; et de plus, je croirais autant manquer à la vénération que je vous dois en cherchant à capter votre bienveillance, même en faveur d'un de mes amis dont les prétentions ou les droits seraient bien fondés comme je crois l'être ceux de M. Poirey, qu'en essayant de vous intéresser pour une cause injuste. Je crois, donc, remplir suffisamment toutes les intentions du pétitionnaire en vous transmettant son mémoire et les pièces qui sont annexées. Il paraît mettre un grand prix à la lettre de Mr. Washington, qu'il regarde comme une reconnaissance de ses services, et il me charge de la lui conserver. J'ose, donc, vous prier de me renvoyer cette lettre lorsque vous estimerez qu'elle ne vous est plus nécessaire.

Veuillez recevoir avec bonté, Monsieur le Président, l'hommage de mon profond respect,

BUREAUX PUSY.

DEAR SIR:

MONTICELLO, *September 3, 1801.*

I have duly received your favor of August 11th, with the letter from Mr. Poirey to myself, and his memoir to Congress. I should be glad to render Mr. Poirey any service I could in this, wishing him sincerely well; but the rules of communication with Congress forbid me to be the channel of a petition for a particular individual. I will take for Mr. Poirey the only step I can; I will put his memoir into the hands of some member of Congress, to be brought forward in his place: it is in this way all petitions come before this body. For this purpose, it will be necessary to deliver with the petition the letter of General Washington to Madame de la Fayette, and M. de la Fayette's certificate.

Accept assurances of my high consideration and respect,

M. BUREAUX PUSY.

TH: JEFFERSON.

CASE OF M. POIREY.

CLERK'S OFFICE, HO. OF REPS. OF THE U. S., *January 10, 1818.*

On the 5th of February, 1796, a petition of Monsieur Poirey, formerly secretary and aid-de-camp to the Marquis de la Fayette, was presented to the House of Representatives, praying compensation for services rendered the army of the United States during the revolutionary war, which was referred to the Secretary of War, with instructions to report thereon.

The Secretary made his report on the 5th of April, 1796, a copy of which is herewith sent; and on the 2d of May, in the same year, this report was committed to a Committee of the Whole, and not further acted upon at that session. At the succeeding session, to wit, on the 5th January, 1797, this report was again committed to a Committee of the Whole, and, on the 9th of the same month, the House took the same into consideration, and

"Resolved, That provision ought to be made, by law, for settling the claim of Monsieur Poirey against the United States."

And ordered a committee, consisting of Mr. Madison, Mr. Swanwick, and Mr. Murray, to prepare and bring in a bill for that purpose.

Pursuant to this order, a bill was reported on the 10th of January, 1797, passed the House of Representatives on the 12th, and was rejected by the Senate on the 23d of the same month.

A copy of the bill, as passed by the House of Representatives, and rejected by the Senate, is also herewith sent.

No other or further proceedings were had upon Mr. Poirey's case in the House of Representatives; and his papers are not now to be found on the files of this office.

THOS. DOUGHERTY, *C. H. R.*

AN ACT making provision for the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the accounting officers of the Treasury be, and they are hereby, authorized to liquidate, settle, and allow the claim of M. Poirey, as secretary and aid-de-camp to Major General Lafayette, during the time of his services in those capacities.

January 12, 1797. Read the third time, and passed the House of Representatives.

Attest: JOHN BECKLEY, *Clerk.*IN SENATE OF THE UNITED STATES, *January 23, 1797.*

Resolved, That this bill do not pass.

Attest: SAM. A. OTIS, *Secretary.*

15th Congress.]

No. 433.

[1st Session.]

DEPREDACTIONS BY THE MOUNTED RIFLEMEN OF KENTUCKY IN KNOX COUNTY, INDIANA, IN 1812.

COMMUNICATED TO THE SENATE, MARCH 30, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of certain citizens, inhabitants of Knox county, in the State of Indiana, reported:

That the petitioners claim payment for property they allege to have been taken by the mounted riflemen from Kentucky, commanded by General Hopkins, in the fall of the year 1812. The claimants, twenty in number, present claims of various amounts, from \$13 to \$500, appraised by persons under oath. These appraisements were had to some extent under the order of General Gibson, Secretary and Acting Governor of the Territory of Indiana, through Quartermaster Floyd. There is no specification of particulars so as to afford evidence by what rule the estimates have been made; indeed, the proof that the property was consumed by the militia is to be presumed only. A quartermaster appears to have accompanied the expedition, to whom only the United States could look for a correct estimate of the value of property taken for the use of the troops. That there might have been an irregular taking of vegetables from gardens, and injury done to enclosures, seems probable; the more so as few of the inhabitants remained in their dwellings. A certificate, signed Samuel Hopkins, major general, who commanded the detachment, in very strong terms denounces his corps as having most wantonly injured the property of the people of Knox, without any necessity, and contrary to his orders and exertions as an officer. From the state of the facts submitted to the committee, they cannot discover that the losses complained of arose from any order of an officer of the United States, nor can they consider it in any other light than as a trespass by individuals, and remedy by due course of law ought to have been sought. The committee, therefore, recommend the following resolution:

Resolved, That the petitioners have leave to withdraw their petition and papers.

15th CONGRESS.]

No. 434.

[1st SESSION.]

LAND BOUNTY AND BALANCE OF PAY CLAIMED BY A DESERTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 31, 1818.

Mr. FORNEY, from the Committee of Military Affairs, to whom was referred the petition of George Shover, reported:

That the petitioner represents that he enlisted into the army of the United States for and during the late war with Great Britain; that he remained in service until the 8th of May, 1815, at which time, seeing no prospect of obtaining a discharge, he left the service without leave. He prays Congress to entitle him to receive his bounty in land, and the balance of pay due up to the time of his leaving the service.

The committee have had the same under consideration, and have thought it reasonable and just; and therefore report a bill for the purpose of making a general provision for all cases of this description.

15th CONGRESS.]

No. 435.

[1st SESSION.]

MILITARY AND DIPLOMATIC SERVICES OF COLONEL JOHN LAURENS.

COMMUNICATED TO THE SENATE, APRIL 3, 1818.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Francis Henderson, reported:

The petitioner, in right of his wife, the daughter and only child of Colonel John Laurens, claims certain balances which he alleges were not allowed in the settlement of Colonel Laurens's account with the United States, as an officer of the army, and as special minister to the court of Versailles, during the revolutionary war. This claim arises out of alleged errors in the settlement of Colonel Laurens's claims for services, and for expenses alleged not to have been reimbursed, incurred in his mission to France. By the application of rules of interest, suggested by the petitioner, which the committee believe never have been and never ought to be recognised by the Government, the sum claimed is swelled to a large amount.

The committee take leave to observe, with the truest gratification, that they have found the most ample evidence of the distinguished merit of Colonel Laurens recorded in the resolve of Congress, authorizing the settlement of his accounts after his decease, passed in March, 1785. This resolve arose out of a petition of Henry Laurens, on behalf of his grand-daughter. Towards the descendants of Colonel John Laurens, the committee can entertain no feeling but of respect and kindness. They have not been able, however, to discover the merits of the petitioner's claim, except as to a single item of small amount, and cannot, therefore, recommend a reopening of the settlement of the account between Government and the estate of Colonel Laurens. That settlement referring to a date when usages prevailed not to be recurred to without difficulty by those not conversant with the records of the Treasury, the committee referred the petition and documents to that Department, requesting an especial examination of the items of the claim and a report thereon. A letter from the Register to the Secretary of the Treasury, in answer to the committee, is annexed to this report. The Register concludes by stating, no payment can be traced of an item in the account settled for rations, equal, in specie, to \$104 $\frac{7}{9}$. Colonel Laurens's diplomatic as well as military accounts were adjusted under the resolve of Congress above alluded to, passed with a special view to his patriotic merit and services. It is impossible to suppose that, by any negligence in the use of words, less was obtained under that resolve than was intended to be allowed, or less than was thought due to his distinguished character as an officer and citizen. The committee recommend the allowance to the petitioner of \$104 $\frac{7}{9}$, with interest from the 5th of January, 1781, when that sum was found due at the Treasury, and for that purpose report a bill.

SIR:

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 26, 1818.*

I beg leave to return the papers you did me the honor to refer to me for the purpose of ascertaining whether the accounts of the late Lieutenant Colonel John Laurens, settled at the Treasury, had been adjusted on the same principles which governed the liquidation of other and similar accounts; and also whether, on an examination of the Treasury records, any errors had been made therein.

There were two distinct settlements made with the representatives of the late Lieutenant Colonel John Laurens: one, his diplomatic account for services on a special mission to France in 1780; the other, for his military services as a lieutenant colonel in the line of the army and aid-de-camp to General Washington.

His diplomatic account, in point of time employed and rate of compensation, was settled under a special resolution of Congress of March 1, 1785, as appears by an authenticated copy of the Treasury settlement No. 678, and the balance paid—\$6,017 $\frac{31}{90}$.

On an examination of the Treasury records, it appears that the compensations to foreign ministers, and agents on special missions, under the revolutionary Government, varied according to the resolution of Congress under which the same were adjusted at the Treasury. In some instances, three months' salary was allowed to ministers for their return home; in others, as in the present case of Lieutenant Colonel Laurens, the resolution of Congress was the period "until his return."

His military account was also settled at the Treasury, as appears by an authenticated copy thereof, No. 679, and the balance adjusted and funded at the Treasury in 1791.

On an examination of the Treasury records, not any payment can be traced of the sum stated in the military account in the following terms:

"Subsistence from the 1st January to the 25th August, 1782, at 4 rations per day, is 948 rations, equal to \$104 $\frac{7}{9}$, to be paid in specie."

Neither do the records of the War Office afford any satisfactory result after a search thereof.

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

JOSEPH NOURSE, *Register.*Hon. W. H. CRAWFORD, *Secretary of the Treasury.*

15th CONGRESS.]

No. 436.

[1st SESSION.]

CANADIAN REFUGEES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 6, 1818.

Mr. SPENCER, from the select committee, to whom were referred the petitions of Samuel Thompson and John Dailey, reported:

That the petitioners are Canadian refugees, who, previous to the late war with Great Britain, resided in the province of Upper Canada. They presented petitions to Congress at the last session, upon which a report was made by a committee of the House of Representatives, a part of which the present committee adopt as a part of their report, in these words:

"That it appears, from the documents accompanying the petitions, that the petitioners were both men of extensive property in and contiguous to the village of Newark, in Upper Canada; that, after taking possession of that place by the United States army, under the command of General Dearborn, the petitioners were active and zealous in their endeavors to promote the success of our arms, and were solicitous to add all in their power to the comfort and convenience of our troops; that they gave up their houses for quarters for officers and soldiers; and on all occasions manifested so strong an attachment to the American cause, and their disloyalty to the British Government was so apparent and notorious, that they deemed it unsafe for them to remain in Canada after its evacuation by our army, and they threw themselves under the protection of the American Government. In consequence of which, although there is not direct proof of the fact, there is little doubt but that their property has been confiscated, and the petitioners are now far advanced in life, and destitute of the means to enable them to live comfortably."

Your committee, in addition to the above, beg leave to state their perfect conviction that, by adhering to the British Government, the petitioners might not only have preserved their property, but that they would in all probability have received honors and rewards for their fidelity. Under the influence of various proclamations and engagements, they were induced to join the American standard; and that this conduct proceeded from the most correct motives, no doubt can be entertained, when it is recollected how much they hazarded, and how little they could gain.

The policy of the United States in remunerating refugees from the enemy for their losses began with the Government, and has continued with its progress. The promises made in the revolutionary war to the refugees from Nova Scotia and from Canada have been fulfilled by repeated acts of Congress since that period; and since the late war lands have been given to Canadian volunteers who were born Americans. If there should be any discrimination made between those who, forsaking a land of freedom and equal laws, to obtain property, became subjects of the British King, and those who seized the very first opportunity to testify their attachment to our cause and to our institutions by staking their property and their lives in our service, your committee would think that it should be in favor of the latter. If the liberal policy hitherto pursued by the United States be continued, it would not require much calculation to predict its effects in the event of another contest.

The losses of the petitioner John Dailey appear to have been about \$30,000. In that amount is included the value of property owned by him after he had removed to the American side of the Niagara, consisting of goods, household furniture, and clothing, estimated at \$7,000. From the evidence adduced, this property appears to have been deposited in a barn, hired by the petitioner, and which was afterwards made a deposite of military stores by the officers of the United States; and that such occupancy was the cause of its destruction, is strongly inferred from the circumstance that the adjoining house and other contiguous buildings were untouched by the British when it was destroyed. The loss of the petitioner Samuel Thompson appears to have been about \$10,000, the whole of which occurred in the province of Upper Canada. The committee have prepared, and beg leave to report a bill for the relief of the petitioners, by which they propose to afford them some partial remuneration for their losses in Canada, by giving to John Dailey two sections of the military bounty land, and to Samuel Thompson one section; and they propose to refer the claim of Dailey, for the property destroyed on the American side of the Niagara, to the decision and settlement of the Third Auditor of the War Department.

15th CONGRESS.]

No. 437.

[2d SESSION.]

PROPERTY DESTROYED BY THE AMERICAN ARMY ON LONG ISLAND IN 1776.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 30, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Mary Brower and others, reported:

That the petitioners pray that compensation may be made to them for property burnt and destroyed (as they state) on Long Island, by the American army, on the advance of the British forces, in the month of August, in the year 1776.

The committee further report that the Congress of the United States have not heretofore made any general provision, assuming to compensate and pay for claims of this description, which may have originated in the time of the revolutionary war.

That, by a resolution of the 3d of June, 1784, of which the following is an extract, the Congress of the United States resolved "That it be referred to the several States, at their own expense, to grant such relief to their citizens, who may have been injured as aforesaid, as they may think requisite; and if it shall hereafter appear reasonable that the United States should make any allowance to any particular States, which may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States."

That the predecessors of the claimants ought, if they did not, to have made application to the State of New York for compensation for damages sustained by the destruction of the property by them stated to have been destroyed.

That now to admit, after so long a lapse of time, claims of this description that may have originated in the time of the revolutionary war, is inexpedient. The following resolution is therefore submitted:

Resolved, That the prayer of the petitioners ought not to be granted.

15th CONGRESS.]

No. 438.

[2d Session.

MILITARY SERVICE IN THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 30TH OF NOVEMBER, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of John Staples, reported:

That it appears, from the petition and accompanying documents, that the petitioner enlisted and served in the army of the United States from the 1st of January, 1777, until the 1st of August, 1780; that for his said services he received certain certificates, but that the amount due him was drawn (as he states) without his knowledge or consent by the captain under whom he had served; and he now prays Congress to take his case into consideration, and grant him relief.

The case of the petitioner was in the year 1794 referred to the Secretary of War, who made a report thereon that "the certificates in question were issued by an officer under the authority of the State of Maryland, they being for depreciation of pay up to the 1st of August, 1780, when the petitioner was discharged. The amount of the certificates has probably been charged to the United States. It would appear, therefore, that, if Captain Brown could not be compelled to refund the certificates, and if they were issued by the officer of Maryland without proper authority, the petitioner ought to make his application to that State for redress, instead of the United States. It would be attended with great difficulties for the United States to attempt to relieve the petitioner."

The committee entirely concur with the report of the Secretary, and offer the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and documents.

15th CONGRESS.]

No. 439.

[2d Session.

VESSEL AND CARGO CAPTURED BY THE ENEMY IN 1813.

COMMUNICATED TO THE SENATE, DECEMBER 1, 1818.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Samuel F. Hooker, of New York, reported:

That, in the month of June, 1813, Mr. Hooker chartered a schooner-rigged boat called the *Lady Washington*, belonging to William Dolway and Ishmael D. Hill, citizens of said State, to take a freight from the port of Oswego, on Lake Ontario, to Niagara; that, after lading the said vessel with the said Hooker's goods, application was made to him by a Mr. Smith, acting in the quartermaster's department, and Alvin Bronson, Esq., the United States army and naval storekeeper, in the said service, to take on board a quantity of public property for the use of the American army. To this Hooker objected, on the grounds that, in the event of capture of the vessel, his property would be subjected to condemnation if found on board with the property of the United States. But at length, upon the earnest solicitations of these officers, and a representation of the urgency of the case, together with their assurances that the United States would indemnify Hooker in case of the condemnation of his property on account of the public property on board, he yielded, and part of his property was taken out of the vessel, and the public property put on board. The *Lady Washington* was captured on her voyage to Niagara, and the property of Hooker, amounting to \$8,130 20, was condemned as public property.

Upon this statement of facts, Mr. Hooker prays that Congress will indemnify him for the loss he has sustained.

The committee believe the facts stated to be true, and that the consent of Mr. Hooker to receive the public property on board with his own was rather a compromise with power, than a thing desirable to him, as, in case of absolute refusal on his part, the vessel might have been pressed into the public service, and thus all hopes of his expected commercial profit lost. It appears, too, that Mr. Hooker was much influenced by the assurance of indemnity, which he had great reason to expect; and the opinion that Mr. Hooker's property was condemned in consequence of its association with public property is much strengthened by the consideration that private property had always been respected and given up by the enemy, both before and after the capture of the *Lady Washington*; and it is in evidence to the committee that the condemnation did take place because the whole cargo of the *Lady Washington* was believed by the enemy to be public stores.

With this view, the committee report a bill for the relief of Samuel F. Hooker.

15th CONGRESS.]

No. 440.

[2d Session.

HORSE LOST IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 1ST OF DECEMBER, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Henry Hollingsworth, of the State of Maryland, reported:

That the petitioner states, in an affidavit on the 11th of September, 1817, before William Crow, "that, on the 3d of September, 1814, or thereabouts, at a place called *Baltimore*, he sustained damages to the amount of one

hundred and twenty dollars by the loss of a horse, which there and then died in consequence of the failure of the United States to furnish said horse with proper and sufficient forage (*in his opinion*) while in their service."

In further support of this claim, the affidavit is produced of William F. Miller, who states "that he acted as veterinary surgeon of the seventh cavalry regiment during the campaign of August and September, in the year 1814, at Baltimore; that the horse of Mr. Henry Hollingsworth was then and there taken sick, and died under his care, in his opinion, of indigestion, occasioned by the eating of sour flour, the troops at that time not being furnished with wholesome food."

However much the committee would respect the *opinion* (and it is only an opinion) of Mr. Miller, the surgeon, they are nevertheless inclined to believe that the evidence in this case is not sufficient to establish the claim. If the troops were obliged to eat sour flour, it does not seem to follow as a necessary consequence that the horses were obliged to do the same; on the contrary, it appears reasonable to suppose that, in such a place as Baltimore, other forage might have been procured. But, if the troops were compelled to subsist on sour flour, and experienced no injury, it appears in a high degree probable that the horses could have endured the same privation, and that the loss of the petitioner is one of those casualties which would have been as likely to happen anywhere else.

The following resolution is submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 441.

[2d SESSION.]

DEPREDACTIONS OF THE SOLDIERS ENCAMPED ON THE BANKS OF NIAGARA RIVER
IN 1812.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 3, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Jasper Parish, a citizen of the United States, residing in the town of Canandaigua, in the county of Ontario, reported:

That it is represented to the committee that the American army, under the command of Brigadier General Smyth, in the month of November, in the year 1812, encamped on the farm of the petitioner, situate on the banks of the Niagara river; that the weather being inclement, the soldiers made use of the fences, which were in good order and valuable, for fuel; and took out the bricks of a good dwelling-house for the purpose of making an oven with them. Besides the injury thus directly sustained, the petitioner states that he suffered materially from being unable to cultivate the ground, of which a large portion had been in a state of cultivation. For these injuries the petitioner asks Congress to reimburse him in the sum of \$746 50.

In this case, it appears to the committee that the injury complained of was the result of unauthorized acts on the part of the soldiery. Claims of the sort have often been before Congress, and have as often been rejected: no principle appears to be better settled. The reports of the Committee of Claims and the decisions of the House furnish abundant proof of that fact. A departure from the principle now would undo what has been done; would unsettle what was thought to be established. The consequences of such reversal, the committee think, will be readily perceived by the House. It is recommended, therefore, that the following resolution be adopted:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 442.

[2d SESSION.]

PROPERTY DESTROYED BY THE ENEMY IN 1779.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 4, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Jacob Van Tassell, reported:

That the petitioner states that he was a lieutenant of militia in the service of the United States in the time of the revolutionary war; that, being in service, he was taken prisoner by the enemy at Pine Bridge, in the State of New York, and detained two years and four months; that, during the time he was a prisoner, his house, barn, &c., situated at that time in the town of Greensburg, in the county of Westchester, were occupied by Captain Buchanan's company of American continentals, and the water-guard as a guard-house and quarters for the officers and men; that, in the month of September, 1779, a British man-of-war, then lying in the river, landed a large party of men, and, after driving the guard, set fire to his house, barn, out-houses, &c., and destroyed or took off all his stock of cattle, grain, household furniture, farming utensils, &c.; and he prays that such relief as may be deemed proper may be granted to him.

The committee further report that the Congress of the United States have not heretofore made any general provision assuming to make compensation for claims of this description originating in the time of the revolutionary

war; that the Congress of the United States, by a resolution of the 3d of June, 1784, of which the following is an extract, resolved "that it be referred to the several States, at their own expense, to grant such relief to their citizens who may have been injured as aforesaid as they may think requisite; and, if it shall hereafter appear reasonable that the United States should make any allowance to any particular States which may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States."

The committee further report that the petitioner ought, if he did not, to have applied to the State of New York for damages sustained by the destruction and loss of the property that he states to have been lost and destroyed; that, the Congress of the United States having heretofore made no provision to compensate for damages of this description, and having resolved, as aforesaid, that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States, the committee are of opinion that it is inexpedient now, after a lapse of about thirty-nine years, to admit to settlement claims of this description originating in the time of the revolutionary war; that the petitioner is not entitled to any relief from the United States; and submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

15th CONGRESS.]

No. 443.

[2d Session.]

INJURY TO A HOUSE RENTED TO THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 4, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Catharine McNiff, of Detroit, Michigan Territory, reported:

That the petitioner represents that, during the campaigns of 1813 and 1814, her house was occupied by the troops of the United States, under the command of Major General Harrison; that the house was taken or given up to the troops without any contract having been made, either for its use, or for any injury it might sustain while so used; and that the rent which she subsequently received was no more than the reasonable and usual charge for such a house, and by no means sufficient to cover the extraordinary loss she has incurred from the great injury it received while in the occupation of the United States.

It appears to the committee that no usage, either of law or equity, could require more of the Government than a compliance with its contracts. A contract may precede or follow the act or thing which is the subject of the contract. In this case the petitioner says "no contract was made previously to the occupation of the house;" but the reception afterwards of a sum of money for the rent is as much a contract for the use of the house as if it had preceded the occupation.

It is further alleged that this sum was sufficient to cover only the ordinary rent of the house. But this exception comes too late; nor is there any evidence of the fact. It should have been urged at the time the money was paid and received; for, in the eye of the law and common sense, every person is deemed competent at all times to manage his own interest. An exception as to the insufficiency of the rent not having been urged at the time it was received, is proof to the committee that it was then thought to be sufficient, because it was received after the occupation, when every degree of injury must have been apparent. The petitioner, therefore, can have no claim on the United States for additional compensation. If that which has been already received was not sufficient, it is her own fault in not having made a greater charge, or stipulating at the time for more than was paid.

It appears to the committee that the petitioner is careful not to disclose the amount which has been received, for nothing of the kind is to be found, either in her own statements or in the other evidence adduced. Nor has any thing been said as to the character of the injury, whether it necessarily resulted from the occupation of the house or from the wantonness of the troops. If, however, any injury was sustained beyond that for which she has been compensated, it must have been of the latter character, for which the Government has never been held responsible. The following resolution is submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 444.

[2d Session.]

OFFICERS OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 7, 1818.

Mr. JOHNSON, of Kentucky, from the committee to whom was referred the petition in behalf of sundry surviving officers of the revolutionary army, reported:

That, on the 21st of October, 1780, by resolution of Congress, it was provided that the officers who should continue in service to the end of the war should be entitled to half-pay during life, to commence from the time of reduction. This stipulation emanated from a previous resolution of Congress, which promised seven years' half-pay to the same class of officers, excepting those who might hold any office of profit under the United States, or any of the States.

By another resolution of Congress, in January, 1781, the stipulation was so extended as to embrace the hospital department and medical staff. In the beginning of the year 1783, a memorial was presented to Congress from a committee of the officers of the army under the immediate command of General Washington, proposing a relinquishment of the half-pay for life, on condition that an equivalent should be provided either by the payment of a gross sum, or by a full compensation for a limited time. This proposition, which originated with officers of the army, grew out of a conviction that the half-pay for life was regarded by their fellow-citizens as savoring too much of the spirit of a privileged order, which rendered the measure unpopular with many of the community; and the proposition, on the part of the officers, to relinquish the payment for life was, and ever will be, viewed as an act of the most distinguished patriotism, in perfect accordance with that entire devotion to the country which is so strikingly manifested in all their sufferings, sacrifices, and services.

Congress, well apprized of the prevailing objection to the allowance for life, which had been adopted only from necessity, readily embraced the occasion of removing a measure objectionable in its principle, by a commutation of five years' full pay in lieu of the half-pay for life, in a resolution of March 22, 1783, which provided that such officers as were then in service, and who should continue therein to the end of the war, should be entitled to receive the amount of five years' full pay in money, or securities on interest at six per cent. per annum, as Congress should find most convenient, instead of the half-pay promised for life by the resolution of October 21, 1780; the said securities to be such as should be given to other creditors of the United States: *provided*, it should be at the option of the lines of the respective States, and not of officers individually of those lines, to refuse or accept the same. The commutation was acceded to by the officers generally in the manner pointed out, and at the reduction of the army they received commutation certificates for the amount prescribed. The memorialists state a variety of facts, and present many considerations, to prove that by the commutation great injustice has been done to the officers originally entitled to half-pay for life, and their object is to induce the Government to resume the original contract of half-pay for life, upon certain terms therein expressed; and the memorial concludes with a specific prayer that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the revolutionary army of the United States, who, by the resolves of Congress, was entitled to half-pay for life, calculating the amount of the principal of the arrearages from the time of his reduction, and deducting therefrom five years' full pay, and the balance of arrearages being thus ascertained, to issue a certificate, bearing an interest of six per centum per annum, to the officer, for the amount of said balance; and the officer to be thenceforth entitled to receive half-pay, in half-yearly payments, for and during the term of his natural life. The committee have endeavored to investigate the subject with all the candor and attention which its merits require; and, in any view, difficulties of no ordinary magnitude presented themselves.

When contemplating the eminent services and generous sacrifices of that illustrious band, the committee could not withhold a favorable report to the full extent of the prayer of the petitioners, could they be governed alone by feeling. The resources of the nation would never repay the debt of gratitude which is due to the patriots and sages of the Revolution, whose counsels and acknowledgments so essentially contributed to the establishment of that freedom and independence from which so many blessings flow. Were the prayer of the petitioners asked as a gratuity only, new difficulties would arise; other classes of citizens, equally meritorious, and much more numerous, whose sacrifices were not less extensive, would have equal claims, and merit equal attention. The whole revolutionary struggle was marked with public sacrifices and public devotion; every class of citizens endured with cheerfulness the privations and losses to which those trying times subjected them, and, in the happiness and independence of the country which followed, every member of the community found his best reward; and, however desirable it may be that every sacrifice in time of great public calamity may receive a pecuniary requital, the American Revolution demonstrates its impracticability, and necessity requires that the munificence of Government should have some limitation. Well aware of this view of the subject, the claim of the memorialists is predicated upon contract and legal obligation. In the light of justice, therefore, the committee have also considered this subject; and it is with feelings of extreme regret that they find themselves compelled in duty to differ in opinion with the memorialists in the prayer of the petition.

The resolution of Congress, under which the claim for the half-pay was commuted, was proposed by the officers, and the commutation voluntarily accepted by them in the manner specified. The memorialists also urge their claim upon the supposition that the commutation was not an equivalent for the original stipulation; that more than five years' full pay was then equitably due. The committee, on this point, are of opinion that a just estimate was made by the parties when the commutation was agreed upon, under all the circumstances of the case, and ought not to be revived at this day. But if it were necessary to look for relief, by reviewing the comparative amount, it will be found that the interest of five years' full pay, at six per cent. per annum, is equal to three-fifths of the whole amount of half-pay forever; for example, take the advance to a captain of five years' full pay, at forty dollars per month, \$2,400, the annual interest on which would make the sum of \$144, at six per cent.; and the whole amount of half-pay would make a sum of \$240 per annum. The advance of five years' full pay will also be found equal to the present worth of half-pay for more than fifteen years. The committee cannot, therefore, discover such a great inadequacy in the amount stipulated. The resolution of March, 1783, provided that the five years' full pay should be in money, or securities on interest at six per cent. per annum, as Congress should find most convenient; the said securities being such as should be given to the other creditors of the United States.

Congress found it most convenient to pay in securities on interest, and for this purpose gave certificates conformably to the stipulation—the only evidence of debt in their power, and the same as were given to other creditors of the United States; the faith of the nation was pledged for the payment of these certificates, and the pledge was subsequently redeemed by the payment of the nominal amount, with interest, in gold and silver, or equivalents, in the hands of the officer or his assignee. If the officers could not command the money in hand for these certificates, neither could they have done so at that day for their half-pay had there been no commutation; gold and silver were not in the reach of Government at that period. This is suggested only to show that the mode of payment alone was changed, and that the commutation was granted as a fair equivalent.

Upon the view taken by the memorialists, the committee could not see any justice in confining the prayer of the petition to those only who still survive. To provide for those upon the principle of justice and legal obligation, and suffer the dead to be forgotten, would be but a partial remuneration; the heirs of the deceased would have equal claims upon the Government as the officer who survives. Again, the memorialists ask a resumption of the original contract, to which the same objections may be urged as in the year 1783. If then deemed objectionable because not in accordance with the genius of our institutions, nor congenial with the sentiments of the American people, it may be equally so at this day. Upon the most extensive view which the committee have taken of this subject, they have found difficulties still thickening; and to answer the prayer of the petition to its intent would, in the opinion of the committee, go to establish a principle fraught with much evil. Conscious, at the same time, of the merits and worth of these distinguished heroes, whose devotion and deeds have given such glory and such happiness to our country; conscious of their patriotism and valor, which have imposed such lasting obligations upon the

grateful remembrance of the nation, the committee could not reconcile to their feelings or duty an entire rejection of the memorial, and they have looked for a combination of the principle of equity and of gratitude on which might be rewarded, in some little degree, the labors and sufferings of the memorialists, without involving future difficulties in the establishment of a dangerous precedent; this principle has been found in the depreciation of the commutation certificates, and the losses sustained by the untimely sale of these certificates. It is a well-attested fact that most of those certificates were sold at an amount of not more than from one-fifth to one-tenth of their nominal value. Gold and silver not being in the power of the Government, the pressing and immediate wants of the holders rendered it necessary for them to dispose of their certificates at any price; and, upon this view of the subject, the committee recommend the following resolution:

Resolved, That each officer of the revolutionary army, who was entitled to half-pay for life under the several resolves of Congress upon that subject, and afterwards, in commutation thereof, received the amount of five years' full pay in certificates or securities of the United States, shall now be paid by the United States the nominal amount of such certificates or securities, without interest, deducting therefrom one-eighth part of the said amount.

15th CONGRESS.]

No. 445.

[2d SESSION.]

LOSSES ON THE NIAGARA FRONTIER DURING THE WAR WITH GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Ralph M. Pomeroy, reported:

That the case of the petitioner, with one hundred and fifty-seven others, was referred to the said committee at the last session of Congress, claiming payment under the act of the 9th of April, 1816, for property burnt and destroyed by the enemy between the 19th of December, 1813, and the 1st day of January, 1814, both days inclusive, on the Niagara frontier, from Buffalo and its vicinity to Fort Niagara, a distance of near thirty-six miles; on which cases that committee made a report, to which the present committee beg leave to refer. [See No. 430, page 603.] In making that, as well as the present report, the committee have endeavored to ascertain whether the burning on the Niagara frontier was of such a character as to entitle the claimants to relief under the provisions of the act of the 9th of April, 1816; and their examination then, as well as at the present, resulted in a unanimous opinion that it was not.

The committee who reported at the last session considered the cases on the Niagara frontier as of such extreme suffering, so far exceeding that which fell to the lot of citizens in any other section of the country during the late war, that they were induced to report in favor of extending to them such charitable relief as would in some measure relieve their distress: which report was rejected by the House. Your committee can perceive no difference among these cases in principle; all shared the same fate, as well those which were occupied as depositories for military stores and barracks, as those which were not. Therefore, your committee cannot recommend the relief to this individual sufferer which the House have refused to all the rest; they therefore recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 446.

[2d SESSION.]

HORSES AND ARMS CAPTURED FROM THE BRITISH.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Colonel Isaac Clark, of the State of Vermont, reported:

The statements of the petitioner bring the subject of his claim so fully into view, that the committee beg leave to adopt it as a part of their report, as follows:

To the honorable the Senate and House of Representatives of the United States in Congress assembled: The petition of Isaac Clark, of Castleton, in Vermont, humbly represents:

That he faithfully served his country as an officer in the army through the revolutionary war; that, in the month of March, 1812, he was called upon by the administration of the Government to resume the toils of military life, and he accepted a colonel's commission in the army of the United States. He suffered not the reasonable excuse of advanced years to screen him from the arduous service of a soldier, but, animated with the love of country, he again unsheathed his sword to assert and defend his country's rights; that, by unwearied exertion and influence, he recruited, within one year, the eleventh regiment, consisting of twelve hundred as effective and brave men as ever entered the service of any country, and also one company of cavalry and one of artillery. Your petitioner further repre-

sents, that, in the year 1813, after time and good conduct had produced mutual attachments and affections between him and his regiment, General Hampton took the command of the northern frontier, and unfeelingly deprived him of the command of the regiment *he had raised*, for no other reason than to distribute the men, and fill up the skeletons of other regiments, and then ordered him to recruit, within ten days, a volunteer corps of riflemen, to be in service ninety days; that he raised six hundred men within that short period, and five hundred of them were armed, contrary to his reasonable expectations, with muskets, and only one hundred with rifles.

And he further says that, on the 12th day of October, 1813, with the one hundred riflemen, he made an inroad into the enemy's country, and attacked a military post at Missisque bay by surprise; killed and took the whole garrison, consisting of one hundred and fifty effective men, and two hundred and eighty stands of arms, with their accoutrements; and that sixty-four muskets, fifty-seven bayonets, and thirty-five cartridge boxes, were by him delivered into the United States arsenal at Burlington, and the remainder of them to the New York militia, who guarded the prisoners to Greenbush.

And he also represents that, in March, 1814, he seized seventeen sleigh-loads of copperas, sugar, and steel, of the value of two or three thousand dollars, and delivered the same to the collector of Vermont, and captured a number of beef cattle and a quantity of grain, which were issued out by him as rations to the troops; and, also, recaptured from the enemy eight dragoon horses; four of them were remounted by our dragoons, and the other four were delivered over to the quartermaster for the use of the United States; that, soon after, he captured, within the province of Canada, about one hundred head of beef cattle, smuggled over the line, and which he caused to be killed and put up for the United States troops.

Whereupon, your petitioner prays your honors to take the premises into your wise consideration, and as your liberality has been extended to the naval forces of the United States, so to extend the same to him and the brave volunteers under his command, and pay to him, for their mutual benefit, the value of the four horses and arms and accoutrements, which were delivered into the arsenal of the United States, as a partial reward of their meritorious services; and he, as in duty bound, shall ever pray.

ISAAC CLARK.

WASHINGTON, April 2, 1816.

The claim of the petitioner is not without the influence of precedents, in some degree analogous, for its support. The act passed at the first session of the fourteenth Congress, for the relief of Colonel William Lawrence, and the officers, non-commissioned officers, and privates composing the garrison at Fort Boyer, may be considered as pointing out the utility of the principle in such cases. There appears to be no substantial reason to induce a discrimination between meritorious services performed either on the land or water. If Colonel Lawrence captured the enemy's vessels, and thereby weakened his force on the water, Colonel Clark took from him muskets, bayonets, and cartridge boxes, which lessened his capacity for hostile operations on land. As Government has heretofore bestowed an honorable reward on the one, so it appears to the committee they should now bestow the same reward on the other; and for this purpose a bill is herewith reported.

15th CONGRESS.]

No. 447.

[2d Session.]

M. DE VIENNE'S SERVICES IN THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1818.

Mr. MIDDLETON, from the select committee to whom was referred the petition of M. de Vienne, respectfully reported:

That the facts stated by the petitioner are briefly the following, viz: That he held the commission of captain in the French cavalry in the year 1777, and, having first consulted Dr. Franklin, agent for the United States in France, he resigned that commission, in order to join the armies of the United States, then contending in the cause of liberty and independence; that, being in the enjoyment of an easy fortune, he refused to accept any advance in money from Dr. Franklin, which would have placed him on a par with the herd of mercenaries who sought the service of the United States only to obtain money. He embarked from Quiberon bay, and arrived at Boston in May, 1778, after a tedious passage of one hundred and four days, bearing all his own expenses. His first services were rendered by assisting Colonel Armand, who was then engaged in forming a legion. He afterwards proceeded to join General de la Fayette, under the immediate command of General Washington, whose army was then encamped at Valley Forge. He there acted as volunteer and aid-de-camp to General de la Fayette, without pay or appointments. Being on a reconnoitring party on the morning of the affair of Monmouth, he had the good fortune to make prisoners several Scotch grenadiers, and delivered them to General Washington. M. de Vienne was sent the day after that battle to Philadelphia as bearer of despatches to the President of Congress, and received from that honorable body, in consequence of the recommendatory letters he carried to them, the rank of lieutenant colonel. He continued to serve in that rank throughout the active campaign of 1778, during seven months; for which service Colonel de Vienne refused to receive either pay or compensation of any kind for himself or attendants; and he thus sacrificed, without regret, the sum of at least twenty-four thousand francs, to have the glory and honor (as he expresses it) of serving the United States. His health having suffered from his fatigues, he re-embarked in the month of November, with M. d'Estaing, in a frigate bound to the West Indies.

Subsequent events, connected with the French Revolution, have reduced Colonel de Vienne to a state of dependence upon a small pension granted by the King of France to support himself and family. Old, infirm, and poor, he now asks to be paid for services which, when rich, he rendered gratuitously.

Original certificates from General Washington and from General de la Fayette amply substantiating the principal facts above stated, and testifying to the zeal and bravery of Colonel de Vienne, the committee beg leave to report a bill herewith for his relief.

15th CONGRESS.]

No. 448.

[2d Session.]

LOSS OF THE SHIP ALLEGANY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1818.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the memorial and petition of Washington Bowie and John Kurtz, of George Magruder, and of Thomas Peter, George Peter, and Leonard H. Johns, executors of David Peter, deceased, reported:

That on the 20th day of January, 1812, a charter-party of affreightment was entered into between Richard Forrest, agent for the Department of State, and Bowie & Kurtz, part owners and agents of the ship Allegany, whereof Ebenezer Evelith was master. Thirty working days were allowed for the loading of the vessel, which was to be at the city of Washington on or before the 1st of February, to receive a full and complete assortment of such goods, wares, and merchandise as the freighter might choose to ship on board the said vessel. After the cargo was received, the vessel was to proceed directly to Algiers, and there deliver it to the agent or assignees of the freighter; twenty working days being allowed for discharging the cargo at such convenient place or places as the vessel might come; and thus the voyage to be at an end, the owners agreeing to incur all risks. In consideration whereof, the agent of Government stipulated to pay to the owners or their assigns, in full, for the freight or hire of the said vessel for the voyage, the sum of nine thousand five hundred dollars; seven thousand five hundred dollars thereof on the vessel clearing out at the port of Georgetown, and the balance to be paid at Algiers, on the delivery of the cargo to Colonel Tobias Lear. For the faithful performance of the contract, the parties reciprocally bound themselves in the penal sum of twelve thousand dollars.

The ship was accordingly loaded with military and naval stores for the Dey of Algiers, agreeably to the stipulations of the treaty existing between that Regency and the United States of America, and the cargo addressed to Colonel Lear, agent and consignee of the United States. It was subsequently found that the cargo belonging to Government did not fill up the cabin and steerage of the ship, and the owners obtained permission from the Secretary of State to fill those vacancies with an adventure of their own, consisting of coffee, spices, &c. In consideration of which they were to relinquish that part of the contract which stipulated for the balance of the freight due to them to be paid at Algiers, and agreed that they would receive it at Washington, on being informed of the arrival of the vessel at Algiers. The owners addressed a letter to Colonel Lear, stating that, "by permission of Government, they had put on board the ship Allegany, on their own account, about \$10,000 cost of coffee, nutmegs, and lead, with a view of paying ship's disbursements, and to procure something in return that would pay freight; *that, being almost ignorant of the trade in his neighborhood, they trusted to his better information and judgment to advise Captain Evelith how to dispose of the goods, and what to invest the proceeds in, relying on his kindness to give every information and aid in his power in the business.*"

The ship Allegany now proceeded on her voyage, and arrived at Algiers on the 17th day of July, 1812. On her arrival, the greatest satisfaction was expressed by the Dey, as she had been long expected, and the articles on board were much wanted. The same disposition appeared till the 20th, when a lighter was sent by the Minister of the Marine to discharge the cargo, and took on board a large quantity of plank and spars; but these articles were kept in the lighter till the Dey should give directions concerning them. At this time the Minister of Marine required a list of the articles, which was furnished accordingly, but without annexing the prices. In the afternoon of the 20th, Colonel Lear was informed, by order of the minister, that the Dey expressed the highest astonishment and indignation that only fifty casks of gunpowder and four cables had been brought out, when he expected at least five hundred quintals of powder and fifty cables, besides the plank, spars, &c. In consequence of which, the Dey ordered that the plank and spars which had been taken out of the Allegany should be returned on board, and that the said ship should depart from Algiers *in three days, and take with her the consul general of the United States, and all other citizens of the United States then in Algiers.* Early on the 21st of July, Colonel Lear went to the Minister of the Marine, to have an explanation of this extraordinary affair; and his efforts having proved unsuccessful, he then requested an audience of the Dey, to endeavor, by a personal interview, to make some arrangement of the business, but it was refused him. The plank and spars which had been taken out on the 21st, (yesterday,) were sent on board this day, and put into the ship by the people of the marine. On the 23d of July, after having settled for the cargo of the ship Paul Hamilton, sent out in 1811 by the United States in fulfillment of treaty stipulations, a difference arose as to the balance due to the Dey and Regency from the United States. They contended that, according to the Mahometan year, the United States were indebted to them \$27,000. Colonel Lear insisted, on the other hand, that a balance only of \$15,827 was due, which the cargo of the Allegany would more than satisfy, if it should be received. The Dey persisted in his demand of \$27,000 and required the payment in *cash*, and the departure of the vessel according to his former order. Colonel Lear remonstrated against the injustice of this demand, and the impracticability of obtaining money to comply with it. The Dey gave peremptory orders "that the money should be paid before he left the palace, and then the ship and Americans depart according to his first orders; or that Colonel Lear should be sent in chains to the marine, the ship Allegany and her cargo confiscated, all citizens of the United States then in Algiers retained in slavery, and war instantly declared against the United States." Dreading the consequences of a war to the commerce of the United States, and the frightful prospect of chains and slavery to himself and fellow-citizens then in Algiers, Colonel Lear proposed that the cargo of the Allegany should be taken by the Regency on account of annuities, (they fixing their own prices;) and the balance, if any were then due, should be paid in cash. This proposition was made known to the Dey through his minister, who shortly returned and informed Colonel Lear that he would be allowed till Saturday morning (the 25th of July) for the payment of the \$27,000 as demanded, and then he and all other American citizens must depart in the Allegany, under the penalties which had been previously denounced. At the same time, the minister told Colonel Lear that the Dey had been informed that the Allegany had brought out a quantity of coffee for sale on private account, as well as other articles, not intended for him or the Regency, which exasperated him more, if possible, than the disappointment in the gunpowder, &c., as he considered it an indignity offered him that any thing should be brought in the ship with the annuities, excepting such as belonged to that account. In this critical posture of affairs, and finding the Dey absolute in his determinations, Colonel Lear thought it better to pay the demand of \$27,000, if the money could be raised, and depart in the Allegany, which would save that ship and cargo, and afford an opportunity of giving notice to other vessels and citizens of the United States to guard against the danger which threatened them. For this purpose he offered to sell the cargo of the Allegany, but was prevented by the Dey, who again ordered the ship to depart with every thing on board which she had brought to Algiers. No one was found able or willing to advance,

on any terms, the money demanded by the Dey, except the house of Bacri. But while they took the bills of Colonel Lear, they demanded an advance of 25 per cent., alleging, as a reason for it, the sacrifice which must be made to raise the money at so short a notice. In the evening of the 24th of July, a bill was accordingly given to Bacri on the consul of the United States at Gibraltar, the said Bacri agreeing to pay the money early on the morning of the 25th into the treasury of Algiers, as demanded by the Dey.

In the statement of the 24th of July, Colonel Lear further says that *he gave previous notice* of these transactions to Captain Evelith, that he might be prepared to depart with his vessel on the morning of the 25th, and likewise to the other citizens of the United States, that they might embark in the ship *Allegany*, and leave Algiers in conformity with the orders of the Dey. In replying to some papers submitted to him by the Secretary of State, he again says that on the morning of the 25th of July the *Allegany* was unmoored and carried out of the port of Algiers, by the captain of the port and his crew; himself and family, with other citizens of the United States, having gotten on board in pursuance of a renewed and positive order given that morning by the Dey that they should immediately depart.

In another statement of these transactions, dated at Gibraltar, on the 20th September, 1812, he says "that when the ship *Allegany* left Algiers, on the 25th of July, 1812, by order of the Dey, with her cargo, &c., *he requested* Captain Ebenezer Evelith to proceed for Gibraltar, as the place from which information of what had happened at Algiers could be most readily conveyed to every port of the Mediterranean, as well as communicated to such vessels of the United States as were about entering this sea, to guard them against the danger of capture by Algerine cruisers, and also as offering the best prospect of a market for a disposal of the cargo on board the *Allegany* belonging to the United States; that when the wind, on the 28th, proved adverse to the object of their voyage, he observed to Captain Evelith that, if there were no change in a few hours, he should request him to proceed to Carthage or Alicante, it being important to get into some port to communicate information for the objects aforesaid; that, meeting shortly after with a British convoy from Gibraltar, he embraced the opportunity of forwarding letters to the consuls of the United States at Alicante and Majorca, and, requesting the British officers to diffuse the information, he determined again to proceed to Gibraltar, where the *Allegany* arrived on the 4th of August, 1812; that, in the night of the 8th of August aforesaid, an officer from the ship of the British commander afloat in the bay of Gibraltar came on board the *Allegany* and took possession of her, in consequence of information having been received the same evening of the declaration of war by the United States against Great Britain; that neither he nor Captain Evelith, under existing circumstances, considered it proper to make any stipulated agreement for the freight or run of the ship *Allegany* from Algiers to Gibraltar, as her departure from Algiers was compulsive. It was, therefore, thought best to leave this matter to be adjusted between the Government of the United States and the owner or owners of the ship *Allegany*, upon a fair and full statement of all the circumstances being laid before them."

It appears the *Allegany* and cargo, as well that part belonging to the United States as the private adventure of the owners, were condemned as good and lawful prize in the British court of vice-admiralty, at Gibraltar, on the 30th of December, 1812.

On the 6th day of January, 1813, Captain Evelith, in behalf of himself and all others concerned, entered a protest at Gibraltar. On the 14th of May following, Captain Evelith entered another protest at Georgetown, District of Columbia, adding to the protest at Gibraltar on the 6th of January preceding. In this latter protest of the 14th of May, he states that, on the 21st of July, 1812, when orders were given by the Dey for the departure of the *Allegany* from Algiers, with her cargo, and the return on board of that part which had been taken out, he observed to Colonel Lear "that he would do as requested; that he should abandon the ship to the United States, considering her in their service and at their risk, and holding them responsible for further consequences, and that he should resign all control of the said ship, any further than navigating her to any port or place that he, (Colonel Lear,) as the legal agent of the United States, might think proper to direct; to which the said Colonel Lear did not make any objection."

It may not be improper to remark, in this place, that the protest at Georgetown appears to be a considerable addition to that at Gibraltar, on the 6th of January, 1813, and is particularly at variance with the statements of Colonel Lear of the 24th of July and 20th of September, 1812. Colonel Lear nowhere intimates, in the most distant or obscure manner, that the vessel, on its departure, was abandoned to the United States in the formal terms as stated by Captain Evelith.

The memorialists claim from the United States payment for the loss of the ship *Allegany*, valued at \$25,032 96 and of their private adventure on board, estimated at \$8,740 57, amounting, altogether, to the sum of \$33,773 53.

The committee have investigated this claim with an attention due to its magnitude, and have been minute in relating the facts and circumstances attending it, that the whole subject might be brought before the House. It has often been before Congress [see reports Nos. 251, 312, 332,] and the different law officers of the Government. It was before the Committee of Claims at the last session, but was not finally acted on. Finding, however, that it involved some law points of difficult solution, they directed it to be referred to the present Attorney General. His answer, dated 14th January, 1813, the committee beg leave to adopt as a part of their report.

SIR:

WASHINGTON, January 14, 1818.

In reply to your communication of this evening, in which you ask, 1. Whether the claim of Messrs. Bowie & Kurtz against the United States, for the loss of the ship *Allegany*, is a legal one? and 2. Whether, if they have any legal claim, it will be for a total or partial loss? I answer—

That, considered as between individuals, the claim either for a total or partial loss of this ship is, in my opinion, unsupported by law. For the freighter is not the insurer of the ship; if she renders the stipulated service, he is bound for the freight, but for no more; if she perishes, with her cargo, in the fruitless attempt to perform that service, the freighter is so far from being bound for the ship, that he is not even bound for the freight.

The voyage, under the charter-party, ended at Algiers, and the owner was then entitled to his freight on that voyage. The charter-party was there at an end, and neither the freighter nor his consignee had any further authority, *under that contract*, to direct the future destination of the ship. The right, therefore, which Captain Evelith professes to have exercised afterwards, of a formal abandonment of the ship to the consignee, on the order issued by the Dey for her immediate departure, was not a right growing out of the contract of affreightment, which had expired, or out of any legal subsisting relation between the owners and freighters. That act, if it took place, (which Colonel Lear denies,) was, in contemplation of law, a mere nullity.

But the master, as the agent of his owners, has the right to engage the services of the ship; and the voyage from Algiers to Gibraltar can be considered in no other legal light than as a new voyage growing out of a parol contract between the master, acting for the owners, and Colonel Lear, acting for the United States; a contract, indeed, forced upon the parties by the Dey, so far as the departure of the ship from Algiers was concerned; but, so far as her destination was directed to Gibraltar, a perfectly voluntary contract: because it was a destination which Colonel Lear, either as the consignee of the outward cargo, or as the American consul at Algiers, had no right to coerce

in relation to a private ship, and a destination to which the master was not bound to submit, the charter-party under which he had sailed from the United States having been completely fulfilled on his part, and the ship again perfectly under his control. What, therefore, the master was not bound to do, he must be supposed to have done voluntarily; and his consenting to sail to Gibraltar under the directions of Colonel Lear, for the benefit of the United States, so far as it can be supposed to give the owners any claim against the United States, cannot be legally considered in any other light than as an original contract for a new voyage from Algiers to Gibraltar.

In this point of view, on the arrival of the ship at Gibraltar, the owners were entitled to their freight on this voyage; and, although no specific freight was stipulated, a reasonable one would be allowed in a case between individuals.

At Gibraltar, the ship, *with her cargo*, was seized and condemned as enemy's property, war having in the mean time taken place between the United States and Great Britain, though unknown to all the parties concerned in the voyage until the moment of the seizure; for this loss the owners claim the value of the ship against the freighters. Such a claim would certainly not be allowed between individuals; for it is the duty of owners (and consequently of the master, who is their agent) to look to the nature of the service in which they employ their ships, and to remember that the freighter is not the insurer, more especially in a case where both parties are equally ignorant of the danger, equally innocent of the loss, and both are sufferers.

With regard to that part of the cargo which the owners had shipped on their own account, it is to be observed that they had themselves consigned it to Colonel Lear, with a special request that he would, *as their agent*, take it under his management, and direct it to such port as he should deem best for their interest. With relation to this part of the cargo, Colonel Lear must be considered *simply as the consignee of the owners*, with all the *personal* responsibilities of that character, if he accepted the consignment; but certainly the freighters of a separate part of the cargo have no legal connexion with this, and have no legal responsibility for the conduct of *the agent whom the owners chose to select as the consignee of their distinct and separate adventure*.

With what degree of force the peculiar circumstances of this case may appeal to the grace of Congress, or how far they may be supposed to have compromised themselves in analogous cases, it is not my province to decide; I have confined myself to the *strict law* of the case, as your questions require, and I have necessarily considered the law as it would operate *in the case of individuals*.

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

WM. WIRT.

The Hon. LEWIS WILLIAMS, *Chairman of the Committee of Claims, H. R.*

The committee think, with the Attorney General, that the memorialists are entitled to a reasonable freight from Algiers to Gibraltar. This they believe would be paid to them without the intervention of an act of Congress; and therefore they submit to the House the following resolution:

Resolved, That the claim of the memorialists ought not to be granted.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled: The memorial and petition of Washington Bowie and John Kurtz, of George Magruder, and of Thomas Peter, George Peter, and Leonard H. Johns, executors of David Peter, deceased, respectfully shows:

That heretofore your memorialists have presented their petition to a former Congress, praying indemnity for the loss of the ship Allegany and cargo, upon the ground that the late consul of the United States at Algiers, acting for the public interest, and upon a sudden and unlooked-for emergency, when public property of the United States, to a great amount, and the liberties and perhaps the lives of many valuable citizens, were at stake, had taken the ship and cargo of your memorialists from the destination to which their interests and their orders had consigned her, to a port where, in the best state of things, all their individual objects and interests in the voyage must have been inevitably sacrificed, but which port proved to be an enemy's port, and the entrance therein was followed by the total loss of vessel and cargo. Your memorialists are given to understand that, at the late Congress, such proceedings have been had upon their said petition that nothing but the want of sufficient time prevented the consummation of the prayer of the petition, to which, with the accompanying documents, and all the proceedings upon the same, your memorialists pray your honorable Houses to refer. From an attentive consideration of all the objections which have hitherto been raised against the claim of your memorialists, they confidently rely that the evidence and explanations which have been brought forward to rebut those objections will be found to be perfectly satisfactory. Your memorialists think that all those objections, when fairly examined, will be found to turn upon an hypothesis altogether inadmissible, to wit, a mere speculative conjecture of the probable or possible result of the risks to which the property of your memorialists would, in all events, have been subject, if left to pursue its original and prescribed destination. Now, besides the entire misconception which appears to have prevailed as to what that destination really was, and as to the estimate of the risks attending it, your memorialists humbly submit that they had an unquestionable and clear right to elect the kind and degree of risk to which their property should be exposed, and either to stand their own insurers, or to effect regular insurance; and if a third party interposes, so as to prevent the exercise of that right of election, and to vary the destination and the risk for his own peculiar advantage, that party takes upon himself the whole risk, and is not at liberty to speculate upon the possible losses which the owners might have sustained from the risks they had elected to encounter.

Independently of the intrinsic merits of the claim of your memorialists, they are informed that the principle has been recognised and established by the precedent of a former decision in the case of one Daniel Cotton—a case, in all its circumstances, far short of the present, as an appeal to the justice of the public; for, in that case, so scrupulous was Congress of the rights of the citizen, when committed to the special superintendence of the Government, in virtue of the affreightment of a ship, that the loss of the owner in that case, to a great amount, produced by the arbitrary conduct of one of the Barbary Powers, where the vessel was sent with a cargo shipped on account of the Government—a loss in no degree produced by the intervention of any accredited agent of the United States, and consisting simply in the inadequacy of the freight agreed on between the consul and the captain—was amply compensated, upon the broad and equitable ground that the loss was consequential from the act of the Government in placing the ship under the power of the foreign state, and that the Government was bound to compel the foreign state to do justice to the individual, or to supply the defect of justice from that quarter by making adequate compensation at home.

Your memorialists, therefore, humbly pray that the proper accounting officers of the Treasury be authorized and directed to audit and settle the costs of their ship and cargo, with interest upon the aggregate of the same from the time the loss happened. And your memorialists, as in duty bound, &c.

BOWIE & KURTZ,
GEO. MAGRUDER,
THS. PETER, } *Executors of Da-*
GEO. PETER, } *vid Peter, de-*
L. H. JOHNS, } *ceased.*

The objections to the petition of Bowie & Kurtz, and others, before the Committee of Claims, considered and answered.

The petitioners find it necessary to make some attempt to explain and illustrate the facts and the grounds of legal and moral obligation and of public policy upon which they have founded their claim; that necessity has been produced by the great lapse of time since the matter has been pending, by the intervening destruction or loss of some of the documents originally accompanying or supplementally filed with their petition, and by the confusion which has arisen from the extraordinary if not unprecedented diversities and discrepancies in the deductions of law and fact which have prevailed among persons of the first talents and reputation, who have pronounced opinions upon the case.

In the first instance, it may be useful to review the history of this claim since its first introduction to the notice of Congress, and the various aspects of good and evil omen which have successively marked its progress.

A committee of the Senate, in January, 1815, made a detailed report, concluding with a most decided recommendation of the claim "to the prompt indemnity of Congress, considering it to be clearly and unequivocally founded upon the soundest principles of justice and propriety." The report was adopted, and the bill passed the Senate on the 14th February, 1815, allowing the sum of \$34,342 97, with interest from the 22d July, 1812, until paid. The general impression, as understood at that time, was so favorable to the merits of the claim that nothing prevented the final passage of the bill through the House of Representatives but the urgency of very important subjects of general interest and concern, occupying the attention of Congress at so late a period of a session which was necessarily to end in little more than a fortnight from the time the bill was first sent from the Senate. At the ensuing session, the petition was referred to the Committee of Claims, who, in March, 1816, made a report, accompanied by a bill in all respects as favorable as that of the Senate; but, unfortunately, it was again deferred to business of more general concern, until the advanced period of the session induced another postponement; the idea still being very prevalent that it would pass at the next session, with little or no opposition. The Committee of Claims, at the last session,* took up the petition, and, in January, 1817, made the first unfavorable report on the case; but that also being a short session, the inevitable delays incident to the progress of a claim laboring under the negative of the committee brought about, for the third time, a postponement, without the sense of the House of Representatives having been, at any time, or in any manner, taken on the merits.

The opinions expressed by other departments of the Government have not been more uniform.

The Secretary of State, in his report upon a reference from the Committee of Claims, admits, in the main, the principle upon which the merits of the claim turn, and allows an indemnity to the extent of the value of the vessel, but with certain deductions and qualifications in the detail, which will be presently remarked upon. The Secretary reported so far in favor of the claim, notwithstanding he had previously consulted with the then Attorney General, who, in his letter of the 6th of June, 1813, intimated an opinion, in general terms, "that he did not find, upon a perusal of the papers, a sufficient *legal foundation* for the claim; and that the owners were entitled only to a *reasonable freight* from Algiers to Gibraltar."

The succeeding Attorney General (as the petitioners are informed, but never having seen his opinion, they speak of it only from report) concurred with his predecessor upon the strict law of the case; but, at the same time, recommended the claim as deserving the most liberal consideration, and sustained by strong precedents of relief afforded in analogous cases. The present Attorney General, professing to confine himself to the *strict law* of the case, and arguing from the principles of municipal jurisprudence applicable to ordinary controversies between individuals, has come to the same conclusion—that a *legal claim* cannot be made out against the United States for any thing more than a *reasonable freight* from Algiers to Gibraltar. The reasons urged in support of the several opinions adverse to the merits of the claim will form the groundwork for those explanations which it is now requisite to make of the *real state of the facts*, and of the genuine and only principles of law upon which it ever was conceived that the claim was to be supported; both of which (as it is hoped, without undue presumption, to show) have been fundamentally misunderstood by all the respectable and eminent persons who may appear to have dissented, either partially or wholly, from its strict legality and justice. As to the mere question of strict law, it is proper to remark that, besides the clear and decided opinions of the two committees of Congress, sanctioned by the solemn vote of one branch of the Legislature, and the official report of the Secretary of State just quoted, there was laid before the first committee the result of consultations with three able and distinguished counsellors in private life, Messrs. Tilghman, Rawle, and Philip B. Key, whom the petitioners were induced to consult from the great deference and respect generally conceded to their professional opinions, and who all concurred, after deliberate consideration of every circumstance, clearly and decisively in favor of the claim. In the opinion drawn up by Mr. Tilghman, (now no more,) he had taken some pains to illustrate the principles of maritime and commercial law from which his conclusions were drawn. Those papers are now lost from among the public files; but the general conclusions supported by them will doubtless be recollected by many gentlemen who were members of the thirteenth and continue so of the present Congress. It will not be so easy, however, to supply the reasonings of the lamented individual who has since been lost to his family and his country.

Under these peculiar circumstances, the petitioners hope to be acquitted from any possible charge of arrogance or intrusion if they undertake to give conclusive answers to all the objections urged against them, and to show that pre-eminent talents, combined with every quality deserving of esteem and confidence, are not alone adequate to form irrefragable opinions, when facts and circumstances are not adverted to with that minute attention and critical accuracy so necessary to just and sound conclusions, either of law or fact. Indeed, it will appear that the *acumen* of investigation has been put upon the wrong trail, and, misapprehending the true and only ground upon which the claim was ever thought of being asserted, has been led, in the pursuit and refutation of assumed errors, away from the consideration of what are the real and essential merits of the case. In performing this task, it may be allowed to bespeak the indulgent attention of the committee to dry and tedious details, unrelieved by one redeeming quality

* At the session of 1816-'17.

of style or manner, and the fatigue of which is only to be compensated by the conscious satisfaction with which a well-regulated mind reflects upon the labors necessary to the discreet performance of important duties, and to the great ends of justice. The petitioners, therefore, will proceed to the separate examination of every leading objection, without other apology than that of their extreme incompetence to cope with the formidable array of talent and authority by which those objections have been sustained, and without other support than that of the plain right of the case, when the *naked facts* upon which it depends come to be more precisely ascertained and clearly understood.

Objection I. The prominent objection (and that which, if sustained in point of *fact*, certainly would appear to be the most conclusive in point of *law*) is that the consul general, Colonel Lear, in taking the ship from Algiers to Gibraltar, acted not *officially*, nor as the agent of the *freighters*, but as the agent and consignee of the *owners*, in virtue of a consignment from the latter of their private adventure on board, and of "their *express authority* to manage and direct the future destination of the ship after her arrival at Algiers." The answers from the evidence to this objection will be stated with the utmost confidence of their being found to be conclusive and demonstrative.

Answer 1st. The private adventure was actually consigned to the *master* on board, and not to Colonel Lear;* nor was there any authority, express or implied, for Colonel Lear, as their agent, to manage or direct the future destination of the ship. The letter from Bowie & Kurtz to Colonel Lear, of the 12th of February, 1812, (from which the whole argument, founded upon his supposed authority as agent and consignee of the *owners*, is drawn,) never could have been understood by any one acquainted with mercantile usage as intended to revoke the consignment by the bill of lading to the master; when, in the customary language of commercial men, it recommends the *actual consignee* (the master) to the attention and good offices of the consul, and requests him "to *advise* Captain Evelith *how to dispose* of the goods, and what to invest the proceeds in." By these very terms the unrevoked authority of the captain, as consignee, is expressly recognised, whilst he is referred to the consul for nothing more than the gratuitous aid of information and advice. The letter is equally destitute of any authority for Colonel Lear to act as agent of the *owners*, in directing the destination of the ship after her arrival at Algiers. The application for a freight to Constantinople is addressed to Colonel Lear in his character of consul general and agent of the United States, and, as such, likely to have occasion to freight a ship on that voyage. From the statement of Mr. Richard Forrest, the agent who chartered the ship for the United States, it appears that the probability of obtaining an ulterior freight from Algiers to Constantinople, on public account, was one of the inducements and expectations of advantage under which the owners acted when they entered into the charter-party, and it is obviously and expressly in allusion to such an expectation that the writers of the letter (when they mention the subject of the freight to Constantinople) use the expressions, "as the Government has given us reason to expect may possibly be the case." To infer from a specific offer of the ship on freight, upon a given voyage, an authority in him to whom the offer is made to dispose of the vessel as he pleases, or to take the management of her future destination, cannot be admissible in any case, far less when the offer is made to a *public officer*, and on public account. The residue of the letter, requesting "the earliest information of the arrival of the Allegany out, of the route she is to take before her return home, of the prospect of sales of the goods on board, and of the probable amount of investment, in order that we may govern ourselves as respects insurance," is all in the ordinary style, so familiar to the correspondence of persons accustomed to distinguish between what is properly the *business*, and what the reciprocal and gratuitous *courtesies* of commercial life. Nothing more can be inferred from it than what the words import; the consul general, having all those facilities and opportunities for keeping up a regular correspondence, incident to his official situation and to his residence in port, and being necessarily to be made acquainted with the fate of the voyage, and the proceedings of the captain, is requested simply to communicate to the owners that information which the captain, whilst engaged in the pursuits of a trading voyage, and possibly the greater part of his time at sea, would have fewer and less direct opportunities of conveying. The first paragraph (which speaks of "the ship Allegany loaded by the United States to *your address*") has such obvious and exclusive reference to the address of the ship and cargo to the consul as the especial agent and consignee of the United States, designated by the charter-party, that any attempt to elucidate the meaning must be utterly superfluous.

Thus let the entire letter, paragraph by paragraph, sentence by sentence, be minutely examined, and the utmost ingenuity of the advocate, or of the most acute and skilful dialectician, may be challenged to deduce any thing like an authority for Colonel Lear to manage or dispose of either vessel or cargo as *agent* of the *owners*. To the plain sense of commercial men, acting upon the ordinary acceptation of the terms usual in their correspondence, the mere suggestion of such an inference would be incomprehensible and astounding; to them the whole state of the question concerning the relative authority and agency of the respective parties would have been intelligible and simple. Thus the United States as *freighters*, or Colonel Lear as their agent, had the management and direction of the ship until she should be completely released and free from her engagement under the charter-party; whilst she remains subject to that engagement, the authority of the *owners* is, for the time, suspended, and that of the *freighters* substituted. It is to be understood, however, that whilst the freighters, or their agents, are exercising the powers incident to the qualified property vested in them by the charter-party, their acts, in so far only as they keep strictly within the term limited by that instrument, will be justified under it, but any further they act upon their own responsibility, and at their own risk. The authority of the captain, as agent of the *owners*, over their *separate adventure*, was complete under the consignment by the bill of lading; but as regarded the *ship*, until her final release from her engagement under the charter-party, he was subject to the authority of Colonel Lear, as agent, not of the *owners*, but of the *freighters*. Upon the instant of her liberation from that engagement, the authority of the *freighters* and their agents would have ceased, and that of the *owners* and their agents would have been completely restored. Then the captain (provided he conformed to the known views and orders of his owners) would have had authority either to let out the ship on freight or to sell her; for the written orders of the owners, prescribing the eventual disposition of the ship after her discharge from the public service, are addressed to the captain only, and he only could have exercised any authority, as their agent, to determine either her ultimate destination, or the terms upon which she should be sold.

Answer 2d. But suppose it were possible to infer a *twofold authority* and agency in Colonel Lear—first, in virtue of his official station, and of his special agency for the United States, under the charter-party; and, secondly, as private agent and consignee of the owners: still the great question would remain to be decided—in which of those capacities did he, in fact, undertake to act? For which of the parties did he profess and assume to exercise his delegated authority as agent? For whose exclusive use and benefit was he acting when he made that disposition of the property committed to his care which produced its eventual and total loss to the owners? Let the answers be taken from the clear and unequivocal declarations of Colonel Lear himself, in his three official statements, the one dated Algiers, 24th July, 1812, the day before he sailed; the second, Gibraltar, 20th September, 1812; and the third, without date, written after his arrival at Washington, in answer to inquiries from the Secretary of State. From these documents, it clearly appears that his conduct was governed by motives and considerations entirely and

* See the original bill of lading, now filed among the documents.

exclusively of a public nature, and flowing from his public and official character and responsibility. The contemptuous rejection by the Dey of the cargo shipped for him on public account, his peremptory demands for an alleged balance of \$27,000 to be instantly paid into his treasury, and for the departure in 24 hours of the consul and his family from Algiers, are announced as final and irrevocable. An immediate declaration of war against the United States, the captivity and slavery of the consul, with his family, and every other American found at Algiers, and the summary confiscation of all their property, are denounced as the dreadful alternatives. The only resource left for the consul, in order to avert such great and complicated calamities, (and to have averted the least of them would have well justified and compensated still greater sacrifices than those to which he submitted,) was to raise and pay the money; but of the requisite funds he was entirely destitute, the Dey having absolutely prohibited the rejected cargo from being sold at Algiers for that purpose. One Bacri, the only person there able or willing to advance the money, demanded, as an indispensable condition, bills at 30 days on Gibraltar, and a premium of 25 per cent. He was distinctly informed that the only fund, upon the credit of which the consul could draw, was the cargo which the Dey had rejected, and which was to be taken to Gibraltar, in order to be there disposed of in time to meet the bills; and upon the faith and confidence of the consul's official pledge to dispose of the cargo so as to provide the requisite funds at Gibraltar before the bills (which had only 30 days to run) could come to maturity, Bacri made the necessary advance, and received bills on Mr. Gavino. Thus, from causes and considerations exclusively public, and under the exigent pressure of an emergency arising solely and entirely out of his public situation and official transactions, was the consul laid under an insuperable necessity immediately to proceed with the cargo to Gibraltar, in order to redeem the pledge of the public faith to Bacri. A fact, which is notorious to commercial men conversant with the course of trade at that time and in that quarter, may serve as a further illustration of the motives and inducements by which the parties may be supposed to have been actuated; which is, that Gibraltar was the only port in the Mediterranean where the consul could then have negotiated bills to meet the exigency of the occasion. Then, does Colonel Lear himself avow any one motive or inducement for the voyage to Gibraltar, but what properly and necessarily grew out of his public situation and official duties? On the contrary, he reiterates, over and over again, the two distinct and only motives for that proceeding, viz: 1st. To redeem the pledge of the public faith to Bacri, by providing the requisite funds to meet the bills on Mr. Gavino; and, 2dly. Because Gibraltar was the station most advantageously situated for disseminating from thence to every part of the Mediterranean, as well as to American vessels about to enter that sea, the speediest notice of the impending danger of Algerine capture; for, from the outrageous threats and conduct of the Dey, the consul still apprehended hostilities, notwithstanding the payment of the alleged balance.

Indeed, so imminent did he consider that danger, and so imperious the duty to take every possible precaution against it, that, on the voyage from Algiers to Gibraltar, when the state of the wind and weather seemed to portend a protracted voyage to the latter port, he ordered the captain (if the wind did not soon change) to proceed to Alicante or Carthage; it being an important object, (as he says,) for the *security of American vessels*, to get into some port from whence they might be most speedily and effectually warned of their danger. The only allusion in any part of his several statements to *commercial objects* is where he mentions, incidentally, (and surely it must have been incalculably the least operative of all his inducements,) that Gibraltar was the *best market for the cargo belonging to the United States*. Now, in all this there is an utter absence of every consideration connected with any commercial objects or views of mercantile speculation on the part of the *owners*; of their individual interests, which seem to have been sunk and merged in the all-engrossing and overwhelming concern for the public safety, an utter oblivion prevails throughout. In point of fact, so far from advancing their interests, in regard either to the profitable employment of their ship, or the advantageous disposition of their adventure, the voyage to Gibraltar was directly retrograding from all those objects; for Gibraltar, though a good market for the cargo shipped on *public account*, was notoriously a bad one for the assortment of which the *private adventure* consisted, not only in respect to the price which it would command there, but of the returns in which it could be reinvested. It was avowedly destined by the owners (as Mr. Forrest distinctly states) to *Sicily*, from whence they expected returns of wine, oil, and sulphur, upon which (the latter article especially, which was understood to be much wanted by the Navy Department) they reasonably calculated very considerable profits. It is equally a matter of commercial notoriety that the retrograde voyage to Gibraltar was as directly adverse to the interests and express objects of the owners, in regard both to the affreightment and to the eventual sale of their ship, in pursuance of their express orders to the captain. In short, every intelligent merchant at all acquainted with the objects of the owners in sending their ship and adventure up the Mediterranean, and with the course of trade, must pronounce, upon the face of the transaction, all their individual interests and objects to have been clearly sacrificed by the voyage from Algiers to Gibraltar, putting entirely out of the question the intervening accident of seizure and condemnation as prize of war. For the correctness of that position, a confident appeal is made to the commercial intelligence and experience of many gentlemen on the floor of Congress. Colonel Lear, therefore, in candor and truth, could not, and, in fact, does not, assign as a motive or explanation of his conduct and proceeding, in any one particular, any one consideration the most remotely connected with the interests of the owners; in no one instance did he pretend or assume to act in their behalf or on their account. In short, Colonel Lear is clearly understood as admitting, in *express terms*, his *official agency* throughout the whole affair; for he represents the captain, when yielding implicit obedience to his directions, as saying that "he considered the ship in public service, and himself *bound* to follow the directions of the *agent* of the United States." Surely, if the captain had labored under any misapprehension of the character and capacity in which Colonel Lear was acting, the latter must instantly have corrected it, by explaining that it was not in virtue of his official station and public agency that he undertook to direct the destination of the ship, but simply as consignee of the owners, and for their benefit.

As a further illustration of Colonel Lear's motives, and of his understanding and acceptance of the capacity and authority under which he was acting, the petitioners beg leave now to produce and file his private letter, dated at Gibraltar, 24th August, 1812, in which he recapitulates (substantially as in his official communications) the transactions at Algiers and Gibraltar. The following extracts comprise all that is now material to quote: "We came to this place as the *best point* from which I could extend the information of what had happened at Algiers, to insure the *safety of American vessels* in this sea, and such as might be about to enter it. Circulars have been despatched to all consuls of the United States in the Mediterranean, and such measures taken as, I trust, will *secure our vessels against capture*; and, as yet, I have not heard of any having been taken by the Algerines." "Should the cargoes and vessels in port at the time of the declaration of war being known be released by the British Government, as we are informed has been done by the Government of the United States, I shall *dispose* of the cargo *belonging to the United States* on board the Allegany on their account, and shall give Captain Evelith all *advice and assistance* in my power, for the benefit of the *ship* with the *other property* on board her." When it is observed how explicitly he distinguishes between "the cargo belonging to the United States" and "the ship with the other property on board," over the first assuming a clear authority to dispose of it on public account, but, with respect to the other, simply tendering assurance of his good offices in advising and assisting the captain for the benefit of the ship, &c., it is made out too clear for argument that he understood, and acted upon the understanding, that the

whole of his agency for the owners was limited to the gratuitous office of giving information and advice, whilst the master was to be the sole operative agent and consignee, after the ship should be free from her engagement under the charter-party. To suppose that the consul, whilst acting in the guise of friendship, and in the behalf of confiding correspondents, who had invoked his disinterested advice and assistance, would, under the circumstances in which he found himself at Algiers, have *advised* the captain to take the ship and cargo to Gibraltar for the benefit of the owners, would be to impute to him a degree of folly or of perfidy, from the remotest suspicion of which it is with great pleasure acknowledged that he stands most clearly acquitted.

Now let the fair and obvious results, from an accurate examination of all these documents, be carefully compared with the facts assumed as the basis of the most formidable and conclusive objection urged by the Committee of Claims in the unfavorable report of the 14th January, 1817, wherein it is supposed that Colonel Lear "had the management of the future destination of the vessel after her arrival at Algiers, by *express authority from the owners*," and by the Attorney General in his letter of the 14th January, 1818, wherein it is supposed that "Colonel Lear must be considered *simply* as the *consignee of the owners*, with all the personal responsibilities of that character;" "that he was the *agent whom the owners chose to select as the consignee of their distinct and separate adventure*;" and from such an investigation it must be evident that the unfavorable conclusions which have given such an imposing weight and authority to the objection have resulted from an imperfect view of the *facts*, and, consequently, from premises foreign to the case. Indeed, an entire and implicit deference and respect for the sagacity and candor of the able and distinguished gentlemen who have thrown the preponderating influence of their high authority into the adverse scale, inspire a well-assured confidence that, upon a more comprehensive view and closer examination of the evidence, they would all concur in a prompt and unequivocal abandonment of the whole ground of the objection as utterly untenable.

Objection II. One argument (though not very distinctly stated as such) seems to have weighed something with the former committee against the claim, which is, that the property of the *petitioners*, equally with that of the public, was exposed to the danger of arbitrary confiscation, and was extricated from that predicament by the exertions of the consul, who, in that instance, might be supposed to have acted for the benefit of all concerned—for the preservation as well of the property belonging to the petitioners, as of the lives, liberty, and property of all other citizens who might happen to have shared in the common danger. But surely the least reflection upon the relative duties and rights of the Government and of the citizen must have cleared away every shadow of doubt and difficulty on that head. If the petitioners, in return for the protection due from their country, are to be laid under an extraordinary tax, by having their property put in requisition, and exposed to hazard and loss in the public service, without compensation, what, it may be asked, should be the rate of contribution from the owners of other vessels and cargoes which may have been actually or possibly saved from Algerine capture in consequence of the measures adopted by the consul? or what the rate of contribution, and by whom to be paid, for rescuing the consul general and his family, with so many other valuable citizens, then at Algiers, from impending captivity and slavery? How are all the consequences to the public and to individuals of an Algerine war, or the advantages of averting it, to be brought into the estimate? All these questions receive a simple and clear solution from the fundamental principle of the social compact. When the individual has borne his share in the burden of taxation common to himself and his fellow-citizens, when he has paid his quota of the fiscal exactions necessary to enable the state to vindicate or protect its rights in the persons of its citizens, no matter whether that individual be the remote or immediate object of protection and benefit, he has fulfilled the demands of political justice and of social duty. To require of him, as the price of protection, the sacrifice of all he had at risk, would be little better than a cruel mockery. The consul general appears to have been justly impressed with a sense of what was due, upon this occasion, from the Government and its agents, when he deemed it necessary to the proper execution of his public trust to watch with such anxious vigilance and care the safety of his fellow-citizens, and to bestow so much labor and expense upon the great and meritorious objects of rescuing them from imminent captivity and confiscation, and of warning them, beforehand, against the supervening hazards of the Mediterranean trade. But a duty of peculiar and paramount obligation devolved upon the Government and its agents, to shield the property of the petitioners from the violent reprisals of the Dey, since it had not been put in jeopardy by any act of the owners, but was exposed, in a dispute purely national, to the consequences of resentments produced by discussions and collisions upon the subject of the identical transaction and voyage in which the Government was then employing and using the ship. The merits of the dispute between the two states are wholly immaterial to the present question; for to the third party, who has suffered by their disputes, it was of no consequence whether the Dey's demand was the result of lawless force and barbarian perfidy, or whether, with good faith, it might bear the semblance of argument from any ambiguity in the treaty upon the different modes of computing the annual stipend by the Mahometan and Christian calendars. It remains to be proved, moreover, that the petitioners were all-indebted to the exertions of the consul for the extrication of their property from the jeopardy of confiscation into which the concerns of the Government had brought it. How does it appear, for example, but that the master and crew, if left to themselves, or if they would have listened to suggestions merely selfish, might have taken advantage of the night and a fair wind to slip their cables and escape, whilst the Dey and the consul were by the ears together negotiating and disputing? It should be remembered, however, that it was not by taking the ship out of the *harbor of Algiers* that she was cast into the devouring and unrelenting jaws of belligerent seizure and condemnation, but by taking her back to *Gibraltar*, instead of suffering her, when once clear from the fangs of the enraged Dey, to pursue her intended voyage to *Sicily*, or to such other point of destination up the Mediterranean as circumstances and the interests of the owners should have dictated.

Objection III. "A voluntary *parol contract* of affreightment between Colonel Lear, as consul, and the captain, as agent of the owners, stipulating for a new voyage from Algiers to Gibraltar, is to be *presumed*, and therefore the only claim is for a *reasonable freight* on that voyage."

This *presumption* proceeds expressly and entirely upon the supposition that "the voyage had actually ended at Algiers, that the first contract of affreightment had expired, and that there was no longer any subsisting *legal relation* under that contract between the *owners* and the *freighters*." It is assumed, not only that the captain was at perfect liberty to engage the ship for a new voyage, but that Colonel Lear (in consequence of the complete fulfilment of the charter-party) had no longer any power to control her destination; and so it is inferred that the captain must have done voluntarily, and under all the sanctions of a reciprocal contract, what he was free to do or to let alone. To say nothing of the hardness and rigor of this doctrine of *presumption* against *fact*, it cannot escape observation how imperfectly the evidence must have been collated, since the two most prominent and important objections are founded upon two directly opposite conclusions of fact; the first having assumed for its basis a full and complete authority in Colonel Lear, as the agent and consignee of the owners, and the voyage from Algiers to Gibraltar as resulting from the due exercise of that authority; whereas the contrary assumption now prevails, of an utter want of power or authority in Colonel Lear to control the destination of the ship, accounting for the same voyage, from the voluntary exercise of a free and unlimited discretion on the part of the captain.

Neither assumption can be at all supported by the evidence; the truth is to be found only in a middle term, and the main *presumption* is rebutted by conclusive answers, in two modes:

1. The *voyage*, as technically described and understood in every contract of affreightment, never is determined by the mere *arrival* at the port of destination, but continues until the discharge of the cargo; for which purpose the marine law allows certain lay days after arrival (though no time should be expressly stipulated for in the contract) for unloading at the port of delivery. Until then, the contract is neither executed nor expired, but all the reciprocal obligations and duties, and every authority originally growing out of it, still subsist with unimpaired force and effect. If the freighters do not duly discharge the ship within the *lay days*, the owners or master may end the voyage under protest, and throw the risk of all the consequences upon the freighters. Then, upon the *general principles* which govern every contract of affreightment, the voyage cannot be said to have ended at Algiers, nor the ship to have been discharged from her original engagement to the United States at the time Colonel Lear sailed in her for Gibraltar. In this particular case, however, the charter-party expressly defines the continuance of the voyage, the *place* where, and the *time* when, it shall end; and that is, the freighters are allowed *twenty* working days after her arrival at Algiers to unload, and *so end the voyage*. During these twenty days (unless the ship had been sooner discharged) the contract remained unexecuted, and "the authority of the freighters and their consignee" continued just the same as at any intermediate point between the *termini* of the voyage. Then the facts only are to be ascertained, that the ship arrived at Algiers on the 17th day of July, and that Colonel Lear set sail in her for Gibraltar on the 25th of the same month, and the argument is at an end; the very case is made out which the Attorney General supposes may lawfully charge the freighters, for at that time every "*legal relation* [that ever existed] between the owners and freighters" still subsisted under the express terms of the contract. Even after the first contract should have been completely executed and determined, so as to have left the captain free to act in the sole capacity of agent and consignee of the owners, he and all who might contract with him would have been bound by their known views and orders, as regarded the future disposition of their property—a more direct and palpable contravention of which cannot be conceived than the entire scheme of a voyage from Algiers to Gibraltar; and in order to make the acts of the shipmaster binding upon his owners, he must doubtless be held to act as strictly within the limits of his authority as any other description of agent. During the term of affreightment under a charter-party executed by the owners in person, and whilst the actual control and authority of the freighters remained in full force, the utter want of authority and power in the master to engage the ship in any new contract varying the *termini* of the voyage, or in any other manner altering or modifying the nature of the contract made by the ship-owners in person, is implicitly admitted by the terms in which this objection is put and maintained. But, in truth, it is unnecessary to insist upon what may or may not be legitimate presumptions or inferences from the relative condition and authority of the parties, because all presumptions must be silent when the acts themselves, and the motives and objects which led to them, are, in their nature, unequivocal; when clear and positive facts speak for themselves, and leave nothing to implication.

2. Then the simple state of the facts, as clearly proved by the evidence, plainly *contradicts* the presumption of any such new parcel contract of affreightment, either express or implied; and so far from either Colonel Lear or Captain Evelith ever having acted, or assumed to act, in respect to the voyage to Gibraltar, under the supposed sanction of any authority from the owners, every such idea was either explicitly disavowed, or manifestly inconsistent with all the express and avowed motives and objects which did in fact govern the parties immediately concerned in the transaction. It would be difficult for any reasoning or illustration to render this conclusion more clear than the obvious result and plain import of Colonel Lear's and Captain Evelith's respective statements; nor is there perceived the least ground for imputing any contradiction or inconsistency between those statements, as has been surmised, to the prejudice of Captain Evelith's credibility. The supposed contradiction consists in the mere *circumstantialities* of *manner* and *form*, which, by the way, are not *denied*, but barely not *recollected*. In truth, Colonel Lear, so far from contradicting, expressly corroborates and confirms the *substance* and *effect* of the captain's statement; for, among the documents submitted to him by the Secretary of State, are Captain Evelith's *two protests*, and Colonel Lear, in answer, says that he "fully recognises the facts and circumstances set forth in these papers, except that part of Captain Evelith's protest of the 14th May, 1813, in which he states the *formal manner* of his *abandoning* the ship to the United States, and holding them responsible for the consequence; this he does not *recollect* in the words stated by Captain Evelith." Then the *facts*, and even the *circumstances*, stated by Captain Evelith, are fully recognised as *substantially* and essentially true, only the "*formal manner*," and the "*words*" are not recollected. Until *form* shall be confounded with *substance*, and *words* with *things*, nothing like a *contradiction*, in any one circumstance, can be established between the two witnesses. Besides, when Colonel Lear comes to relate the *circumstances* after his own *manner* and in his own *words*, he varies from Captain Evelith merely in *form* and in the *words*, not in the substance and ideas: for example, when he gave the captain "*directions* to prepare the ship for departure," Captain Evelith said he should follow his (Colonel Lear's) directions in every thing relating to the business, as he considered the ship in the *service* of the *United States*, and himself bound to *follow* the directions of the *agent* of the United States." Let it here be remarked that the first act of Colonel Lear, after communicating to the captain the state of affairs at Algiers, is not to *consult* with him, or to ask his *consent*, but he takes upon himself at once to *give directions*, to order the whole voyage; and this is submitted to by the captain, expressly and avowedly under the idea that Colonel Lear was acting *officially* and as *agent* of the United States, that the ship was still under her engagement to the United States, and the captain consequently bound to obey. Be it remembered that this is the result solely and entirely of Colonel Lear's official statements, putting the captain's evidence entirely out of the question. Then there is no necessity for *formal abandonments* or express declarations, in terms, that the freighters are to be held responsible for *consequences*. Both witnesses substantially agree in a statement which, divested of all immaterial circumstantialities, and confined to naked facts, absolutely concludes against any presumption that either Colonel Lear or Captain Evelith acted, or assumed to act, for the owners, or with any understanding of a new contract in their behalf. The *substance* and *effect* of the evidence is clear beyond dispute: that the captain, in resigning himself and his ship to the exigencies of the public service, did not undertake, as presuming to act at all in behalf of the owners, to engage the ship on a new voyage, with a view to freight or other commercial advantage, but that he implicitly submitted (under the idea of an *obligation* inherent to his relative situation) to an authority assumed by the consul, *officially* to direct the destination of the ship on public account and risk, and upon the *official*, not the *personal* responsibility of the consul.

No question has been raised, and it is presumed none can be made, whether the proceedings of Colonel Lear at Algiers are to be *disavowed* by the Government. If the liquidation of his bills, in favor of Bacri was assumed without hesitation, and all his extraordinary expenses upon the occasion amply remunerated, any substantial distinction between the degrees or instances of official authority which he assumed on the occasion, between the act of borrowing money and drawing bills, under a pledge of the *public faith*, to provide the requisite funds to meet them, and the incidental acts indispensably necessary to enable him to *redeem* that pledge, by taking the ship and cargo to Gibraltar, cannot be anticipated or conceived.

Objection IV. "The *freighter* is not the *insurer* of the ship."

When it was observed with what emphasis that general position and the reasonings deduced from it were insisted upon as the fundamental objection to the principle of the claim, the petitioners found themselves somewhat in the predicament of an innocent man, who happens unluckily to have been mistaken by the pursuers for the thief; and, for the imputed guilt of another, to be harassed by the ministers of justice, until the unfortunate mistake, and the deceitful appearances which produced it, are cleared up by a careful and regular examination. So far are they from wishing to shelter or defend, that they would fain lend their aid to detect and bring to justice, the culprit who has been the object of such just pursuit and vengeance, if the proffer of auxiliary aid to hands of such abundant ability were not mere supererogation. Equally remote has it ever been from their intention to rest their claim upon any such untenable doctrine as that so ably controverted by the Attorney General; on the contrary, they cordially unite with him in disowning and condemning it. In truth, the imputation against the claim of such an error in principle, and all the arguments founded upon the supposition of its being necessary for the advocates of the claim to espouse that error, have arisen from the same inadvertency to the true state of the *facts* which will appear to have pervaded all the reasonings in support of the other objections. The whole argument under this head now turns upon the inadmissible presumption of an implied "parol contract of affreightment," which is supposed to have placed the petitioners and the United States in the simple relation of *owners* and *freighters* for a distinct voyage from Algiers to Gibraltar. Now, if the presumption of the *fact* of such a contract has been successfully rebutted in the answers to the preceding objection, then the corollary, that the United States were no otherwise responsible than simply as *freighters* of the ship on that voyage, might be considered as equally at rest. But in order to disembarass their case from every misconception of the *principles* upon which it is asserted, they beg leave to advert, very succinctly, to the incontrovertible maxims and adjudications of the common law, from the strong analogies of which, as well as from the higher sanctions of constitutional law and of natural justice, they expect to derive the most complete justification of their claim.

It never entered into their imagination to take any such ground as that the *freighter* of a *ship*, any more than the hirer of any other species of chattel, is necessarily the *insurer* further than he makes himself so by using the thing hired in a manner, and for a purpose, or for a length of time beyond the limitations of the contract, by which a temporary or qualified property was vested in him. The whole doctrine may be simply and clearly exemplified by a case so familiar, as well to the general student as to the experienced practiser, and so well settled and universally received as law, that it is never at this day made a question by bench or bar; and that is, if a man hire a horse to ride to A, and he ride him in a different direction to B, the hirer takes upon himself the risk of all accidents by the way. No matter what be the remote or proximate cause of the injury sustained, whether it can be specifically traced to the change of destination or not, the hirer, by the mere act of converting the thing hired to a use or purpose different from what the terms of the contract import, becomes instantly responsible for all accidents and injuries which may befall the property. He then becomes virtually the *insurer*, and an insurer who incurs the *risk* without a *premium*. The illustrations of this principle, from the innumerable cases at *nisi prius*, applicable to every species of property, and to every variety in circumstance, are endless, and their notoriety makes it wholly unnecessary to dwell more minutely upon them. So far from the principle being relaxed in favor of *freighters*, it operates with peculiar strictness upon the commercial contracts both of affreightment and insurance, as regards any departure from the *voyage* described in the contract. Inasmuch as the terms of affreightment are stipulated by one of the most solemn and deliberate of legal contracts, and as, from the nature of the thing hired, and of the service upon which it is employed, the risk attending any change of its prescribed destination and employment is incapable of being defined or calculated with the least certainty, so the strictness with which any departure from the terms of the charter-party is regarded becomes more unyielding. In all other respects, the relative rights, duties, and remedies that exist between the freighter and the owner of a ship are precisely those of the hirer and owner of any other species of property. The freighter of a ship (like the hirer of any chattel on shore) acquires a special property in her during the voyage; he is, to certain intents, owner *pro hac vice*, as it is said in technical language; and he is clearly responsible if he do not exercise his qualified and temporary rights of ownership strictly within the limitations of the contract.

It will now be taken as an incontrovertible proposition that the freighter stands bound to the owner for all accidents if he employ the ship upon a different voyage or a different service from that specified in the charter-party. Then apply the *principle* to the *facts* of this case, which may be stated shortly thus: The ship is chartered for a specific voyage from Washington to Algiers, and for the specific purpose of delivering a cargo at the latter place, where she is to be discharged, and the voyage to end; but the freighter converts it into a voyage from Washington *via* Algiers to Gibraltar, for the purpose of having the ship and cargo discharged at the *latter* instead of the *former* place, and, by taking the course to Gibraltar, the ship is put directly in the way of meeting intelligence of the recent war with England, does encounter that intelligence at Gibraltar, and is consequently seized and condemned as prize of war. Now here are circumstances more than enough to devolve all the risks of the voyage upon the freighters, for there is the superadded circumstance (by no means necessary to establish their liability to the full extent) of a direct and immediate connexion of *cause* and *effect* between the act of the freighters and the loss which ensued. A case more clearly and emphatically within the rule which would have held an individual responsible is scarcely to be conceived; and there can be no question whether the United States shall admit the moral obligation to allow a *reciprocal* operation and effect to their contracts, and to vouchsafe to the individual that measure of justice which they might have exacted from him by coercion of law if any claim had accrued to the public under the contract.

Then it is submitted whether the petitioners may not lawfully renounce and repudiate the fallacious and untenable doctrine which it was thought indispensable for them to espouse, and which was conceived to drive them into the *argumentum ad absurdum* of contending that the "*freighter* is, at all events, the *insurer* of the ship," and whether they may not safely rest their claim, not only upon the best known and soundest maxims of municipal law as adopted by the courts in administering justice between individuals, but upon the great constitutional sanction which expressly forbids that private property shall be taken for public use without just compensation. Nothing now remains but to discuss the *qualifications* annexed by the Secretary of State to the *extent* of the compensation due to the petitioners.

1. In the first place, he apparently limits the indemnity to the loss of the *ship*, as if that of the *cargo*, belonging to the owners, were to be thrown entirely out of the account; but upon what principle the merits of the two can be distinguished, is not explained, and is not easily to be imagined, unless, indeed, the idea should still prevail that Colonel Lear acted as the *agent* and in the behalf of the *owners*; but, even in that case, how are the two branches of the claim to be separated? They are, apparently, so indissolubly connected in principle, that both must stand or fall by the issue of the mere question of fact whether Colonel Lear acted *officially*, and as the agent of the United States, or as the agent and consignee of the owners. Upon the first supposition, the claim must cover the whole extent of the *consequential loss*; upon the second, it is not impeached more for one part of the loss than for another. If the taking the *ship* to Gibraltar be admitted (and the Secretary's report necessarily admits it) to have been the

official act of the consul, on public account and risk, so, likewise, was the act of taking the private *consignment there*, unless it can be said that the consignee was presented with a better alternative—that of throwing it into the sea, instead of letting it go with the ship. It seems, indeed, too clear for argument that the loss of the *private consignment* was as *necessary a consequence* of the official transactions of the consul as the loss of the *ship*.

2. The next defalcation from the *quantum* of indemnity, according to the Secretary's report, is a *premium* of insurance, as upon a *war risk*, either on the voyage *up the Mediterranean*, or on the *homeward* voyage. Now, while the premium (if any were at all admissible) should be calculated on a *war risk*, is inconceivable, for the rate of premium must always be determined by the value of the risk at the time of effecting the insurance, which in this case must be supposed at the *commencement* of the voyage from Algiers; and the state of *information* at that point of time determines the value of the risk. Then, on the 25th of July, when the ship sailed from Algiers, insurance would have been done as on a *peace risk*, for the war was not known even at Gibraltar till the 8th of August, four days after her arrival at that port; and if she had taken the opposite course up the Mediterranean, she would have been receding, every league of her voyage, from intelligence of the war, and, consequently, from the danger of capture. With what view the *alternatives* are presented by the Secretary of a premium of insurance, either upon the voyage *up the Mediterranean*, or on the *homeward* voyage, is not explained, nor is the meaning sufficiently obvious to be made the subject of remark, further than this: that neither of them was the voyage upon which the United States took upon themselves the *risk* for which the premium is claimed; and as to the *homeward* voyage, it was not only never contemplated, but expressly forbidden by the declared orders of the owners in case of war. But, in truth, the demand of a premium of insurance, whether upon a *war* or a *peace risk*, is utterly irreconcilable with any principle upon which the *quantum* of indemnity in analogous cases between individuals has ever been liquidated. It has already been remarked, that when the hirer transgresses the terms and limitations of the trust upon which he received the property, and so places it at his own risk, he thereby virtually, and in fact, takes upon himself all the responsibility of an *insurer*; and of an insurer who runs the *risk* without a *premium*. The reason of the rule will be obvious to the least reflection. The owner has the indisputable and uncontrollable right to determine and prescribe the *manner* in which his property shall be used; the *kind* and the *degree* of risk to which he will consent to expose it; and to exercise the option either to stand his own insurer, and so to save the expense of a premium, or else to have his property insured at an *agreed* premium. Now, if the property be diverted from its prescribed destination, it is exposed to a *different risk* in *kind* (whether greater or less in *degree* is wholly immaterial) from that intended by the owner, so that it has become utterly impossible to determine what would have been the *practical result* of the risk which the owner had elected to abide, and so he has been deprived of the *chance*, fairly presented to him, of having his property kept in good safety, and at the same time of being saved the *expense* of insurance. Nothing can be more just than that he who has interposed, without the owner's consent, to deprive him of that advantage, should pay an indemnity, adequate to the most *favorable* determination of the chance for the owner. Besides, to charge the owner in such case with a *premium* of insurance, involves the solecism of an *agreement* without the mutual consent of the parties; of enabling the one, at his mere will and pleasure, to establish all the relations between them of a reciprocal contract of insurance. It is easy enough to conceive how one party may, by his own act, lay *himself* under obligations and liabilities to any extent; but how he can create any mutual covenant on the other side, without some *consent*, express or implied, is not to be imagined; and to infer such consent in a case the very gist of which is a usurpation by the one upon the rights of the other, is clearly a solecism. Who is to determine the value of the risk and the rate of the premium? Certainly there is no human tribunal competent to do it, unless one can be found competent to the function of making contracts for parties without their intervention. Let the case be supposed of a man who had, in any way, misapplied the trust upon which the property of another had been committed to his charge, so as to have had it placed at his risk, under circumstances of great *hazard*, but fortunately without *actual loss*: what would he have thought of a demand from that man to be paid a premium equal to the *risk* which he had incurred by his own act? If the common sense as well as the moral sense of all mankind must, at once, reject and reprobate such a pretension, does it not necessarily follow that he who is condemned to *run the risk* without a premium must also *bear the loss* (if one supervene) without a premium? The case has never yet been supposed, by either casuist or jurist, where the accident of *actual loss* could create a right to a premium, which would not be equally due to the *mere risk*.

3. The last defalcation (resting upon the supposed depreciation in the value of shipping in the United States in consequence of the war with England) is made by the Secretary to depend expressly upon the condition of its appearing to the committee that the ship would have *returned home*. Now, if any conjecture respecting her ultimate destination, or respecting her value in the *market*, were of the least consequence, nothing could be a more improbable surmise than that she would have attempted to return from the Mediterranean home, after a knowledge of the war; for the captain's written orders from his owners were peremptory to sell, by all means, in case of war.

But, in truth, the rule of taking into the account any accidental depreciation in the *market value* of the property lost is entirely contrary to the principle which determines, in courts of law, the *quantum* of indemnity in the like cases between private individuals, and the rule of *strict law* has formed the sole ground of objection, hitherto, against the allowance of the claim. The Secretary has very properly understood the nature and extent of the liability devolved upon the United States in this case to be the same as that of *insurers*; the point at which he departed from the established maxims of law was assuming that a party who voluntarily takes upon himself the *risk* of an insurer without the consent of the proprietor is entitled to charge the proprietor with a *premium* of insurance; in all other respects, the parallel is complete. Now, the invariable and well-established rule for liquidating the *quantum* of indemnity to be paid by an insurer, in case of a total loss, is the actual amount of the cost and charges at the *loading port* of the property insured, with the addition of legal interest; the *market value*, either at the *loading port* or at the *port of discharge*, is entirely out of the question. Such was the rule adopted by the Senate in the bill which passed that body, the cost and charges of the ship having been ascertained at something more than \$24,000, those of the cargo at something more than \$10,000.

There is one view of the case equally conclusive against all the defalcations claimed by the Secretary, and that is, that, by the act of turning the ship from her course, and of making all the commercial interests and objects of the owners give way to the imperious demands and paramount obligations of *public necessity*, it has become utterly impossible to determine with certainty what would have been the *practical success* of the voyage planned by the owners; it might have resulted in immense profits, or it might have ended in a total loss, by the ordinary perils attending it. From the contingent chance of *profit* they have been entirely cut off; all that has been rendered certain is the *loss*. Then, as the owners are confined to a mere *indemnity* for that loss, and are not permitted to speculate upon the *possible profits* which might have accrued to them from a successful prosecution of the voyage, so the party who is to pay the indemnity has no right to speculate upon the *possible losses* which the other might have sustained, either from a *bad market* or any other cause whatever. The middle course, of taking the actual cost and charges with legal interest as the measure of indemnity, avoids every inconvenience of either extreme. In this particular case, however, the petitioners would be perfectly willing to let the measure of indemnity depend upon a

fair mercantile calculation of the profits which they might have realized if the ship had been duly discharged at Algiers, and suffered to pursue her intended voyage up the Mediterranean. It is clear she could have got into a neutral port (and to none other was she destined) long before intelligence of the war could have overtaken her; and after she once got into port, the sooner that intelligence came the greater the profit, for the cargo (which might easily have been transhipped in neutral bottoms from Sicily to the continent) would have instantly advanced *cent. per cent.*, so that, if they had been obliged to sell the ship at some loss, the advance on the cargo would have made up, upon the whole, a very profitable adventure.

So much for the questions of *strict law* suggested in this case. The petitioners would take the liberty to remark, however, that if Congress should still entertain doubts, and should, moreover, deem it necessary to have the case decided upon the *technical rules* of law, and upon no other principle, the petitioners would be content to have it adjudicated before such court and in such form as Congress shall be pleased to direct.

But it is with all deference and respect submitted that there can be no necessity for the additional expense and delay of such a reference. The collective wisdom of Congress has already settled the *principle* by repeated decisions in favor of claims no otherwise to be distinguished from the present than by the immeasurable distance at which they fall below it in every requisite of equitable circumstance, and of legal and moral obligation. The precedents more particularly alluded to are those of the *Resource* and the *Anna Maria*; in the latter of which the master of the ship, after she had been arbitrarily put into requisition by the Bey of Tunis, actually entered into a formal charter-party with the American consul, stipulating to take a freight for the Bey to Constantinople for the fixed price of \$4,000. Yet so many circumstances of cogent equity were found in that case as to have prevailed with Congress to allow an *additional freight* of at least \$17,000, though the ship returned safe and uninjured. That decision was not made in haste, nor without mature deliberation; for the claim had been pending for several sessions, and was very fully examined and ably discussed. Now, between the circumstances which determined the questions of justice and expediency in that case, and those which sustain the merits of the present claim, the petitioners may, with the greatest advantage, challenge a comparison. In lieu of a formal charter-party between the captain and the consul, as in the case of the *Anna Maria*, the utmost that is attempted now is to infer a "parol contract of affreightment," from the mere *submission* or *non-resistance* of the captain; on the one hand an express covenant, consummated with all the solemn forms of law, did not stand in the way of a liberal indemnity; on the other, there is nothing set up against the party by way of estoppel but a contract which, in plain truth, never for one moment entered into the contemplation or imagination of the parties, but is the unsubstantial creature of mere logic, and even that, by the way, inferred from premises erroneously assumed. Other differences, far more important in principle, between the two cases, and all preponderating in favor of the present claim, will be obvious upon a comparative examination into the circumstances of each.

Then why should the precedents of decisions by courts of ordinary judicature have any authority or binding effect, more than the precedents of decisions by Congress, in cases properly cognizable by that high tribunal? The one expounds the duties and the rights of the private citizen, and supplies a rule of conduct in the common transactions of life, whilst the other expounds the more comprehensive duties, which, resting upon the broad and deep foundations of constitutional law and of political morality, bind the community at large; and from the duties thus expounded, under the highest sanction and by the most responsible authority known to the law, the citizen may be expected to deduce rules of conduct with a more implicit confidence than can be claimed for the decisions of any other tribunal. What would be thought of the petitioners if, with such a precedent of national justice and liberality before them as that just quoted, they could, in this case, have insisted upon postponing such important considerations of the public safety to objects of mere commercial profit, and, by resisting the discretionary authority so beneficially assumed by the consul, they had obstructed him in the measures necessary to avert a sudden and lawless attack upon their fellow-citizens? What, if, with a narrow and remorseless selfishness, they had weighed the sordid gains of traffic against the spoliation, the captivity, and the blood of their countrymen? Should it be answered that they would have been blasted by the moral indignation of the community, and stigmatized with execrations "not loud but deep;" still it may deserve serious consideration how far an act of the Government, reversing the liberal rule of indemnity so beneficially established by former precedents, may go to extenuate the force of that principle of patriotism which teaches the great political and moral duty of deferring mere private interests to the common weal. It might be apprehended that the Government no longer considered the sacrifices which it refused to compensate as either meritorious in themselves, or required by social duty. Then, upon the recurrence of any similar emergency, the perplexed mind of the citizen must be left to decide between the most cruel alternatives—either with rare self-devotion to incur the ruin of his private circumstances, without prospect or hope of future remuneration, or obdurately to steel his heart against every magnanimous and disinterested impulse of public spirit.

WASHINGTON, January 27, 1818.

Sir:

WASHINGTON, March 9, 1818.

I have, at your request, reconsidered the claim of Messrs. Bowie & Kurtz with as much deliberation as the other and multifarious public duties which are now pressing on my office will permit. I see no ground for altering the opinion which I have already had the honor to express to you. That opinion was founded on the strict law of the case, as if the transactions had arisen between individuals; and notwithstanding the very ingenious and the very copious argument of the learned and eminent counsel for the petitioners, my opinion remains fixed against the legality of the claim.

If it is expected of me to answer at length the volume of argument which accompanies the papers, the fulfilment of this expectation must be deferred until the pressure of official duties shall relax. I will merely at this time observe, that, according to my view of the subject, the legal claim of the petitioners must depend on the question whether the voyage from Algiers to Gibraltar was an employment of the ship *beyond the terms of her original engagement, and also against or without the consent of her owners*. Both these circumstances must concur to form a legal ground for this claim.

For if this voyage from Algiers to Gibraltar was authorized by the charter-party, then the case is very clear that the loss, happening in the regular course of the voyage for which the ship was engaged, cannot be thrown on the freighter; for it is admitted that the freighter is not the insurer.

If, on the other hand, the voyage to Gibraltar was not authorized by the charter-party, *still, if it was sanctioned by the consent of the owners*, it stands upon the same ground as if authorized by a new charter-party, and the freighter can be no more liable for the loss which happened on this voyage, *so sanctioned by the owners' consent*, than they could upon the first supposition: both hypotheses presenting the same question, whether the freighter is the insurer.

Did the owners, then, consent to the voyage from Algiers to Gibraltar? According to the facts of the case, it appears to me very clear that they did, not *in person*, indeed, but by their captain, who, as to the employment of

the ship, (especially in a foreign port,) was their agent, and in contemplation of law so completely identified with them, that his act is their act—a principle of law which, it is presumed, will not be denied. It is, then, a voyage to which in law they yielded their consent; and hence it is to my judgment very clear that the United States cannot, by any possibility, be held liable for this loss on any other legal principle than that the freighter is the insurer, which it is admitted he is not.

The case put by the counsel for the petitioners, of a horse hired by A to go to B, and he goes beyond B to C, and the principle which he applies to it, that the hirer becomes answerable for all losses which happen in the latter journey, is a very good illustration, and, so far as he pursues the analogy, is very just. But suppose the owner of the horse, *either by himself, or his lawfully authorized agent*, shall consent at B that the horse may be rode to C: is it not very clear that, *by force of this consent*, this latter journey rests upon the same principles precisely with the first, and that the hirer is no more liable for losses in the latter journey than in the former?

I do not perceive, very distinctly, whether the counsel for the petitioners means to take the ground that the voyage under the charter-party did, or did not, terminate at Algiers; for under the head of the third objection, when it was necessary for the interests of his clients to combat the position of an "implied, voluntary, parol contract of affreightment between Colonel Lear and the captain as agent for the owners, for a new voyage from Algiers to Gibraltar," I understand him as denying that the voyage had ended at Algiers, even when the ship left that port, by reason that the lay days stipulated by the charter-party had not expired. And under the head of the fourth objection, where he is commenting on the principle that the "freighter is not the insurer," he is understood as taking the ground that the voyage *had ended at Algiers*, and that the ship was *thereafter* put upon a new and unauthorized employment, which converted her employers into insurers.

You will perceive, sir, that, in my view of the subject, it is perfectly immaterial whether the voyage to Gibraltar is to be considered as a continuation of the original voyage to Algiers, or as a new, distinct, and substantive voyage, *undertaken by the consent of the owners acting by their agent, the captain*; in neither case, in my opinion, can the United States be considered as liable, in strict law, for the loss.

There is another point of view, which is touched merely incidentally in my former opinion, and that is, the authority given by the owners to Colonel Lear to control the future destination of the ship, in relation to their own part of the cargo, after her leaving Algiers. If, in directing her course to Gibraltar, he is to be considered as having acted under his authority from the owners, it would be very clear that the petitioners could have no shadow of legal ground for throwing the loss on the Government. This position, however, was not pressed, because I was willing to consider the case in the strongest light for the petitioners, and that, in directing the course of the ship to Gibraltar, Colonel Lear acted for the United States, and the captain, who concurred in that movement, acted for his owners. The counsel for the petitioners has been pleased to comment on what he terms the inconsistency of these views; in one moment considering Colonel Lear as the agent of the owners, and in the next as the agent of the United States. But these different views of the same subject were not intended, or presented, as consistent views; they were presented as *alternative views*, for the purpose of showing that, in no aspect of Colonel Lear's deputed character, (whether he is to be considered as the agent of the owners or the agent of the Government,) could the United States be responsible in law for the loss which has occurred.

The papers in this case are voluminous, and the consideration of them, both on the former and present occasion, has occurred at a time when I am exceedingly pressed by a variety of official duties, which are as yet new to me. I may have misconceived the facts; and from the very respectable opinions which are said to have been opposed to that which I have formed, (in concurrence with the two gentlemen who have preceded me in office,) it is very possible that the claim of the petitioners may be well founded in law. I am pretty confident, however, that I cannot be mistaken in the *material facts* of the case; and as to the legal conclusion, it is the only one which my judgment will permit me to draw.

The case is certainly a hard one, both on the petitioners and on the United States. The despotic order which drove the vessel from Algiers was not attributable to either of the parties, shippers or owners. This order was certainly the cause of all the misfortunes which followed. That the ship was in a situation to be affected by this order, (that is to say, that she was at Algiers when it issued,) proceeded from the consent of her owners, regularly expressed in the charter-party of affreightment, and therefore this circumstance cannot strengthen the claim of the petitioners. If her subsequent voyage to Gibraltar had been a matter of coercion on the part of the consul, I should have had no doubt of the legal liability of the Government. But there was no such coercion in the case; neither the captain nor the consul could have anticipated any evil consequence from this voyage. And although it be admitted that this voyage was proposed by the consul, and proposed, too, for the exclusive benefit of the United States, yet, inasmuch as the captain *consented* to this employment of the ship, and inasmuch as I presume it cannot be denied that *his consent is quoad hoc the consent of the owners*, I cannot perceive the possibility of reaching the conclusion, that an employer, under these circumstances, can be *legally* answerable for the loss of the ship—a loss of which he is just as innocent as the owners, and by which he may have suffered as much, perhaps more than they have done.

Whether the placing this claim on the strict rules of law be not too cold and rigorous a mode of considering the case; whether, in such a transaction, the Government can be fairly considered as occupying the equal ground of an individual; whether, on the contrary, the perplexing nature of the emergency, and the official weight of Colonel Lear's character, ought not to be considered as withdrawing this case from the operation of those principles of law which would be decisive in a case between individuals; whether the promptitude and the public spirit with which this ship was devoted to the public good do not entitle her owners to the public favor; whether it would not be *more liberal* in the United States (who are better able to bear it) to pay this loss, than to suffer it to remain on the petitioners; whether it would not be *more politic* in them, too, to encourage, by rewarding the fidelity and devotion of the citizen in emergencies so trying as this, are all considerations very proper, indeed, for Congress, but foreign to the question which I understand to be propounded to me, which is confined to the *strict law of the case*. Of the law, I can only judge as it has been pronounced by suitors who stand on equal ground in relation to each other. A sovereign state not being suable, no case can have occurred to show what variance of established principles would arise from the ascendancy of her character in such a transaction. In matters of contract generally, the United States have been considered as entitled to all the rights, privileges, and immunities of an individual; from these considerations I have necessarily taken up the legal question as one arising between individuals, and have given you what I suppose would be the opinion of a court of law upon such a case. Upon this case, however, the opinions, so far as they have been taken, have been almost equally divided; three Attorney Generals in succession concurring in the opinion that the United States are not liable in law for the loss, and four most respectable gentlemen of the profession, who have been consulted by the petitioners, having come (no doubt with equal disinterestedness) to the opposite conclusion. To affirm, in such a science as that of the law, that either of us are certainly right, would be a degree of presumption of which none of us can be capable. I can only say that the opinion which I have given as Attorney General is the opinion which I should express were I upon the bench.

I beg leave to suggest to you, however, sir, that there are in Congress many distinguished gentlemen of the profession of law; and in the division of opinion which has occurred in this case, it is consolatory to me to reflect that the petitioners cannot suffer from an error of law on my part, if I have committed an error.

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

WM. WIRT.

The Hon. LEWIS WILLIAMS, *Chairman of the Committee of Claims.*

This charter-party of affreightment, entered into this 20th day of January, eighteen hundred and twelve, between Bowie & Kurtz, part owners and agents of the ship Allegany of Georgetown, of the burden of three hundred and sixty tons or thereabouts, now lying at the port of Alexandria, in the District of Columbia, whereof Ebenezer Evelith is now master, of the one part, and Richard Forrest, agent for the Department of State, freighter of said vessel, of the other part, witnesseth: That the said owners have this day let said vessel to freight, and by these presents do let her whole reach, burden, and appurtenances to said freighter, reserving only sufficient room under her hatches for her crew, water, provisions, cables, &c. necessary on a voyage from the city of Washington, in the District of Columbia, to Algiers; and said freighter hath, by these presents, hired the same in manner and form following, that is to say: That said vessel now is, and at all times during the voyage aforesaid shall, to the best endeavors of the master and at the expense of the owners of said vessel, be made and kept tight and strong, well manned, victualled, tackled, appareled, and provided in every respect fit for the merchant service, and particularly for performing such voyage as aforesaid, and shall, with all convenient speed, sail and proceed to the city of Washington, on or before the first day of February next, and receive from said freighter a full and complete cargo of such goods, wares, and merchandise, as he, the said freighter, or his agents, may choose to ship on board of said vessel; and having received such cargo and cleared out, the master, with the vessel and cargo as aforesaid, shall, with the first favorable opportunity of wind and weather, proceed directly for Algiers, and there deliver the said cargo to the agents or assignees of said freighter, at such convenient place or places of discharge where said vessel's cargo may safely come; and, also, that said vessel shall lie at Washington to load thirty working days, and at Algiers to unload twenty working days, if required, and so end the voyage, (the dangers and perils of the seas, restraints of princes and rulers, fire, and enemies during the same, always excepted.) In consideration whereof, the said freighter doth hereby agree to deliver the said cargo at Washington, and to receive the same at Algiers, and within the days and time limited as aforesaid, and shall and will pay, or cause to be paid, unto the said owners or their assigns, in full, for the freight and hire of said vessel for the voyage, the sum of nine thousand five hundred dollars, and five per cent. primage in the following manner: seven thousand five hundred dollars thereof on the said vessel's clearing out at the port of Georgetown, and on said owners depositing with and assigning to said freighter, as security for the repayment of the same if the voyage should not be performed, a policy of insurance on the freight of said vessel; the balance of said freight money to be paid at Algiers on the delivery of said cargo to Colonel Tobias Lear. And the said freighter further engages to pay for every day's detention of said vessel at Algiers, over and above the days above stated, the sum of fifty dollars day by day, as the same shall become due, provided the said detention shall be occasioned by the fault or neglect of said freighter, his factors, agents, or assignees. And all labor required in loading shall be furnished at the joint expense of the contracting parties; that of unloading, over and above the labor of the ship's crew, at the expense of the freighter. And for the full, true, and faithful performance thereof, the parties respectively hereby bind themselves, their heirs, executors, administrators, and assigns, reciprocally to each other. Especially we, the said owners, bind our said vessel, her freight and appurtenances; and the said freighter the merchandise laden and to be laden on board her, in the penal sum of twelve thousand dollars, lawful money of the United States, firmly by these presents.

In witness whereof, each of said parties hereunto interchangeably set their hands and seals, this twentieth day of January, 1812.

Signed, sealed, and delivered in the presence of
THOMAS G. WATERS,
JOHN LEYBURN.

BOWIE & KURTZ, [L. s.]
By WASHINGTON BOWIE.
RICHARD FORREST, [L. s.]
Agent for the Department of State.

GEORGETOWN, *February 13, 1812.*

The ship having been loaded within the period specified, no demurrage has been incurred here; and permission having been granted by the Government to the owners of the ship to ship sundry goods on their own account, we, the owners and agents of the ship, relinquish that part of the within contract stipulating for the balance of freight due to us to be paid at Algiers, and do hereby agree to receive it at the Secretary of State's Office, on receipt of information of the arrival of the ship at Algiers.

BOWIE & KURTZ.

Received, Washington, October 17, 1812, of Richard Forrest, agent for the Department of State, two thousand four hundred and seventy-five dollars, in full, for freight and primage of the ship Allegany from hence to Algiers, with public stores.

BOWIE & KURTZ.

\$2,475

Copy of a letter from Messrs. Bowie & Kurtz to Richard Forrest, dated

SIR:

GEORGETOWN, *January 1, 1812.*

The ship Allegany having received and stored all the cargo intended to be shipped on board of her for account of the United States, the captain reports that he has room in the cabin and steerage for a few small articles; and being desirous that the ship should make a freight back, if possible, we should be glad of permission to fill up these vacancies with coffee and spices, to enable us to pay ship's disbursements, and lay in a return cargo.

On obtaining the privilege we ask for, we will not exact the payment of freight as stipulated to be paid at Algiers, and which will be a saving of fifteen to twenty per cent. to the United States on the sum to be paid there.

We beg you will forthwith lay this subject before the Secretary of State, and advise us of the result for our government.

We are, sir, &c.

BOWIE & KURTZ.

To R. FORREST, *Agent for the Department of State.*

Copy of letter from Richard Forrest to Messrs. Bowie & Kurtz, dated

GENTLEMEN:

JANUARY 7, 1812.

I have received your favor of the 1st instant, which I submitted to the proper authority, and have received for answer that your request "to fill up the vacancies in the cabin and steerage of the *Allegany* with coffee, spices, &c." will be granted. It is, however, to be understood that this privilege is not to justify a detention of the ship beyond the time necessary to take on board the necessary stores for the voyage.

I have the honor to be, &c.

RICHARD FORREST.

Messrs. BOWIE & KURTZ, *Georgetown.**Messrs. Bowie & Kurtz to Richard Forrest, Esq.*

SIR:

GEORGETOWN, *January 26, 1818.*

It appearing to be important that all the circumstances attending the charter of the *Allegany* to Government should be disclosed, we beg you to answer, at the foot hereof, the following questions:

1st. Did you, or did you not, urge, as an inducement for us to take the freight, that the employ was safe, and that, in case of any violence on the part of the Dey of Algiers, the Government was in the practice of indemnifying owners of ships; mentioning, at the same time, the cases of the *Resource* of Baltimore, and a vessel belonging to one Cotton?

2d. Did you, or did you not, induce us to believe that it was probable the cargo shipped by the United States on board the *Allegany* might be ultimately destined from Algiers to Constantinople for the use of the Grand Signor, and in that case we should receive an additional freight of at least ten thousand dollars?

3d. Did you, or did you not, promise that the ship should be protected by the ministerial passports from the British and French ambassadors, then resident here, for the voyage; and were not these passports, when received, limited for the passage out to Algiers only?

4th. Do you, or do you not, recollect that we frequently expressed to you that our principal object in sending the *Allegany* to the Mediterranean was to procure from the island of Sicily a cargo of wine, oil, and sulphur, the last mentioned then being much wanted by the Navy Department?

We are, sir, respectfully, your obedient servants,

BOWIE & KURTZ.

To RICHARD FORREST, *Esq., Agent for the Department of State for the charter of ship Allegany.**Richard Forrest, Esq. to Messrs. Bowie & Kurtz.*

GENTLEMEN:

JANUARY 26, 1818.

I have just received your letter of this day's date, propounding to me several interrogatories on the subject of the agreement entered into between your house and myself, while acting as agent for the Department of State, relative to the employment of the ship *Allegany* to take the subsidies due from the United States to the Regency of Algiers.

To the 1st, I answer that I did urge, as an inducement for you to undertake the voyage, that I considered it the safest that could possibly be embarked in, as the ship would be protected by all the foreign ministers then accredited by this Government. Of the case of the ship *Resource*, sent on a former occasion, I have not at this time a distinct recollection. Of the vessel to which you allude, belonging to Mr. Cotton, I know nothing. I recollect a brig under the command of Captain Cotton, which was employed in a similar service, after the delivery of her cargo returned to the United States with a valuable freight of brandy, wine, oil, &c., which I also mentioned as an inducement for you to charter the *Allegany* on a similar voyage.

To the 2d question I answer, that, as some of the articles to be shipped were intended as a present to the Emperor of Morocco, it was possible that, on the arrival of the ship at Algiers, the consul general of the United States might conclude to send them thither; in which event, the *Allegany* would, in all probability, be used for that object.

To the 3d question I answer, that I did state the ship would be protected by the passports of the foreign ministers so long as the property belonging to the United States remained on board; but I have not, at this time, a distinct idea whether the passports were for the passage or the voyage.

To the 4th question I answer, that I well recollect one of the principal objects you had in sending the *Allegany* to the Mediterranean was to procure from the island of Sicily a cargo of sulphur, &c., which it was represented the Navy Department stood in need of.

I have endeavored to draw to my recollection every circumstance connected with the subject of your inquiries, but the length of time since the transaction to which they refer took place, and only a few moments now being afforded me to reply to your several questions, deprive me, I fear, of doing the subject that justice which its importance merits.

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

R. FORREST,

*Late agent for the Department of State for furnishing supplies to the Algerine Government.**Messrs. Bowie & Kurtz to Captain Ebenezer Evelith, of the ship Allegany.*

SIR:

GEORGETOWN, *February 12, 1812.*

You must not forget to obtain certificates of the landing of the coffee, and send us duplicate and triplicate copies in proper form, to enable us to cancel our bonds for drawback.

If you have an opportunity, you are hereby authorized to sell the ship *Allegany*, of which you are master, provided you can obtain for her twenty-five thousand Spanish dollars; or, in case of a war between this country and Great Britain before you are able to get out of the Mediterranean sea, you are authorized to sell her on the best terms you can. In either case, invest the proceeds in bills on this Government, if to be had, and remit them to us; or, in the event of that being impracticable, you will purchase bills on the British Government, and remit them to Mr. Wm. Murdoch, of London, on our account.

We are, &c.

BOWIE & KURTZ.

Messrs. Bowie & Kurtz to Tobias Lear, Esq., Algiers.

DEAR SIR:

GEORGETOWN, *February 12, 1812.*

This will be handed to you by Captain Ebenezer Evelith, master of the ship Allegany, loaded by the United States to your address, and to whom we beg your kind attention and civilities.

By permission of the Government, we have put on board the Allegany, on our own account, about ten thousand dollars cost of coffee, nutmegs, and lead, with the view of paying ship's disbursements, and to procure something in return that will pay freight home. Being almost ignorant of the trade with you, we trust to your better information and judgment to advise Captain Evelith how to dispose of these goods, and in what to invest the proceeds, relying on your kindness to give him every information and aid in your power in the business.

Should it be in your power to give the Allegany a freight to Constantino, as the Government have given us reason to expect may possibly be the case, we shall feel ourselves under particular obligations to you for so doing. We beg you will give us the earliest information of the Allegany's arrival out, and of the route she is to take before her return home; also of the prospect of sales for our goods on board of her, and the probable amount of investment, that we may be enabled to govern ourselves as respects insurance.

The writer (Mr. Bowie) had formerly the pleasure of your acquaintance, and begs leave to recommend the interest of his house to your attention, assuring you that it will give him or them pleasure to render you any services on this side.

We are, most respectfully, yours,

BOWIE & KURTZ.

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| <p>Coffee. D. M. 202 bags. S. 39 " H. 44 " K. 164 "</p> | <p>Shipped in good order and well conditioned, by Bowie & Kurtz, in and upon the good ship called the Allegany, whereof is master for the present voyage Ebenezer Evelith, and now riding at anchor in the port of Alexandria, and bound to Algiers, to say, three cases of nutmegs and cloves, one keg of lead, and four hundred and forty-nine bags of coffee, being marked and numbered as in the margin, and are to be delivered in the like good order and well conditioned at the aforesaid port of Algiers, (the danger of the seas only excepted,) unto Ebenezer Evelith, the master, or to his assigns, he or they paying freight for the said goods, nothing being owner's property. In witness whereof, the master or purser of the said ship hath affirmed to four bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void. Dated Alexandria, 10th February, 1812.</p> |
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EBENEZER EVELITH.

To all to whom this public instrument of protest shall come to be seen, read, or heard:

Be it known, that on the 10th of August, in the year of our Lord one thousand eight hundred and twelve, before me, James Sewell, notary public by royal authority, duly admitted and sworn, domiciled in Gibraltar, came and appeared Ebenezer Evelith, master of the ship or vessel called the Allegany, belonging to Georgetown, United States of America, burden about 341 tons, and entered a protest against the capture and detention of his said ship, and the cargo on board the same, whilst at anchor in this bay; and on this day, the 6th of January, 1813, the said Ebenezer Evelith again appearing, together with Ebenezer Hough, second mate, (the first mate being sick in the hospital,) and Brook Berry, seaman on board the same ship, who, being solemnly sworn upon the Holy Evangelists of God to depose and declare the truth, did upon their oaths jointly and severally depose and declare, in the manner and to the effect following, that is to say: that they, the appearers, sailed from New York the 3d of June last past, bound to Algiers, with a cargo of naval and military stores, coffee, and other merchandise, for the account of the Government of the United States and Messrs. Bowie & Kurtz, of Georgetown, their said ship being in every respect seaworthy. They continued in prosecution of their voyage, and on the 17th of July arrived at Algiers, without any material occurrence. From thence they were, on the 25th of July then following, compelled to depart by orders of the Dey. They proceeded to Gibraltar, where they arrived on the 4th of August. On the 8th of the same month, their vessel and cargo were taken possession of by orders from the British commodore, and on the 11th the crew were put on board the prison-ship. [On the 21st of November following, the master was also sent on board a prison-ship.] On the 7th of December, the ship and cargo were libelled in the court of vice-admiralty; and, on the 30th of December, sentence was pronounced, condemning ship and cargo as good and lawful prize to the Crown of Great Britain. Wherefore they, the appearers, as well for themselves as all others concerned, do by these presents solemnly protest against the capture and condemnation of their said ship and cargo, and all and singular the circumstances hereinbefore mentioned, for all losses, costs, damages, detriments, and expenses, to accrue and be occasioned by reason and means thereof, and which the appearers declare to have happened and been occasioned solely in the manner hereinbefore declared and set forth concerning the same, and not by or through any carelessness, mismanagement, or neglect of duty in them, the appearers, or any other the men and mariners belonging to their said ship called Allegany; and they make this declaration and protest to evidence the premises, to serve and avail in time and place convenient.

In testimony whereof, the said appearers have hereunto subscribed their names, thus sworn, declared, and protested, done and passed, in Gibraltar, before me, the said notary; which I attest under my hand and accustomed seal of office, the said 6th day of January, 1813.

EBENEZER EVELITH,
EBENEZER HOUGH,
BROOK BERRY.

Registered: [L. s.] In testimonium veritatis:

J. SEWELL, *Notary Public, Gibraltar.*

CONSULATE OF THE UNITED STATES OF AMERICA, CADIZ, *January —, 1813.*

I, Richard S. Hackley, do hereby certify that the above is a true copy of the original protest entered at Gibraltar by Ebenezer Evelith, late master of the ship Allegany, as carefully compared by me.

[L. s.] Given under my hand and seal of office, at Cadiz, this twenty-ninth day of January, one thousand eight hundred and thirteen.

RICHARD S. HACKLEY.

The interlineation of the words "On the 21st of November following, the master was also sent on board a prison-ship," was made before the signature of this certificate.

By this public instrument of protest be it known unto all who shall see these presents: That, on this 14th day of May, in the year of our Lord 1813, before me, Walter Smith, notary public for the county of Washington, in the District of Columbia, and dwelling in Georgetown, personally appeared Ebenezer Evelith, late master of the ship Allegany, who, being duly sworn on the Holy Evangelists of Almighty God, solemnly declared that the facts set forth in the annexed protest, executed at Gibraltar on the 6th day of January last, are correct; and, in addition thereto, also solemnly declares that, on the morning of the 21st of July, 1812, being then at Algiers, and after a part of the ship Allegany's cargo had been landed, a messenger came on board of the said ship from Colonel Tobias Lear, consul general of the United States residing at Algiers, and informed the deponent that the Dey of Algiers had refused to receive the cargo of the ship, or any part thereof; and that the Dey had made a demand of a certain sum of money from the said consul general; and that he and every other American then in Algiers should leave there in forty-eight hours, on pain of being made slaves of, and, also, the confiscation of the said ship Allegany and her cargo; that on the same day the lighter came alongside with the part of the cargo which she had taken out the day before, and commenced putting it on board again; that the deponent immediately waited on Colonel Lear, who confirmed the aforementioned information, saying that the cargo must be taken on board and the ship got ready for sea with all possible despatch; that the deponent then observed to Colonel Lear that he would do as requested, and that he should abandon the ship to the United States, considering her in their service and at their risk, holding them responsible for further consequences, and that he should resign all control of the said ship, any further than navigating her to any port or place that he, Colonel Lear, as the legal agent of the United States, should think proper to direct; to which the said Colonel Lear did not make any objection. And the deponent further saith that the said Colonel Lear did control the destination of the said ship Allegany thenceforward; and he did, to the best of his ability, obey his orders from that time to the time of the seizure of the ship at Gibraltar.

EBENEZER EVELITH.

Sworn to and subscribed before me, this 14th May, 1813. In testimony whereof, I have hereunto set my [L. s.] hand and affixed my notarial seal, the date above written.

W. SMITH, *Notary Public.*

The undersigned has this day had the honor to receive from the honorable the Secretary of State the following documents relative to the ship Allegany, with a request that he would make such notes thereon, or give any additional information in his power, which might be necessary to be known on the subject, viz:

A letter from Messrs. Bowie & Kurtz to the honorable the Secretary of State, dated February 4, 1813, enclosing a certificate from Tobias Lear, relative to the departure of the Allegany from Algiers, her destination for Gibraltar, and her detention there by the British Government, dated at Gibraltar, September 20, 1812; and a letter from T. Lear to Messrs. Bowie & Kurtz, on the same subject, dated August 24, 1812; and,

A letter from Messrs. Bowie & Kurtz to the honorable the Secretary of State, dated 19th of May, 1813, enclosing the declaration and protest of Ebenezer Evelith, late master of the ship Allegany, after her condemnation by the British vice-admiralty court at Gibraltar, dated Gibraltar, the 6th of January, 1813; and another declaration annexed, of the said Ebenezer Evelith, dated at Georgetown, the 14th May, 1813.

The undersigned, having perused the aforesaid letters and enclosures, has the honor to inform the honorable the Secretary of State that he fully recognises the facts and circumstances set forth in the papers enclosed in the two letters from Messrs. Bowie & Kurtz, excepting that part of the declaration of Captain Evelith, of the 14th of May, in which he states the *formal* manner of his *abandoning* the ship to the United States, and holding them *responsible* for the consequences. This the underwritten does not recollect in the *words* stated by Captain Evelith; but he clearly remembers that, when the Allegany was ordered by the Dey to leave Algiers, in the strong and menacing manner which has been set forth by the underwritten to the honorable the Secretary of State, and the underwritten communicated the same to Captain Evelith, with directions to prepare his ship for her departure accordingly, Captain Evelith said that he should follow the directions of the underwritten in every thing relating to that business, as he considered the ship in the service of the United States, and himself bound to follow the directions of the agent of the United States, to whom the cargo had been addressed; and more especially in the then critical and extraordinary state of the business, when neither the underwritten nor Captain Evelith had the power to oppose or do any thing contrary to the orders of the Dey of Algiers, while the ship was in his port. After the ship had left the port of Algiers, the underwritten directed her to proceed to Gibraltar, as set forth in his certificate, dated 20th September, 1812, and for the reasons therein stated.

The declaration and certificate of the underwritten, of transactions at Algiers from the 20th to the 24th July, 1812, which has been transmitted to the honorable the Secretary of State, will show all occurrences to the latter period; and the certificate of September 20, 1812, states the facts relative to the Allegany from the time of her leaving Algiers, on the 25th of July, till her arrival at Gibraltar, and detention there by the British Government.

But there is a short period of transactions of the morning of the 25th July which is not embraced by either of those certificates, but is mentioned in the letter of the underwritten of the 29th July, 1812, to the honorable the Secretary of State, viz: that, early on that morning, the underwritten was sent for by the Minister of the Marine, to attend him at the marine, and was not permitted to return again to his own house, but ordered immediately on board the ship; and his family and all other citizens of the United States in Algiers embarked without delay, and the ship was unmoored, and carried out of the port of Algiers, by the captain of the port and his crew.

The underwritten has the honor to enclose a copy of the declaration and certificate of transactions at Algiers, from the 20th to the 24th July, 1812, which has been already forwarded to the honorable the Secretary of State; and to return the letters of Messrs. Bowie & Kurtz, with their enclosures; and begs the Secretary to accept the assurances of his high respect and consideration.

TOBIAS LEAR.

The Hon. JAMES MONROE, *Secretary of State of the United States.*

We, the underwritten, Tobias Lear, consul general of the United States of America near the Dey and Regency of Algiers, do hereby declare, certify, and make known, to all whom it may concern—

That on the 17th day of July, 1812, arrived at Algiers from the United States of America (last from New York) the ship Allegany, Ebenezer Evelith, master, with a cargo of naval and military stores, as per invoice and bill of lading, sent by the United States to the Dey and Regency of Algiers, in fulfilment of treaty stipulations.

That on the arrival of said ship, which had been long expected, the greatest satisfaction was expressed by the Dey and the officers of the Regency. That the same disposition appeared until the 20th of July, when a pontoon or lighter was sent by the Minister of the Marine to discharge the said cargo, and took on board a large quantity of plank and spars, with which she came to the landing place at the marine; but the same were not landed, as the Minister of Marine ordered them to be kept on board the pontoon until he should receive the direction of the Dey respecting them.

That, at noon of the same day, the Minister of Marine sent the dragoman of the consulate of the United States to the underwritten for a list of the articles on board the Allegany, for the Dey and Regency, that he might lay the same before the Dey, agreeably to his directions, in the afternoon, when it was his custom to visit the Dey and report to him all transactions at the marine.

That this list was immediately furnished by the underwritten, from the invoice of the cargo in his possession, but without annexing the prices. That, in the evening of the same day, the dragoman of the consulate of the United States informed the underwritten, by order of the Minister of Marine, that when he, the minister, laid before the Dey the list of articles on board the Allegany, for the Dey and Regency, as before mentioned, the Dey expressed the highest astonishment and indignation, on finding there were only fifty casks of gunpowder and four cables on board, (besides plank, spars, cordage, tar, nails, &c.) when he said he expected five hundred quintals of gunpowder, and twenty or thirty cables; with a quantity of sailcloth, &c., as expressed in a list given by the Minister of Marine to the underwritten, in May, 1810, and which had been forwarded to the honorable the Secretary of State of the United States; and that, in consequence of this disappointment, he, the Dey, ordered that the plank and spars, which had been taken out of the Allegany to-day, should be returned on board, and that the said ship should depart from Algiers in three days, and take with her the underwritten consul general of the United States, and all other citizens of the said United States then in Algiers.

That early in the morning of the next day, viz: 21st of July, the underwritten went to the Minister of Marine to have an explanation of this extraordinary affair, and to endeavor to make such an arrangement as would satisfy the Dey, and restore the former good understanding. That the minister repeated to the underwritten what had been before communicated by the dragoman, and added that the Dey was outrageous at the disappointment, and had declared that he would not recede from the orders that he had given. That the underwritten then entered into an explanation of the business to the minister, stating that gunpowder and cables were two articles, of which there was not enough made in the United States for their own consumption; that it was well known to be almost impracticable, at the present moment of war in Europe, to import these articles from other countries; that it was highly probable, in the present distracted state of nations, the United States would be forced into a war, under which circumstance it would be very improper for the Government of the United States to deprive themselves of so necessary an article of defence as gunpowder; that the present cargo was composed of such articles as had been usually sent from the United States in fulfilment of treaty stipulations, and had always been received with satisfaction, and, if taken at this time, would pay the whole balance due from the United States on account of annuities; and that, on a future occasion, the Dey's wishes would undoubtedly be complied with, in respect to gunpowder, cables, &c. The underwritten also dwelt very strongly on the known and acknowledged punctuality of the United States in fulfilment of their treaty with Algiers, and especially at a time when other nations equally bound had not brought the stipulated articles. That the minister acknowledged the justice of these remarks, and promised to communicate the same to the Dey, but said that he did not think the Dey would recede from his determination. That the underwritten then requested an audience of the Dey, to endeavor, by a personal interview, to make some arrangement of the business; but it was refused him.

That he then requested an extension of the time fixed for the departure of the Allegany, hoping in the mean time to be able to do something to conciliate the Dey, or, at any rate, to send abroad, if possible, notice of what had happened at Algiers; but this was positively refused him. That the plank and spars which were taken out of the Allegany yesterday were sent on board this day, and put into the ship by the people of the marine. That the underwritten gave notice, by circular, to the several consuls of other nations in Algiers of the order which had been given by the Dey for him to depart from Algiers.

That, on the morning of the 22d of July, the underwritten sent the dragoman of the consulate to the palace, to request a settlement for the cargo of the brig Paul Hamilton, which had arrived at Algiers on the 18th of December, 1811, sent by the United States in fulfilment of treaty stipulations, and which settlement had been postponed, by a request from the palace, until the arrival of the ship Allegany, when the two cargoes could be settled at the same time. That this request was granted; that the dragoman, on his return from the palace, with permission for the settlement before mentioned, informed the underwritten that the Dey requested he would bring with him to the palace, when he came to make the settlement, the original treaty (in English and Turkish) between the United States and the Dey and Regency of Algiers, that he (the Dey) might see the time when the said treaty was ratified, the terms, &c.

That the underwritten took the said treaty with him to the palace when he went to make the settlement before mentioned.

That while the underwritten was making a settlement of the cargo of the brig Paul Hamilton with the prime minister and secretaries, as usual, the dragoman of the Dey came to him, and said the Dey wished to see the treaty between the United States and the Dey and Regency of Algiers, which the underwritten had brought with him.

That the said treaty was delivered to the said dragoman to carry to the Dey. That when the underwritten had finished the settlement for the cargo of the brig Paul Hamilton, amounting to \$12,109, he presented a tiscay for \$26,064, a balance due to the United States on the settlement for the cargoes of the ship Resource and brig Blanchy, which had been made in February, 1810. That the amount of the cargo of the brig Paul Hamilton, and the tiscay, making \$38,173, was acknowledged to be just. That the prime minister and secretaries then said there was yet due to the Dey and Regency, for annuities, \$27,000, which the underwritten denied, showing that the time from the ratification of the treaty with the United States to the 5th of September next would be seventeen years, which, at 12,000 old sequins, or \$21,600 per year, would amount to \$367,200, of which had been paid, (according to receipts given by the Regency, and held by the underwritten, and the acknowledged sum of \$38,173,) \$351,373, leaving a balance due to the Dey and Regency, on the 5th of September next, of \$15,827, which the cargo of the ship Allegany would more than satisfy, if it should be received; and the underwritten represented strongly that the sending of this cargo at this time, when the United States were not indebted to the Regency for one annuity, was the strongest possible evidence of the punctuality of the United States.

That the minister and secretaries then said that they always counted the time by the Mahometan year of 354 days instead of 365; and that this would make a difference in their favor of one-half year in seventeen years, on the 5th of September next making \$10,800 more than the underwritten's account of the balance of \$15,827, and produce the sum of \$26,627, which they had placed, in round numbers, at \$27,000.

That the underwritten urged the propriety of his account of seventeen years, and also noted the difference between the two sums of \$27,000 and \$26,627, but without producing any alteration in their stated balance of \$27,000. That the prime minister then sent to the Dey a note of their balance of \$27,000.

That the Dey immediately sent a message to the underwritten, while he was in the palace, saying that the balance of \$27,000 must be paid in cash, and then the vessel and Americans depart from Algiers according to his former orders.

That the underwritten remonstrated against the injustice of this demand of a cash payment, when the cargo of the ship *Allegany*, now in port, was sent for the purpose of complying with the treaty stipulations; and represented the impracticability of obtaining money to pay this demanded balance, even if it were allowed to be just.

That the prime minister then went up to the Dey, with the Dey's dragoman, who had brought the foregoing message; and, returning soon after, told the underwritten that the Dey was peremptory in the message last sent, as well as in his first orders, for the ship to depart in three days from the 20th July, and added that the Dey had directed him to inform the underwritten that the demanded balance of \$27,000 must be paid by him before he left the palace, and then the ship and Americans depart according to his first orders; or that the underwritten, as consul general of the United States, should be sent in chains to the marine; the ship *Allegany* and her cargo confiscated; all citizens of the United States now in Algiers be detained in slavery, and war instantly declared against the United States.

That the underwritten then told the prime minister that the matter was now decided, that he must go to the marine, and all the consequences which had been denounced must follow; for that he, the minister, well knew the impossibility of complying with the last demand, of paying the money at this moment, even if it was admitted to be justly due, and there was every disposition to pay it. That the underwritten then proposed that the cargo of the ship *Allegany* should be taken by the Regency, on account of annuities, they fixing their own prices; and that the balance, if any then due from the United States by treaty stipulation, should be paid in cash; and that the underwritten would transmit to his Government a list of such articles as the Dey might want for the next annuity, with such observations on the necessity of sending them as the Dey should think proper to make.

That the underwritten demanded to see the Dey, to communicate the foregoing proposition to him in person, but was refused.

That he then warned the prime minister of the serious consequences which would follow upon the Dey and Regency should the Dey persist in his unjust and outrageous demand, which, it was well known, could not be complied with.

That the minister and secretaries, as well as others who were present, appeared to be impressed with the justice of the remarks made by the underwritten; and the minister again went up to the Dey. That, on the return of the minister from the Dey, he told the underwritten that he brought the last and irrevocable resolution of the Dey, viz: that the Dey would allow till Saturday morning, the 25th of July, for the underwritten to pay into the treasury of Algiers the \$27,000 demanded, and then depart in the ship *Allegany*, with all other citizens of the United States then in Algiers, as before ordered, under penalty of the confiscation of the ship and cargo, the detention of all Americans as slaves, and the immediate declaration of war against the United States, as before stated. That the minister also told the underwritten that the Dey had been informed that the *Allegany* had brought a quantity of coffee for sale, on private account, as well as other articles not intended for him or the Regency; which had exasperated him more, if possible, than the disappointment in the quantity of gunpowder, &c., as he considered it an indignity offered him that any thing should be brought in the ship with the annuities, excepting such as belonged to that account.

That the underwritten then requested to have the treaty returned before he left the palace, which he had sent the Dey at his request, but was informed by the Dey's dragoman that the Dey had ordered him to inform the underwritten that he should retain the treaty, as was the custom at Algiers when a consul was sent away on account of his Government. That the underwritten, finding nothing more could be done, left the palace; and reflecting upon the very critical state of affairs between the United States and Algiers, knowing that there was no way in which he could send abroad to the consuls of the United States, or others in this sea, information of what had happened, to guard the vessels and citizens of the United States against the danger of capture, (the port of Algiers having been shut since the sailing of their cruisers on the 13th of July, and still continued in that state,) determined, as a duty which he owed to his country and to his fellow-citizens, to comply with the demand of the Dey by paying the money, if it could be obtained, and then depart in the *Allegany*; which would save that vessel and cargo, as well as the citizens of the United States now in Algiers, and afford an opportunity of giving notice of these transactions, to guard other vessels and citizens of the United States against the danger, unless some mode could be devised between this and the time of the ordered departure to settle this business, and restore the former good understanding. That the underwritten employed the remainder of the 22d, as well as the days of the 23d and 24th of July, until the afternoon of the latter, in endeavoring, through some channel or other, to stop the progress of this unfortunate and unexpected business, applying for that purpose the sum of two thousand dollars, in the manner which seemed most likely to have the desired effect; at the same time, he was not inattentive to the means of procuring the money demanded by the Dey, if it should ultimately become necessary to pay it. That for this purpose he offered for sale the cargo of the ship *Allegany*, which had been refused by the Dey; but was prevented from selling the same, by an absolute order from the Dey that the ship should depart, with every thing on board which she brought to Algiers, and forbidding a single article to be sold out of her.

That the underwritten found no one able or willing to advance, on any terms, the money demanded by the Dey excepting the house of Bacri.

That this house demanded an advance of 25 per cent. on the sum, taking the bills of the underwritten for the same, on *Gibraltar*, payable thirty days after sight, alleging, as a reason for this advance, the sacrifice which he must make to raise the money at so short a notice.

That, on the morning of the 24th July, the Minister of the Marine, the admiral of the port, and others, sent word to the underwritten that this day being the Mahometan sabbath, it was customary for the principal officers of the Regency to meet the Dey at his palace, and go with him to the mosque; that the Dey generally conversed with his officers while they were in the palace on such subjects as might be then in contemplation or in operation; and that it was probable he would this day introduce the business relating to the United States, which, if he should, would afford them an opportunity of endeavoring to persuade the Dey to accommodate the business, and revoke his orders; but candidly acknowledged that, if he should not introduce the subject, none of them would dare to touch upon it to him, as they feared the effects of his anger if they should attempt, uninvited, to open a matter which was known to be disagreeable to him. They all agreed that they were in great want of every thing at the marine which was on board the *Allegany*, and that it was with the greatest regret they saw her ordered away. That the underwritten communicated to the Minister of the Marine the proposition he had made in the palace on the 22d instant, viz: that the Dey should receive the articles brought for the Regency by the ship *Allegany*, and pass the

same to the credit of the United States in the usual manner of settling for such cargoes, where the Regency fixed the prices as they pleased; and, if the amount should not cover the balance due from the United States, that the underwritten would make it up in cash, if required; and that he would also forward to his Government a list of such articles as the Dey might wish for the next annuity, with such observations as the Dey might choose to make on the necessity of their being sent. This he promised to communicate to the Dey, and to urge his acceptance of the same so far as he dared to do it.

That, at one o'clock P. M. of this day, the dragoman of the consulate of the United States brought a formal message from the Dey to the underwritten, saying that it was his last, and irrevocably fixed, viz: that the underwritten should, early to-morrow morning, pay into the treasury of Algiers the demanded balance of \$27,000, and then depart from the Regency with his family, and all other citizens of the United States, in the ship *Allegany*, with the stores brought for him, (the Dey,) and which he would not receive; or that the ship and cargo, with all Americans now in Algiers, should be detained, the former confiscated, and the latter held in slavery; and that war should be instantly declared against the United States. That this message determined the business, and closed every door of hope for an accommodation.

That it was confirmed soon after by a message from the Minister of the Marine, informing the underwritten that he and the other ministers had this day urged every thing they dared to the Dey to induce him to alter his determination, and to accept the proposition, but in vain. He was inflexible, and that the alternative must be taken immediately, as early to-morrow morning was the last moment allowed. That the underwritten then sent for Bacri, and informed him of his determination to pay the money, (for the reasons before stated,) and depart from Algiers, and that he should depend on him for it; but that if, after paying the money, the ship and Americans should [not] be allowed to depart, (as there was reason to apprehend might be the case, from the outrageous and extraordinary conduct of the Dey, notwithstanding his declaration,) the bills which might be drawn would not be paid at Gibraltar, for that the cargo of the *Allegany* must be depended upon to meet the bills, as far as it would go, and that this information was given him that he might know the ground on which he stood. He replied that he should have full faith in the bills on that condition; and then observed, as he had before done, that the sacrifices which must be made to obtain the money at the moment could not be less than twenty-five per centum.

That, after some further discussion of the subject, and knowing the impossibility of obtaining money from any other quarter, the underwritten then agreed to give him the allowance, which brought the amount to \$33,750, and that this evening a bill was given for that sum by the underwritten, at thirty days' sight, on John Gavino, Esq., consul of the United States in Gibraltar, favoring Moire Levi Valenson, of Gibraltar, value received from Jacob Cohen Bacri, of Algiers, on account of the United States, to pay a balance claimed by the Dey of Algiers for annuities from the United States by treaty stipulations, the Dey having refused to receive the naval and military stores sent from the United States in fulfilment of said treaty stipulations.

That the said Bacri promised to pay the money demanded by the Dey into the treasury of Algiers early to-morrow morning.

That the underwritten gave previous notice of these transactions to Captain Ebenezer Evelith, master of the ship *Allegany*, that he might be prepared to depart with his vessel to-morrow morning; and likewise communicated the same to the other citizens of the United States in Algiers, that they might embark on board the *Allegany*, and leave Algiers in conformity with the order given by the Dey for that purpose.

That the underwritten applied to the French, English, and Spanish consuls residing in Algiers to furnish passports for the ship *Allegany*, to prevent her being molested or detained by the cruisers of either of these nations; and that he received passports from the French and Spanish consuls, agreeably to his request, but that he received none from the English consul, nor any reply to his application.

In testimony of the foregoing, we have hereunto subscribed our name, and affixed our seal of office, at Algiers, [L. s.] this twenty-fourth day of July, 1812, and of the independence of the United States of America the thirty-seventh.

TOBIAS LEAR,

Consul General of the United States of America at Algiers.

We, the undersigned, Tobias Lear, consul general of the United States of America for the Regency of Algiers, do hereby certify and make known to all whom it may concern:

That when the ship *Allegany*, Ebenezer Evelith, master, left Algiers, on the 25th of July, 1812, by order of the Dey, with the cargo which she had brought from the United States, in fulfilment of treaty stipulations, together with all citizens of the United States of America then in Algiers, as was duly stated and certified in the consulate of the said United States in Algiers, and which has been fully communicated by us to the honorable the Secretary of State of the United States, we requested Captain Evelith to proceed, with the *Allegany*, for Gibraltar, as the place from which information of what had happened at Algiers could be most readily conveyed to every part of the Mediterranean, as well as communicated to such vessels of the United States as were about entering into this sea, to guard them against the danger of capture by Algerine cruisers; and also as offering the best prospect of a market for the disposal of the cargo on board the *Allegany*, belonging to the United States, and which had been sent from Algiers, by order of the Dey, as aforesaid.

That, on the morning of the 28th of July aforesaid, the wind, which had hitherto been fresh from the east, came strong from the west, the ship being then to the westward of Cape De Gatt, when the underwritten observed to Captain Evelith that, if there should be no prospect of the wind changing in a few hours, he should request him to alter his course, and proceed to Carthage or Alicante; it being an important object to get into some port, without delay, from which information of the late transactions at Algiers could be conveyed to different parts of this sea, for the security of American vessels.

That about nine o'clock A. M. of the same day, they met a convoy from Gibraltar, for Alicante, Majorca, and Port Mahon, under the care of His Britannic Majesty's brig of war the *Goshawk*, an officer from which brig boarded the *Allegany*, and informed us that the British orders in council, laying restrictions on neutral commerce, had been rescinded, and, in consequence, that British cruisers had orders not to interrupt or detain American vessels; as an evidence of which, the said officer did not even request a sight of the papers of the *Allegany*. That the underwritten, having embraced this opportunity of forwarding letters to the consul of the United States at Alicante and Majorca, which were delivered to the officer aforesaid, giving notice of what had happened at Algiers, and requesting them to forward the same to all ports and places in this sea with which they might have an opportunity of communicating, thought it best for the *Allegany* to continue on her course for Gibraltar, at which place she arrived on the 4th August, 1812.

That, in the night of the 8th of August aforesaid, an officer from the ship of the British commander afloat in the bay of Gibraltar came on board the *Allegany*, and took possession of said ship, informing Captain Evelith that it was done by order of the commodore of the port, who, in consequence of information having been received the same evening of the declaration of war by the United States against Great Britain, had directed all American vessels in the bay of Gibraltar to be arrested and detained until further orders.

We, the underwritten, do further certify that neither we, nor Captain Evelith, under existing circumstances, considered it proper to make any stipulated agreement for the freight or run of the ship *Allegany* from Algiers, as aforesaid, to Gibraltar, as her departure from Algiers was compulsive. It was therefore thought best to leave this matter to be adjusted between the Government of the United States and the owner or owners of the ship *Allegany*, upon a fair and full statement of all circumstances being laid before them.

[L. s.] In testimony whereof, we have hereunto subscribed our name, and affixed our seal of office for the Regency of Algiers, at Gibraltar, this 20th day of September, 1812.

TOBIAS LEAR.

Tobias Lear, Esq. to Messrs. Bowie & Kurtz, Merchants, Georgetown, District of Columbia.

GENTLEMEN:

GIBRALTAR, August 24, 1812.

On the 17th ultimo I had the pleasure to receive your esteemed favor of the 12th of February, by Captain Evelith, of your ship *Allegany*, which arrived at Algiers on that day.

It would have given me great satisfaction to have assisted Captain Evelith in your business with my best advice and information, agreeably to your desire, had not the unexpected and extraordinary events which took place immediately after the arrival of your ship (and of which I shall give you a short sketch) completely destroyed all intercourse and business, both of a public and private nature, between the United States and Algiers.

The arrival of the *Allegany*, which had been long expected, seemed to give the fullest satisfaction to the Dey and all the officers of the Regency, as they were in great want of every thing on board her. This disposition prevailed until the 20th, when they began to discharge the cargo. The Dey then sent to me for a list of the articles on board for the Regency, which I immediately furnished; but was surprised soon after at receiving a message from the Dey, through my dragoman, expressing the highest anger and disappointment on finding there were only fifty small casks of gunpowder and four cables on board, (besides cordage, plank, spars, tar, nails, &c. &c.) when he said he expected there would have been at least five hundred quintals of powder, and twenty or thirty cables, with a quantity of sailcloth, &c. &c., amounting, perhaps, to five or six annuities, when we were scarcely indebted to him for one; and ordering that the ship should leave the Regency in three days, with the cargo she brought, taking away myself and all other Americans then in Algiers.

Every proper and possible measure was taken to avert the execution of this order, but without effect; and I was obliged to leave Algiers on the 25th of July, with my wife and son, (who had arrived from the United States, *via* Gibraltar, only ten days before this event,) and all other Americans then in Algiers; being first obliged to pay in cash the balance due on account of annuities from the United States by treaty stipulation, to prevent the confiscation of the vessel and cargo, the detention in slavery of all American citizens in Algiers, and an immediate declaration of war against the United States, without a possibility of my giving information of this event, to guard our vessels and citizens in this sea against the danger of capture.

Two days after I was ordered to depart from Algiers, I was informed by the prime minister of the Dey that his master had been informed that there was a quantity of coffee on board the *Allegany*, brought for sale, which exasperated him more highly, if possible, than the disappointment in the quantity of powder, &c., saying it was an indignity offered him to permit any merchandise to be brought, on private account, in the vessel sent with the annuities; and pretending that, if this coffee had not been brought, an equal quantity of gunpowder would have been put on board, &c.

We came to this place as the best point from which I could extend the information of what had happened at Algiers, to insure the safety of the American vessels in this sea, or such as might be about to enter it.

Circulars have been despatched to all consuls of the United States in the Mediterranean, and such measures taken as I trust will secure our vessels against capture; and as yet I have not heard of any having been taken by the Algerines.

In the night of the 8th instant all American vessels in this bay were arrested by order of the commodore of the port, in consequence of information having been received the same evening that the United States had declared war against Great Britain. They are moored under the guns of the battery at the new mole, their sails unbent, and all the people taken out and put on board a transport employed for that purpose, excepting the captain, mate, and one man belonging to each vessel. In this situation they remain, waiting orders from England.

I presume that Captain Evelith has written to you since he has been here. Should the vessels and cargoes in port at the time of the declaration of war being known be released by the British Government, as we are informed has been done by the Government of the United States, I shall dispose of the cargo belonging to the United States on board the *Allegany* on their account, and shall give Captain Evelith all advice and assistance in my power for the benefit of the ship, and the other property on board her.

It is with pleasure I recognise my former acquaintance with your esteemed Mr. Washington Bowie, and beg him to be assured of my regards and best wishes.

I am, gentlemen, very respectfully, your most obedient servant,

TOBIAS LEAR.

Tobias Lear, Esq. to Washington Bowie, Esq.

SIR:

MARCH 18, 1816.

As well as I can recollect, (without having recourse to my papers,) the number of passengers on board the ship *Allegany*, from Algiers to Gibraltar, was six, viz: myself, wife and son; Mr. J. S. Smith, of Philadelphia; a Mr. Volette, a naturalized citizen of the United States, from New Orleans; and one person, whose name I do not now recollect, a naturalized citizen of the United States, from South Carolina.

I am, sir, respectfully, your most obedient servant,

TOBIAS LEAR.

SIR: OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES, June 6, 1813.

I have examined the papers enclosed in your letter of the 3d instant, respecting the ship *Allegany*, and do not find in them a sufficient legal foundation for the claim which has been made by her owners upon the Government of the United States, to be indemnified for the loss of the vessel by the capture and condemnation which took place at Gibraltar.

Compensation ought, I think, to be made for the voyage to Algiers, and from thence to Gibraltar; but the vessel was, in law, at the risk of her owners, and her value is not chargeable to the Government.

I have the honor to be, &c.

WILLIAM PINKNEY.

To the SECRETARY OF STATE.

SIR: DEPARTMENT OF STATE, March 4, 1814.

I have had the honor to receive your letter of the 25th December, referring the claim of Messrs. Bowie & Kurtz and others, for the loss of their ship, the *Allegany*, at Gibraltar, and requesting such evidence in relation thereto as may be in this Department, together with my opinion on the merits of the claim. On an attentive perusal of the memorial, and the several papers to which it refers, it does not appear that any fact is omitted which can be considered, in a legal or equitable point of view, as material in the case. The ship *Allegany* being chartered by this Department to convey the customary stores to Algiers, proceeded on the voyage from this city to Norfolk, where the embargo immediately preceding the declaration of war arrested her progress. A special act was passed by Congress to enable her to proceed. Under these circumstances, she proceeded to Algiers, whence she was driven, with the consul general, and other Americans there, to seek some place of safety; and the consul general directed her course to Gibraltar; the captain considered himself bound to obey the orders of the consul general, under the extraordinary occurrences at Algiers. Reviewing, therefore, the voyage from the commencement to the end, that the vessel was carried from Algiers to Gibraltar by order of the consul general, and there seized and condemned by the British authorities, in consequence of the declaration of war, I am of opinion that indemnity ought to be made to the owners in the value of the vessel at the time of her seizure at Gibraltar; deducting from it, however, a premium of insurance on her voyage up the Mediterranean, or on her return home, equal to a war risk; deducting, also, the diminution in her value in the United States, in case the committee should be of opinion that she would have returned home. Whether she would have gone up the Mediterranean or returned home, is a matter of fact submitted to the judgment of the committee, on the evidence before them.

I have the honor to be, with great respect, sir, your obedient servant,

JAMES MONROE.

Hon. STEVENSON ARCHER, *Chairman of the Committee of Claims.*

By the Marine Insurance Company of Alexandria.

[*Vessel.*] Whereas Bowie & Kurtz, on account of themselves, do make assurance and cause themselves to be insured, lost or not lost, at and from Alexandria to Algiers, on freight, upon the body, tackle, apparel, and other furniture of the good ship called the *Allegany*, of the burden of — tons, or thereabout, whereof is master for the present voyage E. Evelith, or whoever else shall go for master in the said vessel, or by whatsoever other name or names the said vessel, or the master thereof, is or shall be called or named, beginning the adventure upon the said vessel, tackle, apparel, at and from Alexandria, as aforesaid, and so shall continue and endure until the said vessel be safely arrived at Algiers aforesaid, and until she be moored twenty-four hours in good safety: the said vessel, tackle, &c. for so much as concerns the assured, by agreement made between the assured and assurers in this policy, are and shall be valued at —, without any further account being given by the assured to the assurers, or any of them, for the same.

And it shall and may be lawful for the said vessel in her voyage to proceed and sail to, touch and stay at, any port or places, if thereunto obliged by stress of weather or other unavoidable accident, without detriment to this assurance, touching the adventures and perils which we, the assurers, are contented to bear, and do take upon us in this voyage; they are of the seas, men-of-war, fire, enemies, pirates, rovers, thieves, jetsams, letters of marque and countermarque, reprisals, taking at sea, arrests, restraints, and detentions of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and marines, and all other such perils, losses, and misfortunes that have or shall come to the hurt, detriment, or damage of the said vessel, or any part thereof, for which the assurers are legally accountable. And, in case of any loss or misfortune, it shall be lawful for the assured, their factors, servants, and assigns, (and the said assured, on their part, agree and engage, by themselves, their factors, servants, or assigns,) to sue, labor and travel for, in, and about the defence, safeguard, and recovery of the said vessel, or any part thereof, without prejudice to this assurance; to the charges whereof, we, the assurers, will contribute according to the rate and quantity of the sum hereby assured. And so we, the assurers, are contented, and do hereby promise and bind ourselves to the assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance, by the assured, at and after the rate of four per cent. on freight valued at twelve thousand dollars; and, in case of loss, no deduction to be made from the sum assured, except two per cent. The money to be paid in ninety days after proof of loss, and proof of interest in the said assured—the amount of the note given for premium, if unpaid, being first deducted, provided such loss shall amount to five per cent., under which no loss or average will be paid unless general.

If the above vessel, after a regular survey, shall be condemned for being unsound or rotten, the underwriters shall not be bound to pay the subscription on this policy.

N. B.—It is understood and declared that, in all instances where insurances are made, except to and from the Isle of France and the East Indies, generally, the lapse of twelve months from the time of sailing or being heard of shall be considered as proof of loss; and, in other instances, twenty-four months.

In all cases of return premium, one-half per cent. on the sum insured is to be retained by the assurers; and it is mutually agreed by the parties to this policy that no part of the premium shall be returned or abated on account of any deviation which shall be made by the owners, or their factors, from the present voyage, warranted by the assured free from any charge, damage, or loss which may arise in consequence of a seizure or detention of the property, for or on account of any illicit or prohibited trade, or trade in articles contraband of war. In cases of capture or detention, the insured shall not be at liberty to abandon the property insured to the insurers until the expiration of ninety days after advice is received here of the said capture or detention, and notice thereof given to

the insurers. And, in all such cases, the assured renounce all claims against the assurers for demurrage, seamen's wages, and provisions.

In witness whereof, the president and directors of the Marine Insurance Company of Alexandria, by the said president, have subscribed the sum insured, and caused the attestation of their secretary to be affixed to these presents, in Alexandria, the 5th day of February, 1812.

Ten thousand dollars.

WM. HARTSHORN, *President*.
J. B. NICKOLLS, *Secretary*.

GEORGE THE THIRD, *by the grace of God, of the United Kingdom of Great Britain and Ireland, and of Hanover, King, defender of the faith, to all and singular persons, of whatsoever dignity, state, degree, or pre-eminence they be, to whom these present letters testimonial shall come, greeting:*

We do, by these presents, make known and signify unto you that, upon examining the records of our vice-admiralty court of Gibraltar, faithfully kept, we do find a certain decree made and interposed in our aforesaid court, of the tenor and in the words following, to wit:

Vice-admiralty court, Gibraltar, Wednesday, the 30th day of December, in the year of our Lord one thousand eight hundred and twelve, between the hours of eleven and twelve of the same day, before the worshipful Matthew Cowper, surrogate of the right worshipful Richard Mountney Jephson, Esq., commissary of the King of the United Kingdom of Great Britain and Ireland, and judge of the said vice-admiralty court; and also to hear and determine all and all manner of causes and complaints as to ships and goods taken and seized as prize, specially constituted and appointed in the vice-admiralty court aforesaid:

Present: James Ross Oxberry, Esq., deputy registrar in the cause our sovereign lord the King against the ship or vessel called Allegany, her tackle, apparel, and furniture, and the goods, wares, and merchandise laden on board the same, and against Ebenezer Evelith, the master thereof, and all persons having, or pretending to have, any right, title, or interest therein.

On which day, the marshal returned the usual monition, duly certified, into court, and the substance of the libel filed in the cause was opened by William Toye, Esq., His Majesty's fiscal, and proctor for Commodore Charles Vinicomb Penrose, commanding His Majesty's ship San Juan, the captor; and all persons were regularly called upon, by proclamation in open court, to appear and claim the aforesaid ship, or the goods, wares, and merchandises laden therein; and no person appearing to claim, the judge, upon perusal of the examinations taken preparatory in the cause, and of the several papers and documents found on board the said vessel, and delivered into the registry, upon oath, pronounced the said ship Allegany, her tackle, apparel, and furniture, and all and singular the goods, wares, and merchandise on board the same, to have belonged, at the time of the capture thereof, to enemies of the Crown of the United Kingdom of Great Britain and Ireland, and as such, or otherwise, subject and liable to confiscation, and condemned the same as good and lawful prize to our sovereign lord the King, *jure coronæ*; justice so requiring.

MATTHEW COWPER, *J. S. V. A.*

All and singular which premises, as they have been drawn up and passed in our aforesaid court, so we have thought fit that the same should be exemplified unto you; and we do attest that the same do agree, having been faithfully compared with their originals remaining on record in the registry of our court aforesaid.

In witness whereof, we have caused the seal of our vice-admiralty court aforesaid to be affixed to these presents.

Given at Gibraltar, the twentieth day of July, in the year of our Lord one thousand eight hundred and fifteen, and of our reign the fifty-fifth.

JAMES R. OXBERRY, *Deputy Registrar*.

SIR: GEORGETOWN, *January 17, 1817.*

The Committee of Claims having reported against the admission of our claim for indemnification for the ship Allegany, lost in the service of the United States, we take the liberty to request your attention to two former reports on the subject, copies of which are herein enclosed, viz:

1st. The report of a committee of the Senate, in January, 1815, where a bill was passed for the amount of our claim, and interest from 21st July, 1812, until paid.

2d. The report of the Committee of Claims of the House of Representatives at the last session; also recommending full indemnity, but presented so late in the session that it was not taken up, because of other pressing business then before the House.

We also pray your attention to the following documents filed with our petition:

1st. The captain's protests, at Gibraltar and Georgetown.

2d. Colonel Lear's three statements of facts, addressed to the Secretary of State, the last of which, dated at Washington, in 1813, is strongly corroborative of the captain's abandonment to the United States, when he consented to submit to Colonel Lear's control and direction.

We further beg leave to refer you to the enclosed copy of our letter to Colonel Lear, dated 12th February, 1812, which we think is not susceptible of the construction put upon it by the present Committee of Claims.

We have the honor to be, sir, with due consideration, your most obedient servants,

BOWIE & KURTZ. C

SIR: GEORGETOWN, *March 8, 1814.*

Mr. Monroe having favored us with the perusal of his report on the subject of our claim on the Government for indemnity for the loss of the ship Allegany and cargo, and seeing that he is of opinion that we are only entitled to a partial compensation, and even that subject to extraordinary deductions, we beg leave to submit to your consideration the enclosed documents and observations, viz:

A, B, and C.* The opinions of three distinguished counsellors that, in the event of the Government being suable, we are entitled to recover in law the full value of vessel and cargo, with interest, &c.

D.* The opinion of the late Attorney General, which states that we are entitled only to freight from Algiers to Gibraltar; and, as no freight was stipulated for by Mr. Lear and Captain Evelith, a reasonable mercantile freight is to be implied. Now a reasonable mercantile freight is such a one as would cover the voyage, (including seamen's

* These documents (A, B, C, and D) were destroyed in the conflagration of the Capitol.

wages, provisions, wear and tear of the vessel, and insurance against all risks, not only on the vessel, but also on that part of the cargo belonging to ourselves, because it was put at risk solely to accommodate the United States, and carried out of its course to Gibraltar, where it was well known there was no market for colonial products,) and the usual mercantile profit on such a voyage. Therefore, according to this opinion, the Government ought to pay us a freight equal to the amount of property lost and the usual mercantile profit; and it is but reasonable that it should be so, because it is not to be presumed that Captain Evelith would have deviated from the instructions of his owners, and thereby destroyed their prospect of profit on their adventure up the Mediterranean, but for the faith he had in the Government to save his owners harmless, in case of an accident, and the assurance of Colonel Lear that the United States would do what was just and equitable. [See Colonel Lear's statement of the case.]

E.—Copies of our letters of instructions to Colonel Lear and Captain Evelith, when the *Allegany* sailed hence, which show that it was not our intention to risk the vessel or cargo home, in the event of a war with England; consequently, if the committee think us entitled to indemnity for vessel and cargo, (we include cargo, because we cannot understand upon what principle Mr. Monroe separates it from the vessel, both being equally risked and carried out of their course for the accommodation of the Government,) we ought not to be subject to the premiums, &c. noticed by Mr. Monroe: for, if the Government had complied with their contract, and discharged the vessel at Algiers, from 17th July to 6th August, as they were bound to do, by an express and unconditional covenant, or had the captain said, as he had a right to do, when he found Colonel Lear could not receive the cargo at Algiers, "I cannot accommodate you or the Government by going to Gibraltar, [the market selected by Colonel Lear as the best for the Government goods,] because I know it is not a market for my owners' property; but I will take you up the Mediterranean, whither I am bound by order of my owners," then the ship would have proceeded up the Mediterranean without any other than sea risk, as the war was not known, even at Gibraltar, the entrance of that sea, until the 8th of August. She would most probably have gone to the island of Sicily, where, in consequence of the war, our adventure would have been tripled or quadrupled in value; and, admitting that we should have been compelled to sell her there for half her value, we should still have done better than we now can, if our whole claim is allowed by Congress.

In addition to the foregoing, we pray you also to take into consideration the peculiar circumstances under which this vessel was chartered and sailed. We agreed for her at a time when we had no reason to apprehend a war, and, of course, at a peace freight; the Government, on the contrary, as subsequent events clearly prove, meditated war, and as they did not apprise us thereof, we dealt on unequal ground. Besides, the vessel did not sail until after the embargo of 1812, the acknowledged precursor of war with England; yet the Government did not give us the least intimation, nor did they inform their agent, (Colonel Lear,) as might have been done, to put him on his guard against the consequences.

We are, sir, with great respect, your obedient servants,

BOWIE & KURTZ.

Hon. STEVENSON ARCHER, *Chairman Committee of Claims.*

15th CONGRESS.]

No. 449.

[2d SESSION.]

LOAN OFFICE CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Samuel Gibbs, reported:

That it appears, from the petition and accompanying documents, that two certificates were issued from the loan office of Pennsylvania to a certain Gilbert Palmer, of the State of New York: one for \$300, dated on the 26th of May, 1779, and the other for \$1,000, dated on the 27th of May, in the same year; that the said certificates were put into the hands of the petitioner for the purpose of having them funded, and were by him accidentally lost before an opportunity of funding them occurred; that the petitioner has since paid the said Palmer the sum of seventy-six pounds in consideration for the said certificates; and he now prays Congress to grant him such relief as may have been given to others in like cases, and as may be consistent with equity.

The facts above stated are established to the satisfaction of the committee; and as it appears, from statements of the Register of the Treasury, that the certificates in question remain outstanding and unpaid, and that interest upon them could not have been paid to a later period than the 31st of December, 1787, the committee are of opinion that their specie value ought to be paid to the petitioner, with interest thereon from that day, upon his giving security to refund the money should the certificates hereafter be presented for payment; and they report a bill for that purpose.

15th CONGRESS.]

No. 450.

[2d SESSION.

DEPOSITES IN THE CONTINENTAL LOAN OFFICE IN VIRGINIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Sarah Ingram, administratrix of all and singular the goods and chattels, rights and credits, which were of her late husband, Lemuel Thorowgood, deceased, as she states herself to be, reported:

That the petitioner prays that a law may be passed authorizing her to receive payment of the amount, with interest, of two receipts or certificates of the following description:

No. 50.—Lemuel Thorowgood, having deposited \$1,100 in the Virginia continental loan office, is entitled to have loan certificates issued for the same of this date.

Witness the hand of the commissioner, this eighteenth day of March, one thousand seven hundred and ninety-nine.

W. ARMSTEAD, *Commissioner.*

CONTINENTAL LOAN OFFICE IN THE STATE OF VIRGINIA,

No. 1106.

18th day of March, 1799.

This certifies that Lemuel Thorowgood, having deposited \$956 in this office, is entitled to receive from the commissioner thereof an equal sum in due bills on or before the 1st of August next, agreeably to a resolution of Congress of the 2d of January, 1779.

W. ARMSTEAD, *Commissioner.*

The committee further report that the claim of the petitioner is not supported by sufficient testimony; that the said instruments of writing are not loan office certificates, but receipts for certain sums of the then paper currency received by the commissioner of loans, to be paid, in the manner specified, at the times limited in the said receipts; that the said Lemuel Thorowgood (or Thorowgood) ought to have applied, if he did not, at the times limited in the said receipts, and demanded payment for the same as specified in the said receipts; that, if he did not, it was in his own wrong—by his own neglect; that the claim of the petitioner is barred by the limitation of time stated in the said receipts, and is also barred by the statute of limitation; and it is inexpedient at this late period to attempt an adjustment of the claim bottomed on instruments of writing of that character, and more especially as there is no record in the Treasury Department to demonstrate claims of this description. Your committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

15th CONGRESS.]

No. 451.

[2d SESSION.

CUSTOM-HOUSE OFFICER WHO WAS TAKEN PRISONER BY THE INDIANS IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1818.

Mr. JOHNSON, of Kentucky, from the Military Committee, to whom was referred the petition of Harvey Wakefield, reported:

That the petitioner states himself to have been regularly employed in the customs, and in company with the deputy collector of the district of Champlain, under whose direction he acted, in making seizure of some cattle then attempted to be smuggled to the enemy, in the direction of St. Regis, on the northern frontier, on the 1st of December, 1814. That, after having seized the cattle at the line, and drove them some distance back within the United States, they were pursued by an armed party of Indians in the service of the British Government, and the cattle retaken and carried to the British camp, and the petitioner taken and conducted as a prisoner to Montreal, and there detained in close confinement, most of the time in cells, until the 1st of March following, when he was discharged at the peace, and on the 8th day of March he arrived at his home in the United States; and that he has received no compensation for his time, sufferings, or expense, during his confinement or return.

The testimony in the case, which is the deposition of the collector under whom he was employed, fully substantiates the facts stated, and also that his employment for the purposes stated in the petition was regular and legitimate under the law of Congress of the 6th of July, 1812.

The petitioner further states that he expended \$50 to procure himself the necessaries of life during his confinement and return home.

The committee are of opinion that the petitioner is entitled to receive \$1 50 per day from the 1st of December, 1814, until the 8th day of March, 1815, as a fair compensation for his time and expenses during that period; for which purpose the committee ask leave to report a bill.

15th CONGRESS.]

No. 452.

[2d SESSION.

PROPERTY DESTROYED BY THE BRITISH IN MARYLAND IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Richard Frisby, of the State of Maryland, reported:

That the petitioner represents that he is owner of a valuable estate in Kent county, on the eastern shore of Maryland, which forms the peninsula between the Chesapeake bay and Fairly creek. This high point of land being an eligible situation for observing the movements of the enemy, a detachment of militia was generally stationed there to watch the British, and to communicate intelligence to the commanding officer. The militia at all times enjoyed the privilege of occupying any part of the buildings, and of taking any thing from the farm which their necessities might require.

About the close of the summer of 1814, when the memorialist was constantly and actively engaged as a member of the committee of vigilance and safety of the city of Baltimore, in preparing for defence against the threatened attack of the enemy, a squadron, commanded by Sir Peter Parker, ascended the Chesapeake bay, and anchored opposite his farm. After a variety of hostile and harassing movements, which were constantly watched by the unceasing vigilance of the gallant veteran General Philip Reid, availing themselves of the decided advantages which they possessed in having the exclusive command of the water in a country everywhere intersected with creeks and rivers, they crowded their barges with men, and landed on the opposite side of Fairly creek. This stratagem succeeded in drawing off the militia from the farm of the memorialist, where they had been that morning in considerable force; and while General Reid was under rapid march to the head of Fairly creek, and was hastening to the defence of the property on the opposite shore, a signal was given from the fleet that the militia were now absent from the farm of the memorialist. They suddenly recrossed the creek, set fire to the buildings, wheat, corn, hay, &c. of the memorialist; seized and forcibly carried off four of his most valuable negroes; and destroyed, with a wanton and barbarian hand, every thing within their reach. The bursting out of the flames gave the first notice to General Reid that the enemy had returned. Instantly he wheeled about his gallant troops, and flew to the spot where the British were carrying on their disgraceful work of destruction. But the moment the enemy discovered the militia rapidly advancing, they precipitately fled to their boats.

Thus much the committee have thought proper to extract from the petition, and adopt it as a part of their report. Having so often assigned reasons for rejecting claims like this for property wantonly destroyed by the enemy, they would deem it an unwarrantable trespass on the time and attention of the House to urge at large the principles by which they have been governed in this case. They would, however, solicit the indulgence of the House while they briefly notice some points which have been offered to their attention in considering the present claim.

| | | | |
|--|---|---|---------|
| The petitioner claims compensation for a dwelling-house, estimated to be worth | - | - | \$2,000 |
| Granary, | - | - | 1,000 |
| Corn-crib, with sheds, | - | - | 350 |
| Stable, | - | - | 500 |
| Large barn, with sheds and carriage-house, | - | - | 600 |
| 1,500 bushels of wheat, at \$1 75 per bushel, | - | - | 2,625 |
| 10 barrels of corn, at \$4 per barrel, | - | - | 40 |

It appears to the committee a very improbable (if not impossible) supposition that all this property was destroyed in consequence of its military occupation. That a granary, corn-crib, a large barn and carriage-house, fifteen hundred bushels of wheat, and ten barrels of corn, should be occupied as barracks, seems a little extraordinary; but that a *stable* should be used for this purpose, appears perfectly ludicrous. As well might it be alleged that the petitioner's four negroes were taken off by the British in consequence of the military occupation. If Government pays for the houses, it is just as necessary to pay for the negroes, because the same motive which produced the *destruction* of the one led to the *stealing* of the other.

The following resolution is submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 453.

[2d SESSION.

LOST VOUCHERS.

COMMUNICATED TO THE SENATE, DECEMBER 21, 1818.

SIR:

TREASURY DEPARTMENT, December 18, 1818.

I have the honor to return the bill for the relief of Captain Frederick Brown, with the papers which were transmitted with it, accompanied by a letter from the Third Auditor of the Treasury.

In this case, the petitioner does not show that the vouchers which are alleged to have been lost ought not, according to the regulations of the War Department, to have been transmitted to the Accountant of that Department before the date of their loss. As most of the losses which have been and may yet be sustained by the Government, by the misapplication or embezzlement of public money during the last war, have arisen from the negligence or malfeasance of the officers in not rendering their accounts and vouchers when required, it is respectfully conceived that relief ought in no case to be granted where the party does not expressly show that the redress which he seeks has not been rendered necessary by his own neglect or disobedience of the instructions of the War Department.

I have the honor to be your most obedient servant,

WM. H. CRAWFORD.

HON. JONATHAN ROBERTS, *Chairman of Committee of Claims.*

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *December 17, 1818.*

I have the honor to report, in the case of Captain Frederick Brown, late of the 23d infantry, that he is charged with the following sums of money on the books of this office:

| | | | | |
|---|---|---|---|-------------------|
| Balance due United States on settlement of his recruiting accounts, 1st October and 9th | | | | |
| November, 1816, | - | - | - | \$560 03 |
| Received from John B. Hogan, quartermaster, | - | - | - | 500 00 |
| Received from E. L. Phelps, | - | - | - | 300 00 |
| | | | | <u>\$1,360 03</u> |

That, on settlement, some informal vouchers were suspended; and it was alleged by Captain Brown, as stated in his petition, that he had lost his trunk containing his vouchers for other expenditures. Congress having legislated in other analogous cases, it is presumed, from the circumstances stated, that relief in this case ought in like manner to be granted, leaving it with the officer to substantiate, in the best practicable manner, the amount of expenditures for which he has lost vouchers.

The papers are returned.

With great respect, your very obedient servant,

PETER HAGNER, *Auditor.*

Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

15th CONGRESS.]

No. 454.

[2d SESSION.]

CLOTHES LOST BY AN OFFICER OF THE ARMY.

COMMUNICATED TO THE SENATE, DECEMBER 21, 1818.

SIR: TREASURY DEPARTMENT, *December 18, 1818.*

I have the honor to return the bill for the relief of Lieutenant Adolphus Burghardt, with the papers which were enclosed with it, accompanied by a report of the Third Auditor of the Treasury.

If claims of this nature are considered entitled to relief, they will be found to be almost indefinite in number. The loss of clothing and articles of the first necessity during a campaign must be extremely frequent in time of war; but no case is recollected in which relief has been granted. As the petition was not transmitted with the bill, the precise ground upon which relief is claimed does not appear. Admitting, however, the strongest ground—that of capture by the enemy, the petitioner, according to the uniform decisions of the Government, is not entitled to relief.

I have the honor to be your most obedient servant,

WM. H. CRAWFORD.

Hon. JONATHAN ROBERTS, *Chairman of Committee of Claims.*

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *December 17, 1818.*

I have the honor to report, in the case of Lieutenant Adolphus Burghardt, that he is charged on the books of this office with \$350 advanced him for the recruiting service; that he has exhibited a statement, without vouchers, amounting to \$81 67, and has a claim for balance of pay amounting to \$75, which, if admitted by act in his favor, will still leave him indebted to the United States. The inventory of effects he took with him in the army, filed with the papers, amounting to \$342 75, which it is presumed is petitioned for, (the petition not being with the papers, it cannot be positively stated,) is altogether unprecedented, and has never been allowed.

The papers are returned.

With great respect, your most obedient servant,

PETER HAGNER, *Auditor.*

Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

15th CONGRESS.]

No. 455.

[2d SESSION.]

ARREARS OF PAY AND PENSION OF A TEAMSTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Asa Turney, reported:

That the petitioner states that, on the first day of April, in the year one thousand seven hundred and seventy-seven, he enlisted under Andrew Wakeman, of the town of Fairfield, in the State of Connecticut, into the United States service, for the term of three years, in the team service, at sixteen dollars per month, as will appear (as he states) by his certificate, dated at Fairfield, November 8, 1790, and that he received his pay for the first year at

that rate; that the second year he hired a man to take his place for one year; that the third year he joined the army again; that his conductor, Andrew Wakeman, having got a discharge from the army, he had no regular commander for about four months; that he was then put under the command of Simeon Catline, wagon-master; that he served under him the remainder of the last year, which was about eight months; that he received no pay of any that he had served under before for the last year; that he received fifty dollars per month for what time of the last year he received pay, to make good (as he states) the sixteen dollars per month; that his term of three years expired on the 1st day of April, 1780; that he then had wages due him of two hundred and thirty-four dollars and thirty-three cents, as will appear by due bill, at the rate of fifty dollars per month, which (as he states) will be almost six months that he never received any pay; for which time, at sixteen dollars per month, is ninety-four dollars and eighteen cents, which is (as he states) his just due, with interest for thirty-eight years and eight months; that he has lost his discharge; that it was of the same date as his due bill from Simeon Catline; that he knows not whether his wagon-master, Simeon Catline, ever received pay from the United States or not; that he heretofore sent his certificate and due bill to Congress, but has not been paid; that he makes this one more request for what (he states) is his just due; that he likewise considers himself a subject for a pension under the act of Congress.

The committee further report that the certificate alluded to by the petitioner is as follows:

FAIRFIELD, *November 8, 1790.*

These certify that I, Andrew Wakeman, of said Fairfield, as conductor of a number of teams in the continental service, on the 1st day of April, 1777, enlisted Asa Turney, of said Fairfield, as a driver of a team, at four pounds sixteen shillings per month, and paid him, the said Turney, for one year's service at that rate.

To whom concerned.

ANDREW WAKEMAN, *Conductor.*

FAIRFIELD, *December 8, 1790.*

Then personally appeared the above said Andrew Wakeman, and made oath to the truth of the certificate before me.

SAMUEL SQUIRE, *Justice of Peace.*

That the due bill alluded to by the petitioner is as follows:

Due to Asa Turney eighty-eight pounds six shillings, for public service, from Simeon Catline.

SIMEON CATLINE, *W. M.*

FISHKILL, *April 1, 1780.*

That, by the certificate alluded to, it does not appear that the petitioner enlisted in the team service for three years; that, as he states in his petition, the said certificate shows he served one year, and was paid for that service; that there is no evidence but the statement of the petitioner that he hired a man in his place for the second year; that, if he did, it is presumed he was paid for the same; that the petitioner states he received fifty dollars per month for what time of the last year he received pay, but that that was to make good the sixteen dollars per month; that the due bill alluded to is only an acknowledgment in writing that the said sum of eighty-eight pounds six shillings was due to the petitioner from Simeon Catline, and it is evident that the United States are not chargeable therewith; that the said due bill, being dated on the same day that the petitioner states his discharge was dated, is to be considered as evidence in nature of a final settlement between the petitioner and his wagon-master, Simeon Catline, and that the said Simeon Catline made himself, and not the United States, responsible for the sum of money mentioned in the said due bill; that the petition is not supported by sufficient testimony; that it does not appear that the petitioner has any claim of this description against the United States; that if the said claim can by any possibility be, it is long since barred by the statutes of limitation; that, in relation to what the petitioner states in respect to his considering himself a subject for a pension according to the late act of Congress, it does not appear that the petitioner was a soldier in any regiment in the line of the army of the United States on continental establishment during the revolutionary war, and, therefore, is not entitled to a pension under the said act. The committee, therefore, submit the following resolution:

Resolved, That the said petition of the petitioner be rejected.

15th CONGRESS.]

No. 456.

[2d SESSION.]

MONEY LOST BY A COLLECTOR OF INTERNAL REVENUE IN 1803.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1818.

Mr. MARCHAND, from the select committee to whom was referred the petition of John Wells, late a collector of the internal revenue for the county of Westmoreland, in the State of Pennsylvania, reported:

That the petitioner states he was appointed collector of the internal revenue for Westmoreland county, Pennsylvania, in the year 1795; that on the 19th day of April, in the year 1803, he remitted, by mail, to Tench Coxe, Esq., of Philadelphia, supervisor of the revenue for the district of Pennsylvania, the sum of \$595, as was his usual practice, and in pursuance of the instructions of Mr. Coxe; which money never was received by Mr. Coxe, (as he, Coxe, asserts,) for which sum the petitioner has not been able to procure a credit, either from Mr. Coxe or the accounting officers of the Treasury Department. The petitioner further states that he was subpoenaed to attend as a witness at the federal court in Philadelphia, in the year 1793, on the part of the United States, for which he claims compensation. The petitioner also states that he was at great loss of time and expense in attending to two suits brought against him by Tench Coxe, supervisor as aforesaid, for money which he did not owe the United States, when on settlement there was a balance due him by the United States, and conceives himself entitled to interest on the balance so found due to him, from the date of the instructions given to bring suits, and for the payment of costs. He also further states that he paid inspector Neville the sum of four hundred and twenty-seven

dollars and twelve and a half cents duties on stamps, licenses for retailing wines, &c. and auction duties; for which he has received no credit. He further states that he has claims for expenses incurred in the discharge of his duty, under the orders of the officers from whom he received instructions and directions in his office, and for disbursements for the public account, and for services under the sanction of the same officers; for all which he cannot obtain an allowance without an act of Congress for his relief. Your committee, from the most careful examination they have been able to give to the several items set forth in the prayer of the petitioner, and from the proof exhibited by him to establish and substantiate the same, are of opinion that he has failed to make out any legal or equitable claims against the United States, with the exception of the first item of \$595, which claim is supported by the positive oath of the petitioner, and corroborated by the testimony of two highly respectable witnesses, to wit, George Armstrong and Thomas McGuire, Esqs.; the former of whom states, he happened to go into the office of the petitioner about the time [stated by him,] "and saw the petitioner writing, and a pile of bank notes on the table, which he picked up, and inquired of him if they were for Tench Coxe; he replied, they were." The other states "that, in April, 1803, he was postmaster in Greensburg, and that it was the usual practice of the petitioner to remit money to Philadelphia by mail, and that on the 23d of April, 1803, a free letter to Philadelphia was entered on his books, and that he received a letter from the petitioner about that time, directed to Tench Coxe, as he believes, which he forwarded; that it appeared to enclose something; that it appeared large." From the respectability and good character of the petitioner, and that of his witnesses, and from the fact and circumstances of his being in the habit of remitting money by mail to Mr. Coxe, and having received instructions to do so, (all which is positively sworn to by the petitioner, and corroborated by the testimony of his witnesses,) your committee, therefore, are of opinion that he is entitled to relief for the sum of \$595, the amount of money remitted and lost; and for that purpose ask leave to report a bill.

15th CONGRESS.]

No. 457.

[2d SESSION.]

LOSS OF THE SCHOONER WILLIAM YEATON.

COMMUNICATED TO THE SENATE, DECEMBER 28, 1818.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, of the city of Washington, reported:

That, in the month of May, 1812, the petitioner's vessel (the schooner William Yeaton, George Travers, master, burden about one hundred and ten tons) was chartered by an authorized agent of the Government of the United States, James Christie, to take a cargo of provisions from New York to Laguayra, in South America, the same being a charitable donation from the Congress of the United States to the distressed inhabitants of that country, who were then suffering under the awful calamity of a recent earthquake.

The vessel received her cargo and performed her voyage, as stipulated, in due time and in good order, arriving about the 1st day of July, 1812, when the commander gave immediate notice to the agent of the United States, to whom it was consigned.

No part of the cargo was received by the agent until the 14th day of July, and then it was taken on shore in very small parcels each day; so that, in consequence of the tedious manner adopted by the agent of getting the cargo on shore, not more than two-thirds of it was landed on the 1st day of August, one month after notice of her arrival, when a hostile Spanish force entered Laguayra and seized the schooner William Yeaton, with one-third of the cargo sent by the American Government still on board of her. The captain and crew were turned ashore, the vessel was tried and condemned under pretence that she had brought provisions to sustain the patriots in rebellion, styled by the royal authority of Spain revolutionists and insurgents.

About the 28th of October following, the captain obtained possession of his vessel, in consequence of the intervention of Don Luis de Onis, the present minister from Spain, then not accredited; a survey was made of her by four masters of American vessels, under the authority of the consul, Mr. Lowry, to ascertain the damages occasioned by the detention, who reported that the vessel had not suffered much, but they awarded twenty-four dollars a day damage for each day of her detention, to be computed from the day of capture to that of her restoration; not a cent of which was ever paid to the petitioner. Such were the expenses incurred in consequence of the seizure, condemnation, and delay, that the captain was obliged to sell the William Yeaton at auction, in order to discharge them; and, if the expenses had not compelled the sale, the declaration of war, which immediately took place, would have directed that course as the only prudent and safe one to save a portion of her value.

The schooner William Yeaton, at the time of her departure from New York, was valued at four thousand dollars, and the amount she brought when sold at Laguayra was one thousand and twenty dollars—a sum much less than the expenses incurred, and leaving to the petitioner a total loss of his vessel, besides the emoluments of a return freight, which was already engaged.

The schooner William Yeaton was actually under contract with the Secretary of the Navy, Mr. Hamilton, to convey a cargo of naval stores to New Orleans from New York, at the very time that the voyage was diverted from New Orleans to Laguayra, which shows that it was not the desire of the petitioner to get free from the effects of the embargo that induced him to go to Laguayra, but that he agreed to the change of the voyage, not very advantageous to himself, to answer the wishes and convenience of his Government.

Upon this statement of facts, the committee beg leave to submit the following observations:

The vessel and crew of the petitioner were employed to aid the Government of the United States in perfecting a noble act of national munificence towards a people in a foreign land, who were involved as well in the horrors of a civil war as in the shocking calamities of a recent earthquake. The Government, probably, little thought of the dangers that might be encountered if the successes of the royalists and the arrival of the donation at Laguayra should occur at the same time; and as little did they suppose that the generous tender of their benevolence to strangers, in furnishing them with a little food at the moment of extreme privation occasioned by the earthquake, would be construed into an interference in their political quarrels, or in aiding the revolutionists in their plans of independence. The Government appear to have afforded all the protection they thought necessary at the time, by granting a special passport, signed by the President, declaring the object and the destination of the voyage. There was no accredited consul or agent then in the United States from Spain, to whom applications could have

been made to procure such certificate, as it appears the royal authority at Laguayra demanded as necessary to save the vessel from seizure and condemnation; nor was it even thought that such a certificate would be necessary. Is it right and fit, then, that the petitioner should suffer from such defects in his papers as it was impossible to remedy, and which even the Government itself did not think were necessary? Shall the petitioner be suffered to incur a loss, to him ruinous, from the unexpected occurrence of events that no human foresight could have anticipated, and no means of precaution in his power could have arrested, because he was employed in the service of the Government of his country, for which he was to receive an ordinary compensation?

The delay which took place in unloading and discharging the petitioner's vessel was no act of his, and, though injurious to his interest, yet the consequences that followed were still worse. The detention was occasioned by those whose duty it was to unload and discharge the vessel; and if that detention was very protracted or unusual, whatever losses the owner experienced on that account, he had a fair claim for either in demurrage or in damages to be assessed. How far the delay in this case was unusual, may be known by taking into consideration the time that was actually consumed from the first information of her arrival at Laguayra, which was given to the consignee, to the time of her seizure, which was one month; the vessel being only one hundred and ten tons burden, and not more than two-thirds of her cargo taken out in that month.

The general principle of maritime law is supposed to be, that as the owner of a vessel, who receives goods on freight, is bound to use all diligence to convey them to the port of destination, and to deliver them to order, so the consignee is bound to use all diligence and despatch in receiving those goods, and in facilitating the discharge of the vessel. Each party is answerable to the other for any injury that may arise from neglect or delay, unless satisfactory reasons can be given.

A week, at most, would have been held amply sufficient for the discharge of the petitioner's vessel; but we see, at the end of a month, not more than two-thirds of the cargo is taken out. Whatever damages happened after a reasonable time, and which, in their nature, were imputable to delay, would, in the case of an individual, be recoverable at law of the freighter, and leave him to his remedy against the agent. Can the claim upon the Government of the United States be less strong? It is difficult to conceive how the delay could be occasioned, otherwise than by the agent, as it is obvious that, if the unloading had been diligently attended to by the agent, there could have been no such delay produced, by any act of the captain, as is here visible; for it is well known that it is both the duty and the habit of commanders of vessels to use all possible despatch in delivering their outward cargoes, as well on account of their owner's interest as their own. We must, therefore, look somewhere else for this extraordinary delay than to the captain.

Against ordinary risks, such, for example, as those of the sea or of weather, it is not considered that the Government could undertake any responsibility; but a hazard may arise out of extraordinary events, from which, in a mission of this sort, justice will demand that the Government should save and defend the owners. The customary price of freight paid for the transportation of this cargo is conclusive proof that none but common risks were contemplated to be encountered: if other and very unexpected events, productive of risks, have grown out of the very nature of the transaction, which even the Government, with all its means of information, could not have anticipated, and which the petitioner was still less able to have thought of, is it just that he should be suffered to fall a victim to so unlooked-for a course of things, without even a hope of a greater compensation than the ordinary freight? The seizure and condemnation of the vessel, which produced the additional delay, and eventually caused the great loss, after the detention in taking out the cargo, are founded in the nature of the errand on which the vessel was sent; and the alleged defect of papers was a matter which, under the then existing state of things, it was impossible to supply.

Had the detention, occasioned by the dilatory manner of taking out the cargo, not occurred, the vessel would have left the port before the irruption into it by the royalists; and her sailing any time in July would have given her ample time to escape the hazard of capture from the war. That she would have sailed in July, if her outward cargo had been speedily received, is not to be doubted; for she had a return cargo engaged, and a part of it on board some time before the seizure, on the 1st of August.

With this view of the subject, the committee beg leave to report a bill favorable to the claim of the petitioner.

15th CONGRESS.]

No. 458.

[2d SESSION.

COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Nathaniel P. Causin and Elizabeth his wife, and Ann Turner, heirs and representatives of the late John H. Stone, reported:

It appears that the said John H. Stone was a colonel in the American army in the time of the revolutionary war, and at the battle of Germantown received a severe wound, in consequence of which he resigned his commission on the 1st of August, 1779; and the claim of the petitioners is for the amount of pay and commutation of pay to which Colonel Stone would have been entitled had he continued in the service until the end of the war. The petitioners state that their father resigned his commission from motives of pure patriotism, because he would not hold a place in the army, in which he could render no service, which might be occupied by another capable of performing active duty; whereby the expenses of the Government were lessened at a time of great need and difficulty; and they allege that it would only be an act of retributive justice for Congress at this time to give to his children whatever compensation would lawfully have been due to him if he had not been too generous and patriotic to remain in a situation which would have entitled him to claim it.

The committee have only to observe on this case, that there has been no principle heretofore sanctioned by Congress by which the prayer of the petitioners can be granted, and that it would be inexpedient at this time to add to the species of revolutionary claims to be compensated by the Government. They therefore offer the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

15th CONGRESS.]

No. 459.

[2d SESSION.]

PAY OF A FORAGE-MASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Matthew McCauly, reported:

The petitioner states that, on the 28th of April, 1780, he entered into the service of the United States at Hillsborough, North Carolina, as a forage-master, for the term of one year; that he served out the time faithfully, for which he received from Colonel Nicholas Long, who then acted as quartermaster general for North Carolina, a certificate for five hundred and forty specie dollars; that he mislaid the certificate, but does not state at what time; he states that he supposed it lost, but, after upwards of twenty years, he found it, with some old deeds, within five years past; that he was aware that provision was made for the redemption of these claims, and that the statute bars them, and he hopes and believes that a Congress so liberal as the present will not refuse his claim.

That the petitioner, in his affidavit accompanying his petition, states that he served during the revolutionary war in the service of the United States, in the staff department under Colonel Long, deputy quartermaster general for the State of North Carolina, in the capacity of assistant deputy quartermaster general, for one year, for which he procured a certificate for five hundred and forty specie dollars; that the said certificate was mislaid for many years amongst a file of deeds; that, about seven years since, he found it; that he transmitted it to the honorable Richard Stanford, but that he never had it settled.

That an instrument of writing, appearing to be dated in August, 1780, appointing him to be assistant commissary general of forage, is adduced by the petitioner in support of his claim; that he has also adduced the depositions of several witnesses, of whom William Floyd states that the petitioner acted in the capacity of assistant deputy quartermaster general; the deposition of James Craig states that Matthew McCauly, Sen. served in the revolutionary war as assistant deputy quartermaster under Nicholas Long, who was deputy forage-master general; the deposition of John Faddis states that he knows, of his own knowledge, that the said petitioner acted in the capacity of assistant forage-master general in the time of the revolutionary war; the deposition of George Johnston states that he knows, of his own knowledge, that the said Matthew McCauly acted in the capacity of assistant deputy forage-master general in the time of the revolutionary war; and the deposition of Henry Thompson states that he was well acquainted with Captain Matthew McCauly; that, to the best of his recollection, he was then on the continental line some time during the revolutionary war; does not recollect what office he held; that he has a recollection of his going with his wagon to transport the revolutionary army, but in what direction he does not recollect.

That the petitioner exhibits an instrument of writing signed Nicholas Long, deputy quartermaster, dated on the 8th day of March, 1782, No. 1, stating that the United States are indebted to Matthew McCauly in the sum of five hundred and forty specie dollars, for his personal services as deputy wagon-master at the port of Hillsborough for the term of twelve months, due to the said Matthew McCauly, on the 28th day of August, 1781.

That it does not appear by the statements of the petitioner, or by any document or testimony by him adduced in support of his claim, except the said instrument of writing, that he acted in capacity of deputy wagon-master; that the petitioner appears, by his own statements, and the testimony by him adduced, to have acted in a variety of characters in the time of one year, and it is presumed that he has been paid for his services by him performed in some one of the capacities in which he acted, if he did act in all the said capacities; that about thirty-six years have passed away since the date of the said instrument of writing, and it is presumed there was time sufficient previous to the time of its having been mislaid to have applied to the proper authority for the liquidation and settlement thereof; if that was not done, that the petitioner has, in his own wrong, if he has not been paid, suffered the statutes of limitation to bar his said claim, and of this he appears to be aware.

Your committee further report, that, by authentic documents from the Treasury Department, which are herewith submitted, it appears that the accounts of Nicholas Long have been finally settled and closed; and that he stands charged with the receipts of \$476,112 $\frac{5}{8}$, from Joseph Clay, paymaster southern department, and by the State of North Carolina, their general account for \$476,112 $\frac{5}{8}$; the amount wherewith Nicholas Long, late deputy quartermaster general for the State of North Carolina, stands charged on the books of the quartermaster and commissary's departments, and with which the State of North Carolina (according to the report of the Auditor of the Treasury, No. 3808, admitted and certified by the Comptroller on the 28th March, 1793) is chargeable, the said State having finally settled with Nicholas Long, and having charged the United States with the whole amount of said Long's disbursements. There is also a document from the Treasury Department, (submitted with this report,) stating that Mr. Ferral, who was a clerk to the board of commissioners for settling the accounts between the several States and the United States, observes that Nicholas Long was a quartermaster employed by the State of North Carolina, and that the State presented and was allowed an account for the services of said Long and all his assistants, together with interest thereon; and that he does not consider any of his certificates an equitable claim upon the United States; and that when the public debt was funding, his certificates were rejected. Said document is headed "copy," signed William Parker; to which is added "the above is a true copy from the original, dated the 8th December, 1818. Joseph Nourse, December 22, 1818."

That, by the foregoing, it does clearly appear that the United States ought not now to be charged with the said claim of the petitioner; that there is reason to presume that all claims of the petitioner against the United States, if any such did exist, were all finally liquidated, and settled, and paid; that the said claim of the petitioner is long since barred by the statutes of limitation; and, taking into view the said documents from the Treasury Department, it would be very dangerous to open the said statutes of limitation in order to admit to liquidation and settlement claims of this description. Your committee, therefore, submit the following resolution:

Resolved, That the petition of the claimant be rejected, and that his claim ought not to be granted.

SAW-MILL AND OTHER PROPERTY DESTROYED NEAR NEW ORLEANS IN 1815.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was recommitted the bill for the relief of Thaddeus Mayhew, of the State of Louisiana, reported:

That, having received information not possessed when the claim was first investigated, they deem it proper to make some remarks concerning its history. It appears, from an original document made out and furnished to the War Department, that, in pursuance of authority from Major General Andrew Jackson, then commanding (1815) at New Orleans, the quartermaster general appointed three commissioners to ascertain the damages done to the real estate and improvements at and near New Orleans; that, in pursuance of their appointment, the commissioners proceeded to the several places designated in their report, and found the damages to consist of two distinct classes: one being for damages done to real estate and improvements; the other for moveable property consumed and destroyed by the army. In neither of these two descriptions of claims is the claim of Thaddeus Mayhew included. But the commissioners go on to state, that, in addition to the foregoing, others, and a distinct class of claims, have been presented to the board, consisting of losses and damages sustained by individuals whose property was alternately in possession of the American and British armies; and as it would be impossible to discriminate between the damages occasioned by either, they have subjoined the respective claims for the consideration of the authority to whom their report may be referred. In this last class of claims is the claim of Thaddeus Mayhew, marked I in the list of vouchers accompanying the report; from which it appears that the only certain loss stated to be by the American troops amounts to \$1,273 50; and that of the loss claimed, amounting to \$14,800, it is stated to be uncertain by whom committed, in consequence of setting fire to the bridge, saw-mill, and lumber, in the morning of the 8th of January, 1815. This report, made by the commissioners, Richard Relf, P. Faucher, and Benjamin Morgan, appointed in 1815, pursuant to authority from General Jackson, is positive. It goes to establish unequivocally the fact that, in 1815, when all the circumstances of the transaction were fresh in the recollection of the parties, the commissioners proceeded to the plantation of Mr. Mayhew, and report that it is uncertain by whom the damage done to the bridge, saw-mill, and lumber was committed. Luther Howe, the overseer, also goes before John Lynd, notary public for the city of New Orleans, and makes oath on the 13th of May, 1815, that "the several articles specified in the preceding account [meaning the document or voucher marked I] were taken away or destroyed as therein declared." Luther Howe then declares on oath, in 1815, that it is uncertain by whom the bridge, saw-mill, and lumber were destroyed. Could he not have stated at that time what he subsequently stated in 1817, before the commissioners appointed by Mr. Lee, that he "believed" the property was destroyed by the British? Shall it be inferred that the passage of the act of the 9th of April, 1816, invigorated his judgment and refreshed his memory? The House will determine. The report, then, of the commissioners in 1815, furnishes positive proof that it was uncertain at that time whether the British or Americans destroyed the property in question.

In the report of the commissioners in 1817, which was before the committee at the last session, and which has recently been the subject of discussion in the House, General David Morgan by no means gives positive evidence on this point. He says, only, "that the said saw-mill belonging to the claimant, together with the wooden bridge which crossed the canal on which the said saw-mill stood, as also a large quantity of lumber, consisting of cypress boards, plank, timber, and slabs, were, on the said 8th day of January, and during the retreat of the enemy, set on fire and totally destroyed; that, to the best of deponent's knowledge and belief, the said property was so set on fire and destroyed by the enemy."

Commodore Patterson states "that, as the enemy tore up and destroyed by fire the platforms of his [Captain Patterson's] batteries, he has every reason to suppose the enemy also burnt the said saw-mill and lumber, for the reasons stated by General Morgan." Here we have nothing but the belief of General Morgan, and the supposition of Commodore Patterson!

Samuel Packwood states that, "within his own knowledge, the saw-mill, lumber, and out-buildings belonging to the claimant, were destroyed on his plantation called the Belvidere, by fire and otherwise, during the invasion of Louisiana by the British, in 1814 and 1815." The committee must confess they have not understanding enough to comprehend what this witness means when he says the saw-mill, lumber, and out-buildings were destroyed by *fire and otherwise*, during the invasion by the British! It may be asked, what idea does he intend to convey by the expression "*fire and otherwise*?" "*Otherwise*," in the common acceptation of the word, means "in another manner; by other causes; in other respects." The witness, then, from his own language, must be understood to say "that the saw-mill, lumber, and out-buildings belonging to Thaddeus Mayhew, were destroyed by fire, and in another manner than by fire; or by other causes and in other respects than by fire. In what other manner, by what other causes, or in what other respects, this property was destroyed, the witness has not stated, and the committee are left in the wide field of conjecture. The committee would ask whether this property could not have been destroyed by some other means than by being set on fire by the British? The use of the word "*otherwise*," in the evidence of Mr. Packwood, without any explanations attending it, authorizes the committee to say that this property might have been destroyed by an incendiary, or by some other causes, which, if known, would exempt the United States from all responsibility.

If any person should claim compensation for a horse killed while in the service of the United States, it is necessary he should prove, not simply that the horse was lost, but that he was killed (as alleged) while in the service of the United States. Certainly, then, if he should claim compensation for a house or other property destroyed by the British, it is requisite he should prove, not simply that the house was destroyed, but that it was destroyed by the British in manner and form as charged in his action against the United States. This will appear the more necessary when we consider that the rules of allowance are different according to the different cases of destruction by the American and British troops. The point might have been considered as settled if the committee had found no other evidence besides the report of the commissioners appointed by Mr. Lee, in 1817, after the passage of the act of the 9th of April, 1816. But the original document before alluded to, to wit, the report of the commissioners appointed by General Jackson in 1815, has thrown a cloud of suspicion over the whole affair, and, until it shall have been dispelled, the committee cannot think the petitioner has supported his claim against the United States. He alone is in possession of the proof, and on him should devolve the burden of producing it. If he cannot produce it, let him state on oath his inability to do so.

The petitioner claims \$14,600 compensation for the following property alleged to have been destroyed by the British:

| | |
|---|-------------|
| A saw-mill, complete, with all the materials and utensils belonging thereto, estimated at what it cost to rebuild it, (including bridge,) - - - - - | \$6,000 00 |
| 200,000 feet of cypress boards at \$40, - - - - - | 8,000 00 |
| 12,000 feet of scantling at \$50, - - - - - | 600 00 |
| | \$14,600 00 |

In the tenth section of the act of the 9th of April, 1816, are these words: "That the loss or destruction as aforesaid, as well as the value of such property, shall be ascertained by the best evidence which the nature of the case will admit of, and which it may be in the power of the party to produce." In the eleventh section it is also provided that "the President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint one commissioner whose duty it shall be to decide upon all cases arising under this act, and who, in the discharge of his duties, shall be subject to such rules and regulations as shall be prescribed by the President of the United States." Now, the committee would ask whether the value of a single article of this property is ascertained by the best evidence which the nature of the case admits, and which it may be in the power of the party to produce? The value of the saw-mill is ascertained by the expense of building a new one. This certainly cannot be said to ascertain the value of the one which was burnt, because the old one might be worth one-half, one-third, or one-fourth only of the price of a new one. According to the law, the claimant must offer the best evidence as to the value of his mill at the time it was destroyed. This he has not done, and, of course, this item of his account must be excluded as not coming within the provisions of the law. But the petitioner, Mr. Mayhew, not satisfied with charging Government the price of a new saw-mill for the one destroyed, which might have been an old one of little or no value, goes on to say that "he has a further claim to advance against the United States, which he wishes to be understood as not comprehended in the present claim, or concluded by its determination, to wit, for one year's revenue of his saw-mill; inasmuch as its destruction took place at a time when it was impossible for it to be rebuilt soon enough to meet the operations of the ensuing season." The committee mention this reservation of the petitioner merely to show the general spirit, the great solicitude, if not extravagance, with which, it appears, his demands are urged against the United States. Viewing this reservation, therefore, and judging one item by another, the committee would say that the charge of \$40 per thousand for 200,000 feet of cypress boards is excessive, and not ascertained by the best evidence which the nature of the case admits. The value of the commodity at the time it was destroyed could certainly be ascertained, and, if so ascertained, the evidence would be better than it is at present. The present, then, is not the best, because it might be better. General Morgan says "that he knows the claimant's loss to have been a very serious one, and, from all the circumstances in his knowledge, *supposes* it might have gone to the amount charged by the claimant." Here General Morgan *merely supposes* the loss might have gone to the amount charged; and the committee would ask whether his own words do not show that there was as much doubt as certainty on his own mind in regard to this matter? It cannot be imagined that General Morgan would have used such indefinite expressions if he had entertained no doubts about the correctness of the charge. Luther Howe states "that the amount charged is just and true, both in respect to the enumeration of the articles and the estimation thereof;" but says nothing about the value of the articles at the time they were destroyed; so that, from his statement, it is altogether uncertain whether his opinion is founded upon the value of the commodity at the time it was destroyed, in 1815, or the value thereof at the time he made the estimate, in 1817. It must have been known to the claimant that the New Orleans prices would appear extravagant to all other parts of the Union, and it would have been an easy matter for him to prove the prices of the articles charged at the time they were lost or destroyed. It is likely that he, living in New Orleans, and owning a saw-mill and other property within six miles of that city, could readily have summoned many of his neighbors who would have been able to testify both as to the value of the articles at the time they were destroyed, and their probable quantity. But this evidence, so easily obtained, and so obviously necessary to the furtherance of his claim, he has utterly failed to produce. In the case of the saw-mill, he furnished some criterion, to wit, the cost of building a new one; but as to the cypress boards and scantling, he has furnished none at all. What, then, are we to infer from the entire absence of a criterion in the estimate of these articles? We must think that this charge is so extravagant and unreasonable that he was afraid, if not ashamed, to state the criterion; for let it be remembered that the petitioner himself thought a criterion necessary in the case of the saw-mill, and accordingly stated it. If necessary as to this, he must have thought it equally so in regard to the cypress boards and scantling. Then, if the charge for these articles had been as reasonable and as just as the charge for the saw-mill, the petitioner would necessarily have stated the criterion or standard price by which that charge was made. But, as he has not done so, the committee think the inference irresistible, that the charge for the cypress boards and scantling is more extravagant and unreasonable than that for the saw-mill. The evidence, then, as to the value of the property, is not the best which the nature of the case admits, and which the party is required by law to produce. Until he does produce such evidence, he can have no reason to expect, much less to ask for, relief. The committee admit that they did not insist on a compliance with these provisions of the law in their former report, because they thought it unnecessary. But the discussion which has taken place in the House, and the recommitment of the bill, have caused them to examine the subject anew, and they find it necessary to demand from the party a rigid compliance with these provisions of the law; for if Luther Howe, the overseer of the plantation, had stated that these cypress boards and scantling were worth eighty thousand dollars instead of eight thousand, there would have been the same reason, in point of principle, for allowing the claim as there is at present. Shall Congress, then, pass laws authorizing the payment of just claims, and not exact such a compliance with those laws as to defeat the claims which are unjust? Shall the President prescribe rules, wholesome and salutary, to the nation and to individuals, and yet suffer those rules to be disregarded? It is hoped not; for a departure from general principles is the beginning of endless uncertainty, and the most abominable mischief.

It may be said that the petitioner will suffer if his claim is not allowed. In reply, it may be answered that every claim now before Congress is equally entitled to admission on the same ground. Petitioners are always ready to exclaim, in the most pathetic accents, that they will suffer if you do not interpose the hand of relief. But it cannot be urged that individual distress, whether pretended or real, should be adopted as a rule of conduct in a series of legislative acts; or that you are bound to give to every man according to his cries and his wants. In the case before us, who is to blame if relief should not be granted—Congress, or the petitioner? The law of 1816 was certainly a rule to him as well as to Government, and he has no right to expect Congress will relieve him when he has not complied with the very conditions on which that relief has been proclaimed.

But the committee would now object to the claim on the higher ground taken in their report at the last session, [see No. 416, page 592,] to wit, that, under the ninth section of the act of the 9th of April, 1816, the petitioner cannot be entitled to relief.

The ninth section is in these words: "That any person who in the time aforesaid has sustained damage by the destruction of his or her house or building by the enemy, while the same was occupied as a military deposite under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage: provided it shall appear that such occupation was the *cause* of its destruction." According to the law, then, it is necessary to prove, by the best evidence which the nature of the case admits of,

1. That the house was occupied under the authority of an officer or agent of the United States as a place of military deposite.

2. That such occupation was the cause of its destruction.

If the evidence fails as to either of these points, the claim cannot be allowed.

What, then, is the evidence of General Morgan? He states "that the said saw-mill belonging to the claimant, together with the wooden bridge which crossed the canal on which the said saw-mill stood, as also a large quantity of lumber, consisting of cypress boards, plank, timber, and slabs, were, on the said 8th day of January, and during the retreat of the enemy, set on fire and totally destroyed; that, to the best of deponent's knowledge and belief, the said property was so set on fire and destroyed by the British, and in consequence of the said saw-mill having been occupied by the American army in the manner aforesaid, and to prevent the same from being so again occupied, or the lumber from being made use of for platforms of batteries, fortifications, huts, or other military uses."

Now, the committee would most earnestly contend that, if the British destroyed this property because it had been occupied as a deposite or as barracks, they would have burnt all that had been so occupied or used. But was this the case? No. The dwelling-house had been occupied, and no doubt afforded the most comfortable barrack of any other part of the property; but yet it was not burnt.

The committee contend again that, if the enemy burnt the property because it might *thereafter* be used or occupied, they would destroy just so much, and no more, as might be of future military use. From the evidence it appears that just so much property was destroyed as might be of future military use. The enemy, then, did not destroy all the property which had been used as a place of deposite, or as barracks; but they did destroy all which might be of future military use. Consequently, they did not destroy the property of Mr. Mayhew because it had been used, but because it might thereafter be used. The law says that an occupation *precedent* must be the *cause* of destruction. But the cause of destruction in this case not being an occupation precedent, but an occupation or use *anticipated and subsequent*, the claimant, therefore, cannot be entitled to any relief under the law. It appears to the committee that this course of reasoning flows naturally and necessarily from the facts stated by General Morgan. But his reasoning on those facts is quite another matter, and they cannot subscribe to it. He says that "*he believes the said saw-mill was set on fire in consequence of its having been occupied by the American army, and to prevent the same from being so again occupied, or the lumber from being made use of for the platforms of batteries, fortifications, huts, or other military uses.*" Here, then, he assigns two motives for the destruction, to wit: one for the occupation which had preceded, and the other for the occupation or use which was to follow. How are the committee to determine the respective force or influence of these motives? Shall they say that the former was as one, and the latter as two; or the former as two, and the latter as one? If General Morgan's reasoning is correct, these motives must have operated in some such proportions as before stated, and the dwelling-house of Mr. Mayhew must have been burnt as well as the saw-mill and lumber. But the dwelling-house was not burnt; the saw-mill and lumber were burnt. If, then, both motives had operated, you make the conduct of the enemy inconsistent with itself. If you exclude the former motive, to wit, the military occupation which had preceded, and adopt the latter, to wit, the occupation or use which was to follow, the conduct of the enemy appears consistent with itself throughout the whole affair. Hence the committee have always been led to think that General Morgan was mistaken in the opinion he had formed as to the motives of the enemy, or the cause of the destruction. It seems, indeed, perfectly demonstrable that he was so mistaken, and that the enemy was impelled to the destruction in this case, not in consequence of the *previous occupation*, but in consideration of the *future use*, which takes the case out of the provisions of the law of 1816, and stamps opprobrium and disgrace on his wanton and licentious conduct.

Government never has said, and, it is presumed, never can say, that losses resulting from the licentious acts of the enemy shall be paid for by the United States. It is made the duty of the committee to ascertain the *cause* of the destruction. To do this, they must investigate the motives of the enemy, which can be ascertained in no other way than by judging of the facts submitted to them. General Morgan, having seen only the instances of burning about New Orleans, might suppose the motives of the enemy were as he states he *believed* them to be. But when we look abroad through the United States, when we view the conduct of the enemy in every quarter; on the Niagara frontier; on the shores of the Chesapeake; at Hampton and Havre-de-Grace; in this District; at New Orleans; and, finally, his official declarations on the subject, we can be at no loss to ascertain his motives. Look at the capital of the nation, not yet recovered from its ruins; and behold the licentious motive of the enemy as distinct and evident as was the scene of conflagration itself. Even at New Orleans the enemy did destroy property where there was not a military occupation, and did not destroy where there was such occupation. By what rule, then, unless it be perfectly arbitrary and supposititious, shall we conclude that the military occupation was the *cause* of the destruction? But if it be contended that the property of Mr. Mayhew was destroyed on account of its capacity for adaptation to military uses, or, in other words, its belligerent character, the committee would ask who gave it this capacity or character—the Government, or the proprietor? Surely Government did not order him to build a mill, and saw plank, boards, and scantling, adapted to military uses? No. He undertook it on his individual account; he spontaneously applied his labor to that object; and if, in the vicissitudes of war, it should be lost to him, he alone must sustain it. The nation should not be required to participate in the burden of the loss, unless it had been permitted to share in the benefits of its use. In this case, the benefits resulting from the use of the property were appropriated exclusively to the owner himself, and he has no more right to demand of Government compensation for its loss, than if he had erected a foundry, or a ropewalk, which is always destroyed. Had Foxhall's foundry been destroyed by the British, the United States would, on this principle, be obliged to pay for it. On this ground, then, the enemy might and would have destroyed Mr. Mayhew's property if General Morgan had not been within one hundred miles of it.

The committee would now ask the indulgence of the House while they proceed in the attempt to show that the military occupation alleged by the petitioner is not such as was contemplated by the law, and that it would be dangerous to adopt the principle of extending relief in such cases. Here it is necessary to call to mind a case which has been often mentioned, and which cannot be too frequently repeated, because it furnishes a criterion or test by which all other cases may be determined. Carroll's house, every one knows, was occupied by a corps of cavalry during the night which preceded the battle of Bladensburg. When the enemy advanced to the city, they burnt this house because it had been so occupied, and also because there were to be seen in it some vestiges of a military encampment. The Commissioner of Claims paid for this house; and at the first glance the case may seem to come within the law, because there had been a military occupation, and the enemy avowed that he burnt it in consequence of that occupation. But what did the nation think? The President, with an energetic hand, suspended the further

execution of the law. Congress, on coming together, soon amended the law expressly for the purpose of excluding all such claims as that of Carroll's. Can it be now said that such a claim as Carroll's is provided for by the act of 1816, when Congress, by the act of 1817, determined that all such ought to be excluded? Certainly not. If Carroll had sworn before the Commissioner of Claims that his house had been occupied as barracks, that oath would not have made it so, or brought his claim within the provisions of the law. What a witness may think of a case, is not the case itself; and the mere testimony of a claimant swearing in the language of the law that his house was occupied as a military deposite, does not therefore make it a military deposite. Petitioners and their witnesses should be content to state only facts, and let those who administer the law judge, and apply it accordingly. What would be thought of a witness in court who, in lieu of stating facts, should claim from the judge the right to speak only in the language of that very law by which his case was to be determined? The committee disclaim all intention to impeach General Morgan's credibility as a witness, but they must be allowed to say that they would have been much better satisfied if, instead of declaring that the saw-mill, dwelling-house, and out-buildings of the petitioner were used as a deposite for military stores, he had merely stated the facts, that is, the number, quantity, and description of those stores. This, however, he has not done.

In the case of Mayhew, it is proved that, on the morning of the 8th of January, and *some time previous thereto*, his saw-mill, dwelling-house, and out-buildings were occupied, &c. Although the expression "*some time previous thereto*" is very indefinite, yet the committee will take it for granted that the fact of an *occupation* is established. But was not the same fact established in Carroll's case? Certainly it was. Congress declared that the occupation in Carroll's case was not such as to justify the payment of his claim. By what rule, then, shall we determine that the occupation in Mayhew's case is different from that in Carroll's? When the enemy approached Carroll's house, they saw it had been occupied, and found in it a musket and a powder-horn. When they approached Mayhew's saw-mill, they discovered that it also had been occupied; but the committee will venture to assert that they did not find in it either a musket or a powder-horn. When they approached Carroll's house, the American army had retreated to the heights of Georgetown; when they approached Mayhew's saw-mill, General Morgan had probably withdrawn to as great a distance. Carroll's and Mayhew's cases, being carefully collated and examined, are found to be analogous. If, then, Congress was right in declaring, by the law of 1817, that Carroll's claim ought not to have been paid, it is clear that we should now do wrong to pay for the loss of Mr. Mayhew. By comparing these cases, the committee have shown, they hope, that the occupation alleged by the petitioner is not such as was contemplated by the act of 1816, and that the mere opinion of a witness, (for it is nothing else,) swearing in the language and letter of the law, should not be a rule obligatory on Congress to admit a claim.

The rule by which the committee have been governed is this: That a transient, casual, accidental, or contingent occupation or use cannot impart such a military character to the houses or other property of our citizens as to render them objects of lawful destruction to an enemy; that a house occupied to-day, but deserted on to-morrow, could not, on the approach of an enemy, be destroyed, because its civil character is fully and perfectly restored. In this opinion they find themselves supported by the usages of war among all civilized nations; by the opinions and resolutions of our enlightened forefathers of the Revolution; and, lastly, by the law itself of the 9th of April, 1816, as it was interpreted and declared by the act of the 3d of March, 1817, which was passed with positive allusion and express reference to cases of the kind which had occurred in this District and elsewhere. It is said that laws acquire strength and demand reverence in proportion to their long standing and great age. It is presumable that those who have gone before us experienced fully the benefits of any rule or opinion by which they were regulated, and we should carefully weigh all the consequences of innovation upon principles thus tested and confirmed. In no case should we proceed with greater caution than in the one now before us, because the innovation which appears desirable to some tends, in the judgment of the committee, necessarily and directly to subvert the whole system of honorable warfare amongst men, and to introduce in its place the barbarism of a darker age. Let us attempt, in our inquiries, to descend to the bottom of this subject. Why is it that an enemy shall be spared after he is conquered and made prisoner of war? It is because his belligerent character ceases to exist for that time, and his civil or pacific character is in part, if not wholly, restored. He grounds his arms; he submits to you; and you are obliged, by every consideration, to spare his life, because, so long as he remains your prisoner, your own life is not endangered by any act of hostility from him. But this same prisoner may be exchanged, and, after this shall have taken place, he is perfectly at liberty to oppose that enemy by whom, but a little while ago, he was conquered and made a prisoner of war. If he is taken prisoner a second time, his life must be spared, and he must be again exchanged in the same manner as before. No limit can be assigned at which this rule must cease to operate, and a prisoner, although he may have been captivated a hundred times, has yet a right to demand that his life be spared. Men are both the cause and the principal means of hostility; and if the rules of war are thus careful in the preservation of life, there is still greater room to be so in the preservation of property; for if every species of occupation by our troops should authorize an enemy to burn the houses of our fellow-citizens, to pillage and destroy their effects, all the cities and towns which embellish our shores, and whole districts of country, may be laid waste without answering one solitary purpose of a just, legitimate, and honorable warfare. Suppose, for example, that Philadelphia should be threatened with invasion; that the militia or regular force of the country should be summoned to that point in order to repel it, and that the troops should be quartered in the houses of the people of that city: the committee, in behalf of patriotism and civilization, would ask whether, if our own troops should be dislodged, and compelled to retreat, the enemy would, on his approach to the city, be justified in setting it on fire, and reducing to ashes that splendid metropolis? Surely he would be no more justified in doing this than he would be to murder in cold blood the prisoner whom he should have conquered in battle.

Suppose, again, that the enemy should remain on board his shipping opposite Mount Vernon, the former residence of the Father of his Country; suppose the military force should be called out to prevent his landing; that they should be posted there for that temporary purpose; and that some of the troops should lodge under the roof which sheltered Washington: if the enemy were to land, would he be authorized to burn and destroy that venerable mansion? The committee reply that he could no more do it than he could murder a prisoner or burn Philadelphia; that, if he did, he would be denounced by the world as a furious and detestable barbarian. But in what respect do these cases differ from Mr. Mayhew's? The British threaten to invade New Orleans; the military force of the country is concentrated at that point in order to repel the attack; General Morgan directs that part of the army under his command to take post at Mayhew's plantation, and some of the troops are quartered in his house, saw-mill, and out-buildings. In the morning of the 8th of January, General Morgan leaves his post, the British approach it, and burn the property of the petitioner. Now, if the enemy was justifiable in burning Mayhew's property, he would be equally so in burning Mount Vernon or the city of Philadelphia; and if Government is bound to pay for one, it would be just as much obliged to pay for the other. The cases are precisely similar. If there is the least actual or imaginable difference between them, the committee would be glad to have it pointed out.

If it be admitted (which the committee think cannot be denied) that, in the cases supposed, Government would be as much bound to remunerate the sufferers at Philadelphia and Mount Vernon as they are to pay Mr. Mayhew,

what effect would such a rule be likely to have on the mind of an enemy? Would he not pillage and destroy the property of our citizens, instead of attacking the valor of our armies? Would he not think it a much more profitable, and certainly less dangerous, business than to slay our force in honorable combat? We may rest assured that an enemy would adopt these means to encumber us with debt, to exhaust our treasury, and to subdue our strength.

Thus far the committee have examined the propriety of Mr. Mayhew's charge of \$14,600 for his saw-mill and lumber, and they find it inadmissible under every aspect and import of the law of 1816. In the first place, the question, whether the enemy or our own troops destroyed the property, is not answered as the law requires. In the next place, the valuation of the property, instead of being ascertained by the best evidence which the nature of the case admits, is ascertained, perhaps, by the worst, or by none at all. As to the *cause* of the destruction, which forms an important requisition of the law, it is perfectly demonstrable, from the facts stated by the witnesses, that the *occupation* did not influence the enemy to burn the property; but if it did, the committee think that, in yielding to that impulse, the enemy committed a wanton outrage upon private property, which he had no more right to destroy than he would have to murder, in cold blood, a defenceless and submissive prisoner of war. For these acts of an enemy Government has never held itself accountable; and to assume at this time such a responsibility, would tend to consequences the most eventful and dangerous. On all these grounds, therefore, the claim of Mr. Mayhew for \$14,600 ought not to be granted. But, notwithstanding this opinion, the committee have sought for some criteria by which this claim might be allowed, and they have been unable to fix upon any which are not perfectly arbitrary and capricious. The total absence of a standard price in the valuation of the lumber furnishes an irresistible inference to the prejudice of the petitioner. To supply defects which, in every view of the case, must seem to be intentional, would require the exercise of a patience of which the committee are not possessed, and which, it is presumed, they cannot be expected to practise. The committee, therefore, recommend the following amendment to the bill, to wit: Strike out the words "fifteen thousand eight hundred and ninety-eight dollars and fifty cents," and insert "one thousand two hundred and ninety-eight dollars and fifty cents."

15th CONGRESS.]

No. 461.

[2d SESSION.]

INDEMNITY FOR JUDICIAL PROCEEDINGS AGAINST AN OFFICER OF THE ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1818.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, to whom was referred the petition of General Robert Swartwout, reported:

That it appears that your petitioner was quartermaster general of the army of the United States during the late war with Great Britain; that in that capacity he was attached to the northern army; that when that army was about to descend the river St. Lawrence, in the month of November, 1813, many of the boats and vessels that had been collected for that expedition were destroyed by a storm; that General Wilkinson, then commanding, issued an order to your petitioner immediately to repair the deficiency occasioned by the storm, either by the hire, purchase, or *impressment* of a sufficient number of boats; that, in fulfilling this order, your petitioner was under the necessity, in some instances, to resort to impressment; that, among the boats so impressed, was one called the *Nighthawk*, which boat, in the descent of the expedition, was fired upon by one of the British forts, and was destroyed; that, for the boats so impressed, an amicable arrangement was made with the proprietors, and they were compensated to their satisfaction, with the exception of this case; that, after your petitioner had finished his concerns as quartermaster general, and settled his accounts, in the year 1817, he was arrested in New York by a writ of the supreme court of that State, at the suit of the owners of the said boat, called the *Nighthawk*; that he defended the said suit, and pleaded on trial all the facts here stated; that, notwithstanding, judgment was given against him, and an award granted, which, together with costs, will amount to about twenty-five hundred dollars; and he therefore prays remuneration.

The committee are of opinion that this is a case deserving of relief. In the circumstances of war, such exigencies will frequently occur in which the commanding officer will stand justified in taking, by force, such necessities, either for support or conveyance, as are absolutely indispensable, and which cannot be obtained by any other means. The descent of an army on an important expedition, at a season of the year which would admit of no delay, is considered one of those extreme cases of necessity in which an overstepping of the established legal rules of society stands fully justified. But even though it should be considered an unwarrantable step in a commanding officer, it is certain that the subordinate officer, bound to fulfil his commands, should not be permitted to suffer; and it is also certain that the individual whose property was forcibly and illegally taken away from him should be remunerated by the Government for whose use it was taken. They therefore ask leave to report a bill.

15th CONGRESS.]

No. 462.

[2d SESSION.]

OPINION OF THE ATTORNEY GENERAL ON THE ACCOUNTS OF JAMES THOMAS, QUARTERMASTER GENERAL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1818.

SIR:

OFFICE OF THE ATTORNEY GENERAL OF THE U. S., December 22, 1818.

About the close of the last session of Congress, a large mass of documents was lodged in this office, accompanied by the following order of the House of Representatives:

"Ordered, That all the accounts and papers in the possession of the Clerk of this House, in relation to the accounts of James Thomas, a quartermaster general in the army during the late war, be referred to the Attorney General of the United States."

The purpose for which this reference was made not being specified by the order itself, it was natural to suppose that it pointed to the performance of some known duty attached to the office of Attorney General, which would be readily discovered by adverting to the laws that designate the duties of that officer; but, among those duties, there is no one that bears any relation to this order of the House of Representatives, or can help me to an understanding of the service which is expected at my hands. The act of 1789, which creates the office of Attorney General, enumerates the duties of that officer in the following terms: "Whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the head of any one of the Departments." A subsequent act makes the Attorney General *ex officio* a commissioner of the sinking fund; and these two acts comprise the whole catalogue of his duties as they are designated by law. Neither the order nor the laws, therefore, affording any explanation of the object with which this reference has been made, and my predecessors having left no trace of any official practice, in aid of the law, which could furnish a clue to that object, I hope I shall be excused if I err in considering the reference as having been made to me as the law officer of the Government, and, consequently, that nothing more is expected of me than the expression of my opinion as to the law arising on this case.

It is to be collected, from the documents in this case, that James Thomas, a quartermaster general in the service of the United States, is charged with having drawn from the public treasury divers large sums of money by a fraudulent collusion between himself and a certain Michael T. Simpson; by means of which collusion he was enabled to impose on the accounting officers of the Government, and to obtain a false balance to be struck in his favor. To decide upon the truth of this allegation is out of my province; it belongs to a different department; but, assuming it to be true, it is, in my opinion, very clear that the United States may maintain an action against James Thomas, before the courts of the United States, for the purpose of recovering back the money thus fraudulently obtained; and that, if they make out the fact to the satisfaction of a jury, they will unquestionably recover it back.

There is no act of Congress which subjects the quartermaster to a *criminal prosecution* for such a fraud as this is alleged to have been. The act of March 28, 1812, "to establish a quartermaster's department, and for other purposes," by its sixth section subjected the quartermaster to fine and imprisonment on conviction of taking or applying to his own use any emolument or gain for negotiating or transacting any business in his department, other than such as should be allowed by law; but this section is expressly repealed by the act amendatory of the former, passed on the 22d May, 1812. (See the fourth volume Laws United States, new edition, pages 397 and 437.)

The remedy, therefore, if the facts be made out, is by an action at law against Thomas, and his sureties on his bond as quartermaster, so far as the penalty of that bond will extend; and against Thomas, singly, by an action on the case, for the residue.

The documents accompanying the order of the House of Representatives will be returned herewith to the Clerk of that House.

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

WM. WIRT.

The Hon. HENRY CLAY, *Speaker of the House of Reps. of the U. S.*

15th CONGRESS.]

No. 463.

[2d SESSION.]

CAPTURES BY A PURSER IN THE NAVY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 29, 1818.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the memorial of Thomas Shields, reported:

That the memorialist states that he was a purser in the navy on the New Orleans station during the time of the invasion of that part of the United States by the enemy during the late war with Great Britain; that, on the morning of the 15th of December, 1814, he was ordered by Commodore Patterson, commanding naval officer on that station, to proceed, under the protection of a flag of truce, on a special mission to the commander of the British fleet, then in the neighborhood of Lake Borgne; that, on his reaching the enemy, then at the mouth of Pearl river, Admiral Cochrane, the commander, through motives of caution, as he alleged, thought proper to detain him as a prisoner, and he was accordingly kept in confinement until the 13th of January, 1815; that, on his return to New Orleans, he suggested to Commodore Patterson the idea of an attempt to harass and cut off part of the enemy on their retreat, which, from observation of their position and movements, he thought, although hazardous, likely to succeed; that, on the memorialist's volunteering in the enterprise, it received the sanction of Commodore Patterson, who put at his disposal such open boats as could be obtained, one of which, a launch, mounted a 12-pound carronade, the only piece of ordnance the memorialist had under his command; that, with the exception of munitions of war, five boats were fitted out at the private expense of the memorialist, which were manned with about fifty hands, chiefly volunteers; this force, under the command of the memorialist, notwithstanding all their exertions, were unable to commence operations against the enemy until the night of the 19th of January, when he captured one of their barges, and made prisoners fifty-four men, whom he delivered at the head-quarters of General Jackson, without any loss on the part of the memorialist. The memorialist further states that, on the 21st of January, he succeeded in capturing seven of the enemy's barges, with seventy-eight men, and in burning a large and valuable coppered transport; that, by this time, the enemy had succeeded in regaining their shipping, when the memorialist returned to New Orleans. The memorialist states that nothing but the heavy losses sustained by him during the invasion of Louisiana would have induced him to make application to Congress for remuneration for any exertions made by him, believing, as he does, that the person of every good citizen, and his means also, ought to be at the disposition of the Government in times of emergency; but, from the circumstance above mentioned, he is induced respectfully to present himself to the notice of Congress, and ask for his services aforesaid such remuneration as Congress may think they deserve.

The committee have considered the case of the memorialist with attention, and are of opinion that it is substantially correct, according to the evidence produced. They further state that, from the letter of Commodore Patterson, accompanying the memorial, the conduct of the memorialist is placed in the most favorable point of view, on account of his voluntary and patriotic exertions to serve the cause of his country. The committee are of opinion that the case of the memorialist does not come under the provisions of any law making compensation for prisoners taken, inasmuch as the memorialist was in the service of the United States, and the vessels which he used belonged to the public, as well as their munitions of war; they think, however, that the gallant exertions of the memorialist and his associates, who may be considered in all respects as volunteers, are deserving of the attention of Congress. In searching for a rule by which to regulate the compensation which they think ought to be made in this case, they think the principle of that law which allows twenty dollars for each person on board an enemy's vessel sunk or destroyed in action by an *equal* or *inferior* force most applicable, and report a bill grounded on that standard of compensation.

15th CONGRESS.]

No. 464.

[2d SESSION.

ADVANCES, ARREARS OF PAY, AND COMMUTATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 30, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of John Polhemus, on the 24th of November, 1818, reported:

The petitioner states that, at the commencement of the revolutionary war, he obtained a commission as captain of the fourth company of the first New Jersey regiment, commanded by Lord Stirling; that the company he raised were destitute of proper clothing, arms, and accoutrements; that he was directed by his colonel to procure equipments for them; that he did so, at his own expense, under an expectation that the amount would be stopped from the pay of the soldiers; that the same, to the amount of twelve dollars from each man, was stopped, but the money remained in the hands of the paymaster of the northern department; that he was at several battles; that he, with his company, was engaged at the battle of Monmouth, in June, 1778; that he afterwards conducted the brigade to Elizabethtown; that afterwards, being in command under General Maxwell, he was taken prisoner by the British, was conveyed to New York, and was detained a prisoner until the spring of 1780, when he was paroled, and, with others, sent to Elizabethtown point, where he was received by the American guard, commanded by David Baldwin; that the war ended without any receipt for his advances; that, in August or September, 1786, his accounts were adjusted under the view of Colonel Ogden and General Knox, who directed Joseph Howell, as he states, who was acting as paymaster, to give him a certificate for \$1,750; that no money has been received on that certificate; that it is unhappily lost; that he has not received any part of the commutation money, amounting to five years' full pay, nor any part of the arrearages due when he was taken prisoner, nor any part of his pay during his captivity; that for all his advances he has received only the sum of \$29 $\frac{3}{4}$, on account, by Lieutenant Colonel William Wind; that this sum was deducted from his demand in the settlement with Mr. Howell; and he prays that a bill may be introduced for the purpose of granting him relief in the premises.

In examining the claim of this petitioner, recourse has been had to the statement of his case, on oath, before Bushrod Washington, one of the justices of the Supreme Court, made on the 28th of October, 1815, in which he states that, in the month of August, 1786, as nearly as he can recollect, he procured an adjustment of his accounts for the money which he had expended in furnishing arms and accoutrements at the request of Colonel Ogden, under whose immediate inspection the said accounts were adjusted, and that he received a certificate from Joseph Howell for the sum of \$1,750; that the said certificate has never been funded; and that it has been lost by him, and for which he never has received any compensation.

That, in another written statement of his case made by the petitioner, which appears to have been subscribed and sworn to before Samuel Read, one of the justices of the peace in the county of Burlington, in November, 1817, he states that, in the year 1786, he received from Joseph Howell, a paymaster of the United States, a certificate for \$1,750, due him from the United States for the purchase of arms and accoutrements for a company of soldiers raised by him for the service of the United States, in the year 1775; that, in the year 1799, he gave the said certificate to his son, John Polhemus, for safe-keeping; and that he verily believes that the said certificate was in the possession of his said son when the house in which he lived was consumed by fire, and that the said certificate was burnt in the said house.

That, for the elucidation of this case, your committee observe a writing on a paper attached to a parcel of depositions accompanying said petition, which is as follows: "John Polhemus claims of the United States the principal and interest of a certificate issued by Joseph Howell, paymaster of the United States, on the 25th of July, 1786, for \$1,750, which certificate was for moneys advanced by him for the purchase of arms and accoutrements for a company he raised in 1775, and which he alleges to be destroyed by fire. (To prove the certificate, see the affidavits in the hands of a committee of Congress; the affidavit of Eleanor Axford, marked A; affidavits of James Rice, marked B and C; and affidavit of Ann Polhemus, marked D.)" Recourse has been had to the said affidavits. Those of James Rice do not appear to state any particulars respecting the said certificate. That marked C states that, in the fall of 1808, the deponent was well acquainted with John Polhemus, jun., and knows that he had a number of papers belonging to his father, John Polhemus; and knows that he lived in the house with James Menzie, and that the house was destroyed by fire, and some part of its contents; and verily believes that John Polhemus's papers were destroyed in it, as they were not to be found; and that the said John Polhemus died at James Menzie's.

The deposition of Eleanor Axford appears to have been done on the 8th day of July, in the year 1817, at Oxford, county of Sussex, and State of New Jersey, before Morris Robeson, and states that, in the month of September, 1797, the said Eleanor Axford was at the house of Captain John Polhemus, in the village of Bristol, in the State of Pennsylvania; that she then and there saw the said Captain John Polhemus have a certain certificate for \$1,750, signed by Joseph Howell, and dated "Pay-office, New York, July 25, 1786," which said certificate, after

reading it, she returned to him (the said Captain John Polhemus) again; and further saith that she has not seen it since, and can give no further account of it.

Ann Polhemus, in her deposition, states that she is the wife of Montgomery Polhemus; that, in the month of October, 1799, John Polhemus, the father of said Montgomery, was about to remove from the city of Philadelphia; that, two or three days before his removal, she was at the house of her father-in-law, said John Polhemus; that she saw the said John Polhemus give a paper to his son John; that he, being asked what paper it was, said it was a certificate for \$1,750, given to him by Joseph Howell. She also states the conversation that there was respecting said paper; and further states that she hath always understood, and verily believes, that the certificate and other papers belonging to the said John Polhemus, which were in the custody and possession of the said John Polhemus, the son, were destroyed by fire in the house of one James Menzie, in the State of New York.

John McCorr, in his deposition, states that, some time about the year 1786, as he believes, the said John Polhemus showed him a certificate, which the deponent read; that the said certificate was for \$1,650 or \$1,750; that he saw the said certificate, as near as he can recollect, in the year 1798, in the possession of the said Polhemus; and that, some time after, the said Polhemus told him the said certificate could not be found. The said deposition appears to have been made on the 24th day of August, 1815.

The deposition of David Baldwin appears to have been taken before Ph. Tabell, justice of the peace for the city and county of New York, on the 13th day of August, 1815, an extract of which is as follows: "And the deponent further saith that he was present when the said Captain John Polhemus received a certificate from Joseph Howell, then acting in the pay-office department, which certificate was for a demand he had against the United States; that General Knox, then Secretary of War, was present, and, satisfied with the claim of the said John Polhemus, ordered the aforesaid Joseph Howell to issue a certificate for \$1,650 or \$1,750, which he did in the deponent's presence; and the deponent further saith that he believes the said certificate was given as aforesaid to the said John Polhemus, in the year 1786; and further he saith not."

The deposition of James Menzie appears to have been subscribed and sworn to on the 9th day of March, in the year 1818, before John Nicholas, first judge of the court of common pleas of the county of Ontario, in the State of New York. The deponent states that he well knew John Polhemus, jun.; that he lived in the house, boarded, and worked with him, at the coppersmith business, until his death; that he knew and recollects perfectly well that he had in his possession a certificate, in safe-keeping, as he said, for his father; that he often saw it, and heard it read, and well remembers that it was given to the father of the said John Polhemus, jun., for arms, &c. furnished the United States by him in the revolutionary war, and; to the best of his recollection, was for \$1,750, dated "Pay-office, New York, 25th July, 1786," signed by Joseph Howell; which certificate was positively burnt in his house, as he states, some time in the month of November, 1810, together with other papers belonging to the said John Polhemus, jun., and all his (that is, the deponent's) books, papers, and effects; this accident happened some time after his death; and further he saith not.

On the testimony adduced by the petitioner in support of his claim, bottomed on a certificate issued to him, as he states, by Joseph Howell, for \$1,750, your committee observe that the testimony of Eleanor Axford and James Menzie corresponds in relation to the date of the said certificate so claimed, to wit, that it was dated on the 25th of July, 1786; that the testimony of these witnesses agrees with the writing on the paper attached to a parcel of depositions, before alluded to; that the testimony of these witnesses relative to the date of said certificate disagrees with the statements made by the petitioner himself respecting the time of issuing the said certificate; in his petition, he states that he obtained a settlement of his accounts in August or September, 1786, and thereupon said certificate issued; in his affidavit, he mentions that, in August, 1786, as nearly as he can recollect, he procured a settlement of his accounts, on which the said certificate issued; that the claimant, in his petition, states that General Knox was present, and ordered said certificate to be issued. The deposition of David Baldwin states that he was present, and that General Knox was present, and ordered Joseph Howell to issue said certificate for \$1,650 or \$1,750, which he did in the deponent's presence, as the deponent states. The petitioner, in his affidavit, does not mention that General Knox was present when the said certificate was issued, but saith that Colonel Ogden was present; but the deposition of David Baldwin does not state that Colonel Ogden was present at the time of issuing said certificate. Your committee have understood that all the certificates issued by Joseph Howell, acting in the paymaster's department, were regularly numbered, to the intent, as is believed, that imposition might thereby be the better prevented. The petitioner in this case does not mention the number of the certificate so claimed by him; neither do any of the depositions adduced by him mention the number of the said certificate; and this is remarkable, inasmuch as he and they appear to have a considerable knowledge of other particulars respecting it. It is not even mentioned that the said certificate had any number.

It appears, by the affidavit of the petitioner, that, about the 25th of July, 1786, he obtained a settlement with Joseph Howell, then acting in the pay-office in the room of Mr. Peirce, for recruiting his company, and for the bounty of twenty dollars paid to each man that he enlisted to serve during the war; that he received a certificate from said Joseph Howell for \$700 and upwards, which he afterwards got funded, and sold to Mr. Biddle; that, in the said affidavit, it is mentioned that, in August, 1786, as nearly as he can recollect, he procured an adjustment of his accounts for the money which he had expended in furnishing arms and accoutrements, as by him stated, and received from said Joseph Howell a certificate for \$1,750, (being the certificate he now claims.) On consideration of this statement of the petitioner, and viewing it together with the statements respecting said certificate mentioned in the depositions adduced by him in support of his said claim, it appears strange and unaccountable that the petitioner did not apply and get funded the said certificate for \$1,750 at the time he got the certificate funded, as he states, that he afterwards sold to Mr. Biddle, or at some other time during the existence of the funding laws. It appears strange and remarkable that the petitioner, instead of funding or disposing of said certificate, retained it in his possession until the year 1799, when he put it in the possession of his son, John Polhemus, for safe-keeping, (as he states in his affidavit made before Samuel Read, one of the justices of the peace in the county of Burlington, as he is stated to be,) in whose possession, according to the deposition of James Menzie, it was when his house was destroyed by fire, and the said certificate also with it, some time in the month of November, 1810. Did the petitioner believe it would be more safe in the possession of his son? or what did he believe? and what was his design in doing so, if said certificate was genuine and authentic?

The committee further report that it appears that John Polhemus had a petition for a claim before Congress early in the year 1792. Your committee have not been able to procure the said petition, or a copy thereof, or any paper accompanying it; but it appears, by an extract from the manuscript records, that a report was made thereon, as follows:

"The petition of John Polhemus, New Jersey, referred 31st January, 1792, sets forth that, on the 24th of July, 1786, he received a final settlement certificate issued in his name by John Peirce, No. 94,167, for \$284²/₉, on interest from the 1st of September, 1777. That, some time after, he trusted the said certificate in the hands of Captain David Baldwin, to draw the interest on the same, at the proper office in New York; that interest was

paid up to the 31st of December, 1784. That, some time in February, 1787, the said certificate was accidentally destroyed by fire, while in the possession of said David Baldwin; proof is made by the oath of said David Baldwin that it was *burnt*, but how or where is not stated. The existence of the certificate appears from Prince's register, in the Auditor's office, and on the register it is noted by Gulian McEvers, formerly a clerk in the office, that it has been presented since by George Service. There appears, therefore, to have been a misrepresentation, and no ground for relief." So far the report.

The said report and the allegations of the petitioner in the present case show that he has been very unfortunate by the operation of fire.

Your committee further report that recourse has been had to the Treasury Department to ascertain what settlements have been made with, and what payments have been made to, John Polhemus, the petitioner, for his claims against the United States. Authentic documents, herewith submitted, received from that Department, manifest that, on or about the 1st of September, 1786, the petitioner had a settlement of his accounts, and that there then was issued, as charged to him, a certificate, No. 94,167, for \$284 $\frac{2}{3}$, for a balance due to him, (this is the certificate, it is presumed, for the payment of which he petitioned in 1792, as above mentioned, alleging that it was destroyed by fire,) with interest from the 1st of September, 1777.

That, on the 5th of June, 1787, a certificate, No. 94,794, for \$96, with interest from the 1st of March, 1779, was issued or charged to him for pay of the army for one year's supernumerary pay. That a copy of a receipt, signed John Polhemus, accompanies the said documents, and is as follows:

"Received of Joseph Howell, jun., commissioner of army accounts, one certificate, No. 95,072, dated this day, for \$775 $\frac{2}{3}$, on interest from 21st January, 1777, being for cash advanced sundry men of my company for pay, bounty, and clothing, in the years 1775 and 1776, as appears by the list of my settlements in this office.

"JOHN POLHEMUS.

"NEW YORK, July 31, 1790."

A letter, headed "Treasury Department, Third Auditor's Office, December 19, 1818," and signed "Peter Hagner, Auditor," accompanies the said documents, an extract from which is as follows: "I also find that Captain Polhemus's accounts were lodged with the then paymaster general and commissioner of army accounts under the acts of Congress which limited all claims of the revolutionary war not filed within a particular period; and the remark opposite his name, by Mr. Howell, then commissioner of army accounts, is in the following words: 'Withdrawn to be put in order, January 14, 1790: settled.' I presume, from these circumstances, that the certificate for \$775 $\frac{2}{3}$, issued and received for 31st July, 1790, by Captain Polhemus, was, on settlement of his accounts, filed as above stated, and marked *settled*."

A letter from the Register's Office, Treasury Department, dated 25th December, 1818, signed Joseph Nourse, also accompanies said documents, an extract from which is as follows: "Our inquiries have especially been directed to the alleged issued certificate for \$1,750; but, although the journals of record made by the late Mr. Howell are full for the whole of the year 1786, and up to the year 1790, there is not any record in relation to the said certificate."

A certificate, signed Joseph Nourse, also accompanies the said documents from the Treasury Department, stating that John Polhemus received \$509 $\frac{5}{8}$, paid him in treasury indents for interest to 31st December, 1787, upon two registered debt certificates issued in the name of John Polhemus: one for \$775 $\frac{2}{3}$, and the other for \$96.

The interest on the certificate for \$775 $\frac{2}{3}$ was from 21st January, 1777. The interest on the certificate for \$96 was from 1st March, 1779.

Your committee further report that, from the statements of the petitioner, and the testimony by him adduced, it appears that he does not mention the number of the said alleged certificate, payment for which he claims; neither do any of his witnesses mention or state the number of it. This omission goes to destroy the validity of said alleged certificate.

That the different statements of the petitioner, and of the testimony by him adduced relative to the time of, and circumstances attending, the issuing of the said alleged certificate, go to destroy the validity of it.

That the giving of the said alleged certificate into the possession of his son, John Polhemus, for safe-keeping, and not retaining it himself, is not evidence of its validity.

That the petitioner, when, in the year 1792, he petitioned Congress for payment of the certificate for \$284 $\frac{2}{3}$, alleged to have been destroyed by fire, states nothing respecting the alleged certificate for which he now claims.

That as the petitioner retained the said alleged certificate in his possession and in that of his son, from the time of the alleged issuing thereof, to wit, in August, 1786, as he states, and from the 25th July, 1786, as his witnesses state, until the year 1810, when, as they state, it was destroyed by fire, being about twenty-four years, and during that time did not attempt to have it funded, or to bring it into view as matter of record, and did not present his claim to Congress for it until about five years after the alleged destruction of it by fire—this goes to destroy the validity of it.

That there is no record in the Treasury Department of the said alleged certificate, although the register of the paymaster, as above mentioned, is full and complete for the whole of the year 1786, and up to the year 1790; and *that* ought to be taken as conclusive evidence against the validity of the said alleged certificate.

In addition to the foregoing, the petitioner had several settlements, and several certificates with their dates and proper numbers were issued to him thereon, which appear of record in the Treasury Department; but of the alleged certificate there appears no record.

For these reasons, and others which could be inferred, your committee are of opinion that the petitioner is not entitled to any relief, compensation, or payment for and on account of the said alleged certificate for \$1,750.

That, in respect to the claim of the petitioner for one year's pay as a supernumerary officer, it appears, by the said documents from the Treasury Department, that he has been compensated for the same.

That, in respect to the claim of the petitioner, to wit, that commutation of half-pay for five years' full pay may be allowed to him, it was resolved by an act of Congress of the 26th of January, 1784, that half-pay cannot be allowed to any officer or to any class or denomination of officers to whom it has not heretofore been expressly promised; that the petitioner is not included in any class or denomination of officers to whom half-pay was expressly promised; and that, therefore, he is not entitled to it, nor to commutation thereof.

That all just claims of the petitioner against the United States are presumed to have been fully settled and paid; and that if, by any possibility, any claims of the petitioner can exist, they all are long since barred by the statutes of limitation. Your committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 465.

[2d SESSION.]

PROPERTY DESTROYED BY THE BRITISH IN 1778.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 30, 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred, on the 28th of December, 1818, the petition of Jonathan Ward, one of the surviving sons of Stephen Ward, deceased, on behalf of himself and the other representatives, reported:

That the petitioner states that, at the commencement of the revolutionary war, the said Stephen Ward resided in the county of West Chester, and State of New York, about seven miles south of White Plains; that the British took possession of the city of New York and the south part of West Chester county in the autumn of 1776, in consequence of which he left his residence, consisting of a large and valuable dwelling, with barns and sundry other buildings; that, between this period and the autumn of 1778, these buildings were occupied a large portion of the time by the American troops as head-quarters, at which place there were several engagements between them and the British; that, in November, 1778, a large body of British forces, commanded by General Tryon, made an excursion as far as said Ward's houses, and, by the general's orders, totally destroyed by fire the buildings, including a considerable quantity of moveable property, which act was alleged to be in consequence of the occupancy of the American army; that, at the close of the Revolution, said Ward returned from exile with a numerous family, having suffered many privations. The petitioners claim remuneration for the property of their father so destroyed.

The committee further report that it appears by a document accompanying the said petition that the said Stephen Ward died some time in the year 1797; that, by an act of Congress of the 3d of June, 1784, it was, among other things, resolved "that it be referred to the several States (at their own expense) to grant such relief to their citizens who have been injured as aforesaid as they may think requisite; and if it shall hereafter appear reasonable that the United States should make any allowance to any particular States which may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States."

By the said resolution, it is evident that Congress did not assume or agree to pay or compensate for damages occasioned by such destruction of property as that stated by the petitioner; that Stephen Ward, in his lifetime, ought to have presented his claim to the State of New York in due time for compensation for the damages alleged to have been sustained by the alleged destruction of his property as aforesaid; that, if he did not, it was in his own wrong, by his own neglect; that the petitioners have not in this case any claim against the United States; that, if any such claim could exist, it is long since barred by the statutes of limitation; that it is inexpedient and would be dangerous to admit claims of this description, which were expressly provided against by the said resolution.

Your committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 466.

[2d SESSION.]

ADVANCES AND SERVICES OF A WAGON-MASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1819.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Bissell Phelps, of the State of Vermont, reported:

That the petitioner states that, on the 15th day of June, 1778, he received an appointment in the quartermaster general's department of the United States, with the same pay, rank, and rations as a captain in the continental line, and was directed to raise a company of teams for the service of the United States; that your petitioner did immediately raise his company of teams and *teamsters*, and continued in the service which was assigned to him through the years 1779 and 1780; that he afterwards, in the month of June, 1781, again entered the service as a conductor of teams in the third brigade or division of the French army, and then raised a company of teams and teamsters; that he continued with the French army until it arrived at Annapolis, in the month of September, 1781, when that army took water carriage, and he was permitted to return; that, in the campaign to the southward, he furnished twenty-one oxen, with carts, yokes, and chains, for the service, which, at Annapolis, were arranged in Captain William Lindley's company, and proceeded with him to Williamsburg, in Virginia, where they all died; that the value thereof, with carts, yokes, and chains, was three hundred and eighty-five pounds lawful money; that the agents obtained from the French commissary of war a partial compensation of fifty pounds for each team of six oxen, amounting to one hundred and seventy-five pounds, which he received, leaving a balance of loss on his part of two hundred and ten pounds, *good money*.

That he now holds a due bill for three hundred and forty-one pounds fifteen shillings, lawful money, being the amount of his bill, as rendered on the 9th of June, 1779, dated that day, and signed by A. Wills, for Nehemiah Hubbard, commissary general of forage, which remains yet unpaid; and he prays that the amount of said due bill may be paid to him, or that he may be entitled to the benefit of the act of the 18th of March last, or any other relief that may be deemed meet.

Your committee further report that the due bill accompanying the said petition, and therein alluded to, is as follows:

"Due Bissell Phelps, conductor, three hundred and forty-one pounds fifteen shillings, lawful money, which I promise to pay, it being the amount of his bill, rendered on this day, against C. G. F. Stafford, June 9, 1779.

"For Nehemiah Hubbard, Esq., D. C. G. F.

"A. WILLS."

That, in respect to the loss stated by him to have been sustained in the campaign to the southward with the French army, it is presumed he was fully paid for all services and losses sustained therein, as he states, by the French commissary of war, as he names him; that the United States are not responsible for any contingencies arising in consequence of contracts made with the French army, their agents, contractors, or commissaries; that, in this alleged particular, the petitioner has not any claim against the United States.

That, in respect to the due bill mentioned in said petition, and above stated, the petitioner can have no claim for payment thereof against the United States, by reason that the said due bill is in nature of a promissory note, is chargeable only on the person who appears to have signed it, or on him for whom it was signed, and is not chargeable on the United States.

That the said claims of the petitioner, if by any possibility they could or do exist, are long since barred by the statutes of limitation.

That, in respect to allowing the petitioner to have the benefit of the said act of the 18th of last March, the petitioner does not appear to have served in the line of the army on continental establishment, and therefore is not included within the provision of the said act.

Your committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 467.

[2d SESSION.]

STORES AND OTHER PROPERTY BELONGING TO A PURSER IN THE NAVY DESTROYED IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1819.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the memorial of Thomas Shields, reported:

That the memorialist states that Commodore Shaw, whilst he commanded the naval forces of the United States on the New Orleans station, caused to be built a public storehouse for the use of the United States; that this storehouse was built at the bay of St. Louis, on a lot belonging to the memorialist, and by him voluntarily tendered for that purpose; that the said house, at the time of the attack of the enemy at that point, on the 13th December, 1814, contained stores (for the supply of the crews of vessels attached to the station) belonging to the memorialist, of the value of \$4,887 96; that, previous to the attack of the enemy, the memorialist had erected, principally at his own expense, a small two-gun battery, for the protection of the said store, and the property contained in it, from which a fire so steady and well directed was kept up, that the enemy was baffled in his several attempts to effect a landing, till the night of the 13th December, 1814, when a positive order was received by the person having charge of the said store, from Lieutenant Jones, commanding the detachment of naval force on the station, directing the same to be blown up and destroyed, which was accordingly done; that adjacent to the said public store was a building belonging to the memorialist, and materials for other buildings of the value of \$1,693 10, to which the fire produced by the burning of the public store extended, whereby the said building and materials were totally destroyed. The memorialist states his whole loss occasioned by the burning of the public store aforesaid to amount to the sum of \$6,581 06, for which he prays remuneration from Congress if they shall think his claim just.

The committee, having considered this case with attention, are of opinion that it is supported by the testimony exhibited. The stores which were properly destroyed by the burning of the public storehouse by order of the United States officer commanding on the station, to prevent their falling into the hands of the enemy, were lodged at that place by the memorialist for the use of the naval force in the neighborhood; they were of the kind and quality always furnished for such purposes by pursers in the navy, which was the office held by the memorialist, and the public store from which they could be easily and quickly put on board the vessels requiring them appears to have been the most natural place for their deposit; that, independent of the merits of the memorialist in voluntarily tendering a situation for the erection and use of this building for public purposes, and erecting a battery principally at his own expense, the committee think, under all the circumstances of the case, compensation ought to be made to the memorialist for the loss of the stores aforesaid, and his house and building materials adjacent to the said storehouse, and consumed by the fire which caught from the burning of the same; and for this purpose they herewith report a bill.

[NOTE.—A report was made to the Senate in this case, on the 28th December, 1820, and is a copy of the foregoing.]

15th CONGRESS.]

No. 468.

[2d SESSION.]

BOUNTY ON SLAVES CAPTURED BY THE PRIVATEER MIDAS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 5, 1819.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the petition of John Gooding and James Williams, reported:

That the petitioners represent that they were owners of the private armed schooner Midas, commanded by Captain Thompson; that she engaged the British privateer Dash, captured and carried her into Savannah, where

her crew were delivered to the marshal, conformably to the act of the 19th March, 1814, who gave his receipt for them as prisoners of war; that twenty-two of the said crew were slaves, and nineteen freemen; that, by a construction given to the said act by Richard Rush, late Attorney General, they were refused the bounty for that part of the crew who were reported to be slaves, and they pray relief.

The committee submit the act:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in lieu of the bounty now allowed by law, the sum of one hundred dollars be paid to the owners, officers, and crews of the private armed vessels of the United States commissioned as letters of marque, for each and every prisoner by them captured and delivered to an agent authorized to receive him in any port of the United States, or of a Power at war with Great Britain, or delivered at any station within the dominions of the King of Great Britain established for the exchange of prisoners of war, whereby such prisoner shall be actually placed and allowed, by the Government of the kingdom of Great Britain and Ireland, in the account of prisoners, to the credit of the United States. And the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, to such owners, officers, and crews of private armed vessels commissioned as aforesaid, or their agents, the aforesaid sums for each prisoner captured and delivered as aforesaid.

Sec. 2. And be it further enacted, That, for the purposes aforesaid, the sum of two hundred thousand dollars, out of any money in the treasury not otherwise appropriated, be, and the same is hereby, appropriated.

The committee have received from the Third Auditor the papers relative to the case, and find that a cartel had been executed for the exchange of prisoners between the American and British Governments, by which it was agreed that all combatants were to be exchanged, man for man, agreeably to their rank, and that non-combatants were to be liberated. The receipt of the marshal proves that all the slaves taken on board the Dash were combatants, and that two of them were petty officers. The Attorney General offers no argument to show why the claimants were not entitled to the bounty allowed by law for slaves acting as combatants. He briefly states "that slaves of the enemy, taken and brought into port during the late war, were not objects of the bounty provided by the act."

It appears, by the letter of the district attorney for Georgia, dated 13th August, 1813, that he had been applied to by another owner of an armed vessel of the United States to libel slaves as prize of war, which he refused, and adds that those slaves were about to be delivered on board the cartel as prisoners of war in exchange at the moment when the marshal received orders to detain them. It does not appear that there was any objection by the British to receive them as prisoners of war. Mr. Barclay, (the British commissary general of prisoners,) in his letter of 23d May, 1813, to General Mason, American commissary, says "that the American privateer Holkar captured a British vessel having sixteen negroes, British subjects, on board; they have arrived at New London. The owners of the privateer claim them as British property. I beg you to direct the marshal to detain them as prisoners of war, and I will be at the expense of sending them to Boston to go in the cartel." Mr. Anthony St. John Baker, chargé d'affaires of His Britannic Majesty, in a letter to General Mason, dated June 22, 1816, says that "as he understands that several black and colored people, at Charleston and Savannah, captured during the war, have not been released with the other prisoners, but are still kept in confinement by the marshals at those places, [he] requests General Mason would have the goodness to acquaint him with the cause of their detention." General Mason's answer is as follows, to wit:

OFFICE OF COMMISSARY GENERAL OF PRISONERS,
WASHINGTON, July 18, 1815.

You state that you have been informed that several black and colored people, captured during the war, have not been released with other prisoners, and are yet held in confinement by the marshals; and you request to be made acquainted with the cause of their detention, and with such directions as may have been given the marshals respecting them.

It is believed that there remain unreturned no blacks or people of color captured during the war, other than slaves; orders having been always given to exchange and restore as ordinary prisoners of war all free persons of that description.

Early in the year 1813 it was ascertained here that the British officers in command at Halifax had separated from other prisoners, and refused to give up or exchange as prisoners of war, slaves captured on the high seas in one of our vessels; and it was before notorious that those commanding on our coasts, and within our waters, were in the constant habit of receiving the slaves of our citizens on board British ships of war; of refusing when applied for to send them back to their owners; and of either employing them in their service, or transporting them to British territories. Orders were given to the marshals to withhold from exchange, as prisoners of war, all persons of color captured at sea, and ascertained to be slaves. Of this determination, Colonel Barclay, then agent for prisoners on the part of Great Britain in this country, was apprized, in the month of July of the same year.

At the conclusion of the war, it being known that many thousands of the slaves of our citizens, taken from our shores, had been carried off by British ships of war, and other cases of captures at sea having occurred, and no restoration having been made as far as the Government was informed, the marshals, when instructed generally as to the restoration of prisoners, were directed to retain such as were slaves, and to dispose of them in the employment of respectable persons in such manner as that they should be relieved from confinement, be forthcoming when occasion should require, and that their labor should be equivalent to their subsistence and clothing.

I am instructed to inform you, sir, that if you are authorized to make any proposition on the part of the British Government for the restoration of these slaves, on terms of reciprocity, in relation to the slaves of our citizens withheld by the British authorities, it will be received with pleasure, and considered with a view to do equal justice to the claims of the citizens and subjects of the two nations.

Two letters of the 10th and 24th of May, 1816, from his excellency Charles Bagot to the Secretary of State, call the attention of the Secretary to those slaves, and request that they may be delivered to persons authorized by him to receive them. In consequence of which letters an order issued from General Mason, dated 31st May, 1816, to the marshal of Georgia, to deliver all the British slaves captured during the late war, and detained by him, to such person as may be authorized by the British minister to receive them; and they were delivered on the 28th June, 1816, as appears by the following certificate under the list of the slaves thus delivered:

"SAVANNAH, GEORGIA, June 28, 1816.

"I do certify that the persons whose names and descriptions are above mentioned, being British prisoners of war, (slaves,) captured by armed vessels of the United States, and detained since the war, have been delivered by the marshal of the United States for the district of Georgia on board the British brig Alexander, Captain Cook, bound for St. Andrew's, New Brunswick.

"JAMES WALLACE, Acting Vice-Consul."

The committee addressed two letters to the Fifth Auditor, to which they received the following answers, which they submit:

SIR:

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *November 26, 1818.*

I had the honor yesterday to receive your letter of the 23d instant, making certain inquiries relative to British slaves captured by the American vessels during the late war.

In order that I may give as precise and full answers to the several queries as the means I possess will enable me, I shall advert to them in the order in which they are presented.

1st. Were the slaves taken on board the British privateer *Dash* considered and mustered as combatants?

The commissary general prescribed a form in which the several collectors and marshals were to receipt for the prisoners committed to their care, and return them to his office. This form was calculated for two descriptions of people only—combatants and non-combatants. In the receipt of the collector and marshal, in the present instance, a copy of which (A) is enclosed, it will be perceived that the slaves are placed in the column for combatants.

2d. Did the British commissary of prisoners, or any British authority, ever refuse to receive in exchange seamen who were slaves, and taken in their ships, against American seamen taken by them?

No proposition appears to have been made by the American Government on this subject.

The British authorities at Halifax, before any captures were made of slaves by American forces, having in their possession four slaves, captured on board the American revenue cutter *James Madison*, refused to exchange them against British prisoners in our possession, but emancipated and sent them to Bermuda. This proceeding on the part of the British induced the American Government to issue orders, through their commissary general of prisoners, to the respective marshals, to withhold from exchange all British slaves who might be committed to their custody, until a satisfactory arrangement with the British Government should be made respecting them. No such arrangement, it appears, was made during the continuance of the war, nor, in fact, until the month of June, 1816, during which period the British slaves captured by the United States remained in the charge of the marshals. The enclosures marked B will more particularly elucidate this subject.

3d. If an offer of the kind had been made by the United States, have you any reason to believe that the British agent would have refused to receive slaves in exchange?

The disposition of the British Government on this point is unknown, as no proposition appears to have been made to develop it on the part of the United States.

4th. Did any instance occur where either party received slaves in exchange?

It is believed that no exchange of slaves took place on either side; if there was an instance of it, it was accidental.

5th. Were blacks or other men of color, (freemen,) in the service of the United States, received in exchange from the British for British seamen?

Freemen, white and black, were regularly exchanged; but whether color for color, does not appear.

6th. Were the slaves in question delivered to, and received by, a British agent authorized to receive prisoners of war, or were they delivered to their masters?

Those slaves were surrendered to the British vice-consul at Savannah in June, 1816, and not to their masters. A copy of his receipt is herewith enclosed (marked C.)

To the other enclosures required by your letter I have added the order of General Mason, (marked D,) dated 31st May, 1816, to the marshal of Georgia, for the delivery to the British agent of all slaves in his possession.

I have the honor to be, &c.

STEPHEN PLEASANTON.

The committee are of opinion that the petitioners are entitled to the bounty authorized by law for each and every combatant, whether freeman or slave; that it was not required of them by the law to show that slaves would be received in exchange by the enemy for freemen; that the law only required that they should be captured on board a British vessel and brought into a port of the United States, and delivered to the marshal; but that, if it was required, the papers abundantly prove that the British considered them as prisoners of war, and were, at all times, disposed to give in exchange man for man. The committee ask leave to submit a bill for the relief of John Gooding and James Williams.

A.—Report of prisoners brought into the port of Savannah by the private armed vessel called the Midas, whereof Alexander Thompson is master.

| DESCRIPTION OF THE VESSEL CAPTURING. | | | | Names of the prisoners. | Rank or quality of the prisoners. | In what vessel captured. | When captured. | Com-batants. | Non-com-batants. |
|--------------------------------------|----------------------|----------------------|---------------------|-----------------------------|-----------------------------------|--------------------------|----------------|--------------|------------------|
| Name. | Number of guns. | Master or commander. | Where commissioned. | | | | | | |
| Midas, | Eight carriage guns, | Alexander Thompson, | At Savannah, | Michael O'Brien, | Captain, | Brig Astrea, | June 13, 1814, | 1 | |
| | | | | — Kelly, | Apprentice boy, | Do. | Do. | 1 | |
| | | | | John Pinder, | Captain, | Privateer schooner Dash, | | 1 | |
| | | | | Joseph Whitwood, | First lieutenant, | | | 1 | |
| | | | | James Wilson, | Second do. | | | 1 | |
| | | | | John Fisher, | Sailingmaster, | | | 1 | |
| | | | | John Davis, | Prizemaster, | | | 1 | |
| | | | | William Druge, | Gunner, | | | 1 | |
| | | | | Benjamin W. Owyerbridge, | Volunteer, | | | 1 | |
| | | | | Jim Gardner, slave, | Carpenter, | | | 1 | |
| | | | | Lewis Gass, slave, | Boatswain, | | | 1 | |
| | | | | John M'Gee, | Seaman, | | | 1 | |
| | | | | John Peters, | Do. | | | 1 | |
| | | | | John Johnson, slave, | Do. | | | 1 | |
| | | | | Cook Johnson, slave, | Do. | | | 1 | |
| | | | | Bristol Johnson, slave, | Do. | | | 1 | |
| | | | | Bob Bootle, slave, | Do. | | | 1 | |
| | | | | Baptist Lightbourne, slave, | Do. | | | 1 | |
| | | | | Dover Lightbourne, slave, | Do. | | | 1 | |
| | | | | Baptist Johnson, slave, | Do. | | | 1 | |
| | | | | James Banks, | Do. | | | 1 | |
| | | | | Benjamin White, | Armorer, | | | 1 | |
| | | | | John Beckley, | Do. | | | 1 | |
| | | | | Tom Pinder, slave, | Seaman, | | | 1 | |
| | | | | Frank Fisher, slave, | Do. | | | 1 | |
| | | | | Isaac Fisher, slave, | Do. | | | 1 | |
| | | | | Prince Driggs, slave, | Do. | | | 1 | |
| | | | | Tim Johnson, slave, | Do. | | | 1 | |
| | | | | Nepthan Johnson, slave, | Do. | | | 1 | |
| | | | | Charles Hunter, slave, | Do. | | | 1 | |
| | | | | Jeremiah Johnson, slave, | Do. | | | 1 | |
| | | | | Sam Crawford, | Do. | | | 1 | |
| | | | | Joseph Gass, | Master-at-arms, | | | 1 | |
| | | | | Jack Johnson, slave, | Seaman, | | | 1 | |
| | | | | Ishmael Johnson, | Do. | | | 1 | |
| | | | | William Pinder, | Captain's clerk, | | | 0 | 1 |
| | | | | Will Bolds, slave, | Seaman, | | | 1 | |
| | | | | Jim Gordon, slave, | Do. | | | 1 | |
| | | | | William Maton, | Do. | | | 1 | |
| | | | | Benjamin Johnson, | Steward, | | | 1 | |
| | | | | Jim Pinder, slave, | Seaman, | | | 1 | |
| Thomas Hawkins, slave, | Do. | | | 1 | | | | | |
| | | | | | | | | 41 | 1 |
| | | | | | | | | 22 | |
| | | | | | | | | 19 | |

The above is a true report of the number of prisoners brought into the port of Savannah in the private armed schooner Midas, whereof I am master, ALEX. THOMPSON. I hereby certify that I have carefully examined the within report, and that I have verified the same by the prisoners on board, who are found to be in number and description as therein stated.

I have this day received into my custody forty-two prisoners, agreeably to the within report.
JUN 17, 1814.

A. S. BULLOCH, Collector.
JOHN EPPINGER, Marshal.

Slaves,

B.

Extract of a letter from John Mitchell, Esq., American Agent for Prisoners of War at Halifax, to the Hon. William Jones, Esq., Secretary of the Navy, Washington.

HALIFAX, N. S., March 1, 1813.

There are four black men, part of the crew of the late revenue vessel the James Madison, detained on board the Centurion. I have clothed them, and claimed them. Whether they will be delivered up before the admiral's return, is doubtful. I suspect they are detained as slaves, the property of an individual in Georgia.

Extract of a letter from John Mitchell, Esq. to Lieutenant William Miller, British Agent for Prisoners of War at Halifax.

HALIFAX, March 10, 1813.

The four black men belonging to the crew of the late United States vessel the James Madison, I observe have been sent by His Britannic Majesty's ship Shannon to Bermuda, having been considered as slaves, and emancipated by the commander-in-chief. As I have no document to enable me to judge whether those men were slaves or not, I can form no opinion on the subject of their emancipation, or how far that act renders proper the sending them out of the way of exchange, and returning to their friends.

C.

List of British prisoners of war (slaves) discharged out of the custody of the marshal of the district of Georgia.

| Number. | Names. | Age. | Color. | To what place last belonging. | Vessel in which captured. | By what vessel captured. | When delivered to the marshal. |
|---------|----------------------|-----------|----------|-------------------------------|---------------------------|--------------------------|--------------------------------|
| 1 | Moses Matthews, | 20 years, | Black, | Nassau, | Privateer Caledonia, | Privateer Nonesuch, | April 12, 1813. |
| | John Thompson, | 55 years, | Mulatto, | Nassau, | Privateer Caledonia, | Privateer Nonesuch, | April 12, 1813. |
| | Thomas White, | 27 years, | Black, | Bermuda, | Schooner Hussar, | Privateer Liberty, | April 14, 1813. |
| | Tim Darrall, | 23 years, | Black, | Bermuda, | Brig President, | Privateer Polly, | November 8, 1813. |
| 5 | John Johnson, | 25 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Prince Driggs, | 35 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Nepthan Johnson, | 30 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Bristol Johnson, | 23 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Jim Pindar, | 15 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| 10 | Jeremiah Johnson, | 30 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Cook Johnson, | 24 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Baptist Johnson, | 22 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Jack Johnson, | 25 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Isaac Fisher, | 23 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| 15 | Jim Gordon, | 14 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Will Bolds, | 23 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Dover Lightbourne, | 20 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Charles Hunter, | 60 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Baptist Lightbourne, | 60 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| 20 | Tim Johnson, | 40 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| | Thomas Hawkins, | 23 years, | Black, | Nassau, | Privateer Dash, | Privateer Midas, | June 17, 1814. |
| 22 | Evans Taylor, | 20 years, | Black, | Kingston, Jamaica, | Schooner Fame, | Privateer Rapid, | June 23, 1814. |

I do hereby certify that the persons whose names and descriptions are above mentioned, being British prisoners of war, (slaves,) captured by armed vessels of the United States, and detained since the war, have been delivered by the marshal of the United States for the district of Georgia on board the British brig Alexander, Captain Cook, bound for St. Andrew's, New Brunswick.

SAVANNAH, GEORGIA, June 28, 1816.

JAMES WALLACE, *Acting Vice-Consul.*

D.

Copy of a letter from John Mason, Esq., Commissary General of Prisoners, to the Marshal of Georgia.

OFFICE OF THE COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, *May 31, 1816.*

SIR:

I am instructed by the Secretary of State to direct that you will deliver all the British slaves captured during the late war, and detained in your custody under orders from this office of the —, to such persons as may be authorized by the British minister in this country to receive them, for the purpose of sending them out of the United States. By your return of —, I observe there were then — of these persons remaining. If any have escaped, you will use your best endeavors to recover them, and deliver them at the same time. As the object of the Government is to get them removed from the United States, you will immediately adopt such precautionary measures, and continue them, in concert with agents appointed by the British minister, until they are embarked and under way, as may be best calculated to prevent their escape, and to insure their departure out of the country by the conveyance provided by the British agents.

You will take, when delivered, the receipt of the British agent, or duplicate descriptive lists of these people, showing names, age, color, to what place last belonging, and name of vessel in which captured, which you will forward to this office, accompanied by a complete list descriptive, as above, of all the persons of this description, detained by you under orders from this office, as before mentioned, showing in this last list the casualties, as escapes or deaths, against each name, that may produce a disagreement with the first mentioned list.

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *April 14, 1818.*

I certify that it appears, by documents on file in this office, that the persons below named, slaves captured on the 14th June, 1814, in the privateer schooner Dash, by the American private armed vessel called the Midas, whereof Alexander Thompson was master, were brought into the port of Savannah, in said privateer Midas, and, on the 17th June, 1814, were delivered into the custody of John Eppinger, marshal of Georgia; that, in consequence of the opinion of the Attorney General, of 27th May, 1817, the bounty provided by act of Congress of the 19th March, 1814, was not allowed on said slaves.

| | |
|--------------------------|-----------------------|
| Jim Gardner, carpenter. | Isaac Fisher, seaman. |
| Lewis Gass, boatswain. | Prince Driggs, do. |
| John Johnson, seaman. | Tim Johnson, do. |
| Cook Johnson, do. | Nepthan Johnson, do. |
| Bristol Johnson, do. | Charles Hunter, do. |
| Bob Bootle, do. | Jeremiah Johnson, do. |
| Baptist Lightbourne, do. | Jack Johnson, do. |
| Dover Lightbourne, do. | Will Bolds, do. |
| Baptist Johnson, do. | Jim Gordon, do. |
| Tom Pinder, do. | Jim Pinder, do. |
| Frank Fisher, do. | Thomas Hawkins, do. |

S. PLEASONTON, *Auditor.**Mr. Pleasonton to Mr. Rush.*

SIR:

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *May 27, 1817.*

A settlement of the remaining claims to bounty on prisoners brought into the United States, by privateers, during the late war, having devolved upon this office, and the question never having been formally settled, as I am informed by General Mason, "*whether negro slaves of the enemy, captured and brought into port, were legitimate objects of bounty,*" and as several claims of that nature are still pending, I must ask the favor of your opinion on the subject.

The object of the bounty law was, evidently, to obtain prisoners who were liable to exchange, and with whom we could redeem such of our own citizens as fell into the enemy's hands. Hence, surgeons, chaplains, supercargoes, and passengers, who had no military employment or situation on board of vessels, were excepted from the bounty; these being considered as non-combatants, and not falling within the rules of exchange. It has been the policy of our Government (as you are, doubtless, aware) not to consider slaves captured in the enemy's service as liable to exchange, and they were consequently not exchanged in any case, but were detained, and not surrendered to the British authorities until after the conclusion of the war. It may be observed, too, that, in some instances, the captors obtained from the courts condemnations of slaves as prize property, and caused them to be sold for their own benefit.

I have only to add that the last law on the subject of bounty, passed on the 19th March, 1814, is that under which the claims now to be considered have arisen.

Very respectfully, I am, sir, your most obedient, humble servant,

S. PLEASONTON.

HONORABLE RICHARD RUSH, *Attorney General.**Mr. Rush to Mr. Pleasonton.*

SIR:

WASHINGTON, *May 27, 1817.*

In answer to your letter of this day's date, I have to state it as my opinion, under the act of Congress of March 19, 1814, that slaves of the enemy, captured and brought into port during the late war, were not objects of the bounty provided by that act.

With great respect, I have the honor to be, sir, your obedient servant,

RICHARD RUSH, *Attorney General.*

Mr. PLEASONTON.

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *December 4, 1818.*

S. Pleasonton presents his compliments to General Smith, and, in compliance with the request contained in his note of yesterday, has the honor to enclose two extracts of letters from Colonel Barclay to General Mason, and the copy of a note to the latter from Mr. Baker, on the subject of black prisoners, to which the letters of General Mason, now in the possession of the committee, are answers.

S. Pleasonton was not aware, when he penned his note of 26th November to General Smith, that Colonel Barclay had proposed to place a particular number of British prisoners of color, held at New London, on the footing of ordinary prisoners of war, which it seems by one of the notes (that of the 23d May, 1813,) was the case.

S. Pleasonton encloses also for the use of the committee sundry papers on the same subject, which were only discovered this morning, and which appear to have been collected and arranged by General Mason, previously to his resignation of the office of commissary general. He requests General Smith to have the goodness to return these papers after the committee shall have perused them, some of them being original.

Extract of a letter from Colonel Thomas Barclay, British Commissary General of Prisoners, to John Mason, Commissary General of Prisoners for the United States, dated

HARLEM, *July 3, 1813.*

By referring to my former letters, you will observe those which wait replies, particularly a letter of the 23d of May, respecting Mr. Oswald Lawson, a merchant, evidently a non-combatant, detained as a prisoner of war at Charlottesville, in Virginia, and the sixteen black men captured by the Holkar American privateer, and carried into New London.

THOMAS BARCLAY.

Extract of another letter from the same to the same, dated

HARLEM, *May 23, 1813.*

The American privateer Holkar captured not long since a British vessel, having sixteen negroes, British subjects, on board; they have arrived at New London. The owners of the privateer, I am informed, claim them as British property, but the marshal retains them in his custody. I beg you to direct the marshal to retain them as prisoners of war, and, if you have no objection, I will be at the expense of sending them to Boston to go in the cartel. If you accede, send me an order to the marshal of Connecticut for the purpose.

THOMAS BARCLAY.

Copy of a note from Anthony St. John Baker to General John Mason, Commissary General, &c.

PHILADELPHIA, *June 22, 1815.*

Mr. Baker presents his compliments to General Mason, and, as he understands that several black and colored people, at Charleston and Savannah, captured during the war, have not been released with the other prisoners, but are still kept in confinement by the marshals at those places, requests General Mason would have the goodness to acquaint him with the cause of their detention, and favor him with the communication of any directions which may have been given to the marshals respecting them.

Str:

SAVANNAH, *August 13, 1813.*

Certain black prisoners, taken in the British privateer Caledonia, by a vessel of the United States, and brought into this port, were yesterday preparing to be sent on board the cartel ship Magnet, when your orders to the marshal were received; upon which they were detained. I take the liberty of enclosing a copy of a letter I received from the agents of the captors; to which I answered that I could not act as attorney for the United States, or make use of the name of Government in a libel such as the agents requested me to file. Mr. Howard says that, in Jamaica, negroes have been bonded to the amount of their value, to answer the decree of the court of admiralty, in a capture of a vessel, said to be American property, covered by a neutral flag. That four negroes, thus bonded, lately arrived in Savannah from Jamaica: the negroes are said to belong to a Mr. Young, living near Norfolk. In the Caledonia there are negroes the private property of the enemy, and of the owners of the privateer. These, if possible, ought to be condemned, or ordered to work for the public, as an example to the owners: for, if it is once admitted that slaves found on board British private armed vessels are to be fed and restored as prisoners of war, and that the owners run no risk or expense in the property, we may have swarms of these men on our coast if the war continues long. I shall attend, with pleasure, to any instructions you may favor me with respecting the present communication. The cartel Magnet came from off the bar of Charleston, and lay off our bar a day or two, before the marshal got information of her arrival. At the same time, the Collibri brig of war was in company with the cartel, and in sight of the light-house. It is believed she attended the cartel for the purpose of getting men. If this be tolerated on general principles, after the exchange is really completed, by the arrival of the prisoners on board a *British* cartel, and receipted to our Government, it is indeed wrong in *practice*, so far as relates to us, as the enemy commands our coast. The vessel of war having been some days near the cartel gives this suspicion a probability that I take for certainty; and, if so, it is an abominable fraud upon the spirit of the convention, though fully within the scope and spirit of British policy. With an intended invasion upon our coast, it is an object for the enemy to obtain, *almost* on the spot, prisoners just leaving our city, and well informed as to our situation, force, &c. These men walk about Savannah, make observations, know the number of our volunteer corps, their numbers, &c., and retire master spies of our weakness and divisions. Would it not be possible to accommodate them elsewhere with ease and comfort?

Excuse the liberty I take in this writing; my motive is my apology for troubling you.

I am, sir, with the utmost respect, yours, very obediently,

CHARLES HARRIS, *District Attorney.*

General MASON.

SIR:

SAVANNAH, August 2, 1813.

In the private-armed vessel *Caledonia*, — Hinson, master, lately captured and brought into this port by the United States schooner *Nonesuch*, commanded by Lieutenant Monk, there were a number of persons of color, held to labor, under the laws of Great Britain or her colonies, and belonging to the enemy as detailed in the list hereto subjoined. We are prepared to show that, in cases where captures are made by the enemy of persons of that description belonging to citizens of the United States, they are considered prize of war; and presuming, not only upon the general principle of the forfeiture of all the interest of the enemy's property, as well as *lex talionis*, we have to request, on behalf of the captors, that a libel may be filed in relation to those people against all the claims and rights to labor of the enemy, in such manner and form as you may think proper.

We are, sir, very respectfully, your obedient servants,

SAMUEL & CHARLES HOWARD, *Agents for captors.*

CHARLES HARRIS, Esq., *Attorney of the U. S., Dist. of Georgia.*

15th CONGRESS.]

No. 469.

[2d SESSION.

ARMY CONTRACTOR.

COMMUNICATED TO THE SENATE, JANUARY 7, 1819.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Charles Higgins, reported:

That, in the year 1816, the petitioner entered into a contract with George Graham, then Acting Secretary of War, for the supply of rations to the United States troops stationed within the State of Pennsylvania; that, for the purposes of that contract, the petitioner drew upon the said Secretary, at three days' sight, for an advance of ten thousand dollars, in favor of one Jared Irwin, then a member of Congress from the State of Pennsylvania. The Secretary refused to accept the draft for the whole amount, but paid seven thousand dollars on it to Irwin, who gave a receipt on the back of the draft, and transmitted the money to the petitioner. On the 12th day of March following, a further sum of two thousand dollars was paid at the War Department, without further authority from the petitioner, to the said Irwin, for which the petitioner stands indebted. Soon after the receipt of this last sum, Jared Irwin ran off, and has never since returned, nor has the petitioner ever received any part of the last two thousand dollars. The petitioner conceives, as the Acting Secretary of War did not pay more than seven thousand dollars upon the draft being presented to him, that the subsequent payment of two thousand was illegal and unauthorized, and therefore prays that Congress will exonerate him from all liability for those two thousand dollars.

It appears to your committee that the sum of ten thousand dollars was more than double the amount contemplated by the War Department as necessary to complete the contract on the part of Mr. Higgins; but that the Department did advance him seven thousand upon his draft; that, in a short time thereafter, the further sum of two thousand dollars was advanced; and as the person in whose favor the draft was drawn ought to have been above suspicion, (he being a member of Congress from Pennsylvania,) there was no hesitation in honoring the draft according to the ability of the fund set apart for that purpose. It seems to have been the impression of the Department that it was acting in pursuance of the authority of Mr. Higgins's draft in paying the additional two thousand dollars; nor is there any thing in Mr. Higgins's letter calculated to produce a different opinion.

The committee are of opinion that the Department considered that, in the payment of the additional two thousand dollars, it was acting upon the authority of Mr. Higgins's draft for ten thousand; and as Mr. Higgins seems to have held a similar opinion in the first instance, they do not find themselves warranted in recommending any interference on the part of Congress. They therefore propose that the petitioner have leave to withdraw his petition.

SIR:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, December 23, 1818.

I have the honor to state, in the case of the petition and accompanying papers of Charles Higgins, referred to me, that it appears, from documents in this office, that, under date of the 20th January, at Sunbury, Pennsylvania, he drew a draft on the Acting Secretary of War, in favor of the honorable Jared Irwin, for ten thousand dollars on account of his contract, which draft was accompanied by a letter of advice requesting that amount to be advanced to Mr. Irwin, copies of which are with the petition; that, on the 7th February following, the Acting Secretary of War issued a warrant for seven thousand dollars in favor of Jared Irwin, per order, without stating in the warrant that it was in part of the draft, but merely that the amount was to be charged on the books of the Accountant to Charles Higgins, on account of his contract, dated 16th November, 1816; that, subsequently, say on the 12th March, 1817, the Acting Secretary of War issued another warrant, in like manner, to Jared Irwin, per order, for two thousand dollars, chargeable to Charles Higgins on the books of this office, under his contract, dated 16th November, 1816; that there being no order accompanying the latter warrant in favor of Mr. Irwin when it was presented for my signature, application was made at the War Office for the authority, and I was referred to the Accountant's office for the draft drawn by Mr. Higgins, on which the seven thousand dollars had before been advanced, for said authority; that reference was accordingly had to said draft, and I made on it the following endorsement: "Two thousand dollars advanced, in addition, 12th March, 1817, per warrant No. 4." This is the amount the petitioner now claims to be exonerated from. That it was the understanding of the Department that the latter sum was payable on the draft of Mr. Higgins, there is no doubt; and that such was his impression, seems to be the fact from his own letter to the Department, dated 12th June, 1817, a copy of which accompanies this statement.

Why but seven thousand were first advanced to Mr. Irwin, and afterwards a further sum of two thousand dollars, is not stated on the papers; but it is presumed the state of Mr. Higgins's contract did not warrant greater advances: of this, however, the then Acting Secretary of War can doubtless furnish information.

It may be proper to add, in explanation why the first advance was charged on the books of the Accountant, and the draft filed in that office, that it was then his duty to settle contractors' accounts; which duty, by the act of the 3d March, 1817, was transferred to this office; and accounts for the latter warrant being charged on my books, and my not having any knowledge of the prior transaction, which made it necessary to apply for the authority under which Mr. Irwin was to receive the two thousand dollars.

Respectfully, I have the honor to be, sir, your obedient servant,

PETER HAGNER, *Auditor.*

Hon. JOHN C. CALHOUN, *Secretary of War.*

SIR:

JANUARY 5, 1819.

In answer to your letter of this date, enclosing the petition of Charles Higgins, and requesting to be informed of the reason why the whole amount of the draft drawn by Mr. Higgins on the Department of War for ten thousand dollars, in favor of Jared Irwin, was not paid at one time, I have the honor to state that, when that draft was presented for payment, there was nothing due to Mr. Higgins. He had entered into a contract with the Department of War for the supply of rations to such troops as might be stationed in the State of Pennsylvania; which contract was to go into operation on the 1st of June, 1817. In similar cases, it is usual for the Department to make such advances to the contractor as the probable amount of the supplies which may be required under his contract and the state of the appropriations at the time may justify. On these grounds it was, that an advance of seven thousand dollars was made to Irwin, who was at that time a member of the House of Representatives, on the draft of Higgins for ten thousand dollars; and subsequently, and after the passage of the general appropriation law, a further advance of two thousand dollars was made to him on account of the said draft; which sum of nine thousand dollars was deemed a sufficient advance on the contract of Higgins—the whole amount of which was not at the time expected to exceed thirty-five thousand dollars.

It is not the general usage of the Department of War to answer drafts by making separate payments on them; such practice being inconvenient to the officers of the Treasury, and inadmissible when the holder of the draft is under the necessity of having it protested and returned for non-payment. Separate and partial payments have, however, been occasionally made on drafts, with the consent of the holders of them, as in cases where they have been drawn on an appropriation which has been so far exhausted as not to be adequate to the payment of the whole draft, and in cases where drafts have been drawn by contractors for larger sums than the then state of their accounts would justify the payment of. The original drafts being retained in the office is considered as sufficient to authorize the payment of the whole or any part of them, as circumstances may make expedient, to the person who presented them, and in whose favor they may have been drawn.

I never understood, until I saw the petition, that Mr. Higgins denied the authority of Mr. Irwin to receive the amount which had been advanced to him on the draft for ten thousand dollars.

I have the honor to be, with very great respect, your obedient servant,

GEO. GRAHAM.

The Hon. R. GOLDSBOROUGH, *Chairman of the Committee of Claims.*

15th CONGRESS.]

No. 470.

[2d SESSION.]

DAMAGES DONE TO THE FARM OF M. L. WOOLSEY, NEAR PLATTSBURG, BY TROOPS OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 7, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Melancton L. Woolsey, reported:

That the petitioner claims \$1,030 for injuries sustained from the occupation of his farm, at a place called Cumberland head, near Plattsburg, in the State of New York, in the years 1813 and 1814, by troops of the United States; and thus enumerates the several items of his claim:

| | |
|---|----------------|
| To the occupation of my farm in 1813 and 1814, destruction of fruit, grain, &c. growing thereon, by General Hampton in 1813, and General Izard in 1814, fortifying, &c. - - - | \$200 |
| To 3,500 rails of cedar, burnt by the army for fuel, at \$50 a thousand, - - - | 175 |
| To wood cut on ten acres of woodland, it being all the woodland I had, and the nearest to the ground occupied and used for fuel and fortifications, - - - | 150 |
| To a log-house, shingle roof, and plank floors, destroyed and burnt up—roof and chimney materials carried away to complete huts and tents, - - - | 30 |
| To destruction to a barn in 1813; Captain Hall, of the dragoons, put his horses into the barn, and occupied it about a week; the stable and sides, including the great doors, the floor, and partition between the floor and stable, kicked entirely to pieces, stripped off, and burnt up, - - - | 50 |
| To destruction of a nursery of 1,000 trees, 700 of which were of the best grafted fruit, fit to set out on ground occupied by the troops, - - - | 350 |
| To five acres oats and potatoes, destroyed by public teams, - - - | 75 |
| | <u>\$1,030</u> |

To the above schedule there is a note annexed, of which the following is an extract: "In 1813 my fences were partly destroyed, and the whole of about twenty cords of wood, drawn from the swamp and piled for family use; for which, together with a certain sum for the last item of this account, I was paid by Quartermaster General Thomas; the amount not recollected."

The committee think it an honorable act in the petitioner to admit the payment of a part of his claim, although "the amount not recollected;" and that, by such admission, his claim ought by no means to be prejudiced; that, until the contrary be clearly shown, it must be regarded as satisfaction for whatever injuries might have been sustained in 1813, particularly when considered in connexion with the rules of the War Department applicable to such cases, of which the following is an abstract:

"When private lands and buildings are occupied by troops of the United States, a reasonable compensation shall be made to the proprietor by the quartermaster of the district or port; and, when the rate of compensation cannot be satisfactorily agreed on, discreet and disinterested persons shall be appointed by the quartermaster and the proprietor to appraise the rent, which will be settled by the quartermaster, and the damage paid."

They are therefore of opinion that, upon the testimony offered, no allowance can be made for injuries which might have been sustained in 1813; and, as there is no proof offered as to the *portion* of the claim which may have arisen from injuries sustained in 1814, a case is not made out which will entitle the claimant to any relief. The committee, therefore, recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 471.

[2d SESSION.]

APPREHENDING A COUNTERFEITER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of James Doyle, reported:

That, in this case, the petitioner represents that, in the year 1805, he was requested by the attorney of the United States for the district of North Carolina to apprehend and bring to justice certain offenders who were suspected of passing counterfeit notes on the Bank of the United States; that he did pursue and search after, and apprehended one of the suspected persons; in effecting which service, he expended a considerable sum of money, as also underwent much fatigue and spent some time, for which he asks remuneration.

There is evidence of the expenditure of money and loss of time by the petitioner in pursuing the suspected persons aforesaid; there is no evidence, however, that the attorney for the United States employed, or even requested, the petitioner to perform the service for which he claims payment; nor do your committee *admit*, if such had been the fact, that the United States are bound to remunerate. There is a letter dated in October, 1806, *purporting* to be from the United States attorney for that district, in which it is admitted that the petitioner had been at trouble and incurred expense, and an opinion is expressed that the bank, or the United States, would eventually remunerate the petitioner for the same, and that, at a proper time, he (the attorney) would recommend the claim of the petitioner for payment.

The committee are unable to discover that the petitioner has any just claim on the Government for this service or expense. The Government at that period had no interest in the Bank of the United States; and it would seem that the banking company or companies whose notes were counterfeited and passed were the proper persons to ask for payment for services and expenses of this sort, if admissible at all; and it does seem probable, from the absence of testimony in this respect, which has been long since asked for, that the bank or banks have made the petitioner a reasonable compensation. The committee are of opinion the claim ought to be rejected.

15th CONGRESS.]

No. 472.

[2d SESSION.]

DEPRECIATION, BOUNTY LAND, AND COMMUTATION.

COMMUNICATED TO THE SENATE, JANUARY 12, 1819.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Clark, reported:

That the petitioner offers satisfactory evidence that he entered the military service of his country at the commencement of the revolutionary war, and continued to serve in various stations until the 10th January, 1779, at which time he held the commission of a major, and acted as aid-de-camp to General Green. Previously to this period, he had accidentally received a dangerous wound from a pistol-shot, which exploded at the moment his servant was taking it up to put it into his holster. The disability resulting from the effects of this wound had made him ineligible to active field of service, and, on the 10th of January aforesaid, he was appointed auditor of accounts for the main army, in which capacity he acted until the 1st November following; when the feebleness of his

health compelled him reluctantly to quit the military service, and he thus lost the benefit of the depreciation of pay, bounty land, and commutation, and, though disabled by a severe wound, he has not, until the pension act of last session, had the benefit of a pension. He submits his stated account with the United States of the pay received, settled to its specie value; also a balance of \$228, advanced to subsist his detachment on their march to join the army at Trenton, making \$4,017 58. When the petitioner entered on his duties as auditor, it will be recollected the bills of credit were verging fast to their lowest stage of depreciation, and the petitioner, in his letter of acceptance to Congress, stated the insufficiency of the compensation, to wit, four dollars and three rations per day, and that he was willing to assume the duties without any fixed stipulation of pay, leaving it to be settled according to equitable views. The petitioner has laid before the committee the most satisfactory proofs of his honorable zeal, activity, valor, and intelligence while in the military service, and no shade of doubt remains with them but that ill health alone induced him to quit the service. Major Clark presents a fair object of eulogy, but it is enough to know he was aid-de-camp to General Green; that he was recommended to Congress by letter of General Washington, of 2d January, 1778, in terms of high approbation; and that that illustrious body gave him the appointment of auditor thereafter. These facts bespeak a merit that must suffer by an attempt further to illustrate it. It appears to the committee that the petitioner's case has stronger equity than that of the supernumerary officers who were allowed bounty lands.

The loss of depreciation sets peculiarly hard on one who remained in service almost the whole time the evil existed, and retired, only a few months before provision was made for it, in extreme ill health, caused by a wound that could not be compensated by a pension. The committee, however, think it not expedient at this time to open the petitioner's accounts to settlement. Although they think his case one of strong equity, they apprehend no considerations whatever would justify a recognition of a depreciation account at this time, for obvious reasons. The grant of bounty land they, however, deem safe and just; and, in making this grant, they believe it would be proper to have reference to the merit and sufferings of the petitioner rather than to his rank. They therefore respectfully report a bill.

15th CONGRESS.]

No. 473.

[2d SESSION.

PURSER'S STORES CAPTURED BY THE BRITISH IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1819.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the memorial of Thomas Shields, reported:

That the memorialist states that during the invasion of Louisiana by a British force, in the winter of 1814, he, in his capacity of purser in the navy on the New Orleans station, furnished five gun-vessels of the United States, then stationed in Lake Borgne, with stores and necessaries for the supply of their crews, to the amount of \$2,492 08; that, on the 14th December, the said gun-vessels, then under the command of Lieutenant Jones, were attacked by a superior force, and captured, after a gallant resistance; that, by reason of the said capture, the memorialist lost the whole of the said stores, so furnished for the use and comfort of the said crews, and prays remuneration from Congress.

The committee find, upon examination, that the stores above stated by the memorialist were his private property, consisting of sugar, coffee, knives, combs, &c.; that, by the regulations of the naval service, the purser is authorized to sell to the crews of the vessels articles of the above description at a limited but liberal advance; that this privilege is, generally speaking, very profitable to the purser, and is no doubt one of the great inducements to the attainment of that appointment in the naval service, generally sought after, the committee believe, with solicitude. The committee have not been able to find that the public have heretofore made good any losses of this description, though doubtless many have occurred. Were this a solitary case, the committee would feel a strong disposition to make good the loss, on account of the general good conduct, patriotism, and public spirit of the memorialist, which is abundantly proved. But the committee must act upon principles applicable to all cases of a similar nature. The hazard incurred in cases of this kind in time of war is an ordinary one, and perfectly understood, it is presumed, by all persons encountering it. It is met for the chance of the profit on the sales of the articles; which premium, the committee think, ought to cover the risk, and that the United States ought not to be considered as insurers in cases of this description. The committee recommend to the House the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

15th CONGRESS.]

No. 474.

[2d SESSION.

LOSSES BY THE BURNING OF THE UNITED STATES SHIP ADAMS IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of James Caze and John Richaud, of the city of New York, reported:

That this claim appearing to the committee to involve legal principles of some importance, they directed its reference to the Attorney General, with a request that he would give them his opinion thereon. To the opinion of the Attorney General the committee beg leave to invite the attention of the House.

The following resolution is recommended to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,

January 8, 1819.

SIR:

I regret that my official duties have not permitted me to attend sooner to the claim of Messrs. Caze & Richaud, on which you have asked my opinion. The case I understand to be this: When the British invaded Castine, in the autumn of 1814, Captain Morris, commander of the United States ship Adams, then lying in that port, burnt her, in order to prevent her falling into the hands of the enemy; the fire was communicated from the ship to a neighboring warehouse, in which the petitioners had valuable property stored, which was thus destroyed; and for the value of the property the present claim is advanced. The question you ask is this: "Suppose the burning to have been necessary to effect a legitimate national object, can the liability for consequential damages to an individual be avoided at law?"

It is extremely difficult to bring a question like this to any known legal standard. All the cases of consequential damages furnished by the books have been cases involving none but *individual interests* on the one hand or the other, and never complicated with any great considerations of public war or national defence. Were it possible to regard this as a question *purely individual*, there would be no difficulty in deciding it: for, among individuals, it has been long since settled—

1st. That, though a man do a lawful thing, yet, if any damage thereby befall another, he shall answer, *if he could have avoided it*; and that this principle holds in all civil cases. (See Sir Thomas Raymond's Reports, 422-3, and 467-8.)

2d. That, to bring a man within the protection of inability to avoid the damage, it must appear that the lawful act which produced it was not of a nature to have threatened the consequential damage so imminently but that it might have been avoided, by proper care on the part of the defendant; thus, it is a necessary part of husbandry in some countries to have fire in the grounds, and it is perfectly lawful to have it; but the husbandman must, at his peril, take care that the fire so made shall not, through his neglect, injure his neighbor: for if it do, he shall answer. *If, however, a sudden and violent tempest arise after the fire shall have been kindled, and, in spite of the husbandman's resistance, carry the fire into his neighbor's lands, this shall excuse him.* (1 Lord Raymond, 264. 1 Salk. 13, and 12 Mod. Rep. 151.)

3d. If a man cannot use his property in any given way without inevitable injury to that of his neighbor, it is not lawful in him to make that use of it; and if he do, he shall answer the damage: because, being the *inevitable* consequence of his act, he will be considered as having intended it, and, therefore, as being responsible for it. This proceeds on the well-known maxim of the law, *sic utere tuo ut alienum non laedas*. The obstruction of ancient lights, the diversion of ancient watercourses, &c. are illustrations of this maxim.

Whether these principles would, if suffered to apply, decide an action brought by the petitioners against Captain Morris, would depend on the particular circumstances of the case, which are not detailed by the petition. For example: 1. Could Captain Morris have avoided this damage by proper care on his part? 2. Was the ship Adams fired when she was at a safe distance from the warehouse, and was she carried thither by an unexpected storm or wind, which could not have been resisted? 3. Or was the ship so near the warehouse when fired, that the communication of the fire to the warehouse was an inevitable consequence of that measure? If the facts of the case would answer the first and last of these questions affirmatively, Captain Morris would be condemned to answer the damages, by the principles which have been stated. If, on the other hand, the facts would answer those questions negatively, or the second question affirmatively, he would be discharged.

These principles, however, are made for peace; in war, there is another maxim, which silences every other—*salus populi suprema est lex*. If, therefore, the measure was one which the interests of the whole community called for, the officer who performed it could not, I think, be condemned to answer the individual damage, unless his neglect in performing it was *gross indeed*.

How far the people, for whose benefit the ship was fired, ought to feel themselves bound to answer for this consequential damage, is a question which our law books do not enable us to answer. It is, indeed, a fundamental principle of the social compact, that individual property shall not be taken for the public good, without compensation to the individual from whom it is taken; but this proceeds upon the consideration that the public have derived an advantage from the use of the property which it ought to requite; or, in other words, that all the members of the community are bound only to contribute *equally* to the public good, and that he who has been compelled to contribute more than his fair proportion shall be restored to the footing of equality by reimbursement. This is the basis of the writ of *ad quod damnum*, where, in time of peace, individual property is condemned for the public good; it is the basis, too, of those laws which, at the close of the late war, provided a compensation to individuals for property lost, captured, or destroyed by the enemy *while in the military service of the United States*. The claim of Messrs. Caze & Richaud seems to go a step beyond these principles. Their property was not in the military service of the United States; it was not taken for the public service; the public derived no benefit from the use of it; they had no use of it. Its destruction seems to me to have been one of those casualties of war which place them on no higher ground than the hundreds (perhaps thousands) of individuals along the shores of our bays and rivers, who (like the warehouse and sails in the present case) were ruined by the mere circumstance of their greater exposure to the calamities of war.

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

WM. WIRT.

The Hon. LEWIS WILLIAMS, Chairman Committee of Claims.

15th CONGRESS.]

No. 475.

[2d SESSION.]

BOATS AND OTHER SUPPLIES IN 1775:

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 15, 1819.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom were referred a resolution of the 24th of December, 1818, instructing the committee to inquire into the expediency of making compensation to Reuben Colburn for boats and other supplies furnished by the authority of General Washington to the expedition under the command of Colonel Arnold at the time it ascended the Kennebeck river in 1775, and documents accompanying the same, reported:

That, with the documents submitted for consideration, is a statement of an account charging the United States debtor to Reuben Colburn in the sum of £523 15s. 10d., and crediting the United States with the sum of £159 10s. 6d., leaving a balance of £364 5s. 4d.; and for that amount the claimant is now presumed to ask to be reimbursed. The said account appears to be dated September 12, 1775, and to it is attached a certificate of Henry Dearborn, of Boston, in the county of Sussex and Commonwealth of Massachusetts, testifying, as appears, on oath, on the 9th day of December, 1818, that, in the year 1775, he was attached to an expedition under command of Colonel B. Arnold, destined to Quebec, by the way of Kennebeck river; that, at the head of the tide-water of said river, the detachment was furnished with about two hundred batteaux or boats, by Reuben Colburn, with oars, paddles, and setting-poles, sufficient for said boats; that the prices charged in the foregoing account are reasonable; that said Colburn proceeded on the said expedition to near the head of Kennebeck river, with a party of men under his direction; that he had several white men and Indians in his employ as guides and spies; that he, the deponent, has seen in the said Colburn's possession several letters from General Washington, directing said Colburn to procure said boats, oars, paddles, and poles, and to procure spies and guides for the expedition, and to furnish them with provisions; that the said Henry Dearborn, being fully acquainted with the original papers and facts, hath no doubt of the fairness and honesty of the foregoing accounts.

In the examination of this claim, the committee have had recourse to a report of the Committee of Claims made to this House on the 15th of January, 1796, as follows:

"Reuben Colburn prays for settlement of an account for making two hundred batteaux for the United States, in 1775, (for which he has B. Arnold's receipt,) for twenty more batteaux, and some other services, supplies, &c. He states that his papers and vouchers were in the hands of Royal Flint until after his claim was barred by the limitation act. If this account or claim was lodged in time with the proper officer and not settled, it ought to have been attended to, and lodged with Mr. Milligan, Comptroller of the Treasury, before July 23, 1788, if it was an unliquidated claim; if liquidated, an abstract of it might, any time before May 1, 1794, have been lodged with the Auditor, and the limitations avoided."

"In September, 1775, his receipt from General Arnold was given, and in the same month he received £332 10s. 6d., in cash. His claim was presented on the 2d of February, 1795. From September, 1775, till February 20, 1782, Mr. Colburn says he could not obtain a settlement from General Arnold. At that time commissioners were appointed to go into each State and settle with individuals. In 1787, he says he applied to Mr. Imlay, commissioner for Massachusetts, and lodged his vouchers, &c. with him for settlement. On the 17th day of March, 1785, all claims were directed to be lodged with such commissioners within one year from that date, and every claim not so lodged was precluded from settlement, except at the Board of Treasury. On the 23d of July, 1787, an abstract of claims of this kind was directed to be lodged with the Comptroller of the Treasury within a year, or be barred forever. Mr. Colburn says he called upon Imlay some months after lodging his papers with him, and was told all such accounts were sent to New York, to the War or Treasury Department, and that in January, 1795, they were found in Royal Flint's hands in New York, after making many fruitless searches for them before that time. The committee are of opinion his claim ought not to be granted."

It further appears that the said report was, on the 21st of December, 1796, recommitted to the same committee; and it further appears that, on the 20th of February, 1797, another report was made thereon, as follows:

"The committee are convinced that some exertions were made by the petitioner to obtain a settlement of this claim, but not in conformity to the acts of Congress, so as to prevent the operation of the acts of limitation against them. The committee cannot find sufficient reasons to induce them to recommend a discrimination to be made between these and others heretofore considered. They ask leave to refer to the former report, with which it is their opinion it would be proper for the House to concur."

The committee have in this case also had recourse to the Department of War to obtain information relative thereto; and it appears, by a document herewith submitted from the Third Auditor, that the only circumstance connected with the command of Colonel Arnold, at that date, is to be found in his accounts on the books, in which he receives a credit for a large amount of expenditures, without specifying the items, and that in the large disbursements of the quartermaster general the items are not specified.

It appears, by the report of the Committee of Claims above alluded to, that in the month of September, 1775, the said Reuben Colburn received the sum of £332 10s. 6d., in cash; that in the said stated account a credit is given to the United States for the sum of £159 10s. 6d., dated September 12, 1775, as appears by said account.

The committee further report that, if this claim has not been settled and paid, there was time sufficient allowed, with due diligence, consistent with the resolves and acts of Congress in such case made and provided, to have obtained a settlement thereof, and payment of what remained due thereof, in the term of time of near or about nineteen years, from the time it originated until the year 1794, when it was finally barred by the statutes of limitation; that more than forty years have passed away since the time this claim is stated to have originated; that to admit a claim of this description after having been so long barred by the statutes of limitation, is inexpedient, and will be to establish a very dangerous precedent; that, after a very full investigation of this claim, this committee do concur in the opinion expressed in the reports of the several Committees of Claims above mentioned, and therefore submit the following resolution:

Resolved, That the claim of Reuben Colburn ought not to be granted.

15th CONGRESS.]

No. 476.

[2d SESSION.]

SUSPENDED ITEMS IN THE ACCOUNT OF A RECRUITING OFFICER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of William McDonald, brother and administrator of the late Captain James McDonald, of the 14th regiment United States infantry, reported:

That the petitioner states that, in the settlement of the accounts of his late brother with the proper accounting officers, for bounties and premiums paid, and the allowance due him as an officer for recruiting, and for contingencies, sundry items which he conceives to be justly chargeable to the United States were disallowed for want of that strict legal evidence in their support which the rules adopted by the accounting officers require. He also states that Captain McDonald died at Buffalo, in the State of New York, on the 11th day of November, 1814; that, some considerable time after his death, his trunk was brought home to the petitioner, with the lock broken and only secured by a strap; that some of his clothes were missing, and his papers not in well-secured bundles, but loose and mixed up amongst his clothes, as if they had been carelessly thrown in together or jumbled up from the jolting of so long a journey, or disturbed by some intruder, which induces him to suppose that some if not many of his papers may have been lost, by which he is deprived of the means of furnishing to the accounting officers that conclusive and direct evidence in favor of the disallowed items which their strict rules require. He therefore prays the interference of Congress in his behalf.

The petitioner enters into a lengthy detail of facts and circumstances in relation to the disallowed items, which the committee deem it unnecessary to repeat in their report, as they think it most proper to refer the petition and documents to the proper accounting officers, with directions, in the settlement of the accounts of the said late Captain James McDonald, to make such allowance for bounties and premiums paid, and for money due him as an officer for recruiting, and for contingencies, as may appear equitable and just; and for that purpose they report a bill.

15th CONGRESS.]

No. 477.

[2d SESSION.]

PROPERTY PLUNDERED BY THE ENEMY IN 1814.

COMMUNICATED TO THE SENATE, JANUARY 20, 1819.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Alexander McCormick, reported:

That, in the year 1814, when the city of Washington was taken possession of by the British, the petitioner was engaged in the performance of military duty, and absent from his home. The petitioner's store on the Capitol hill, in this city, was broken open by the enemy on the 24th and 25th of August, 1814, and goods rifled and taken away by them to the amount of between \$5,000 and \$10,000. The house of the petitioner, if not strictly a military deposite, became in some measure so, and that, too, without the knowledge or consent of the petitioner, as a part of a company of militia had taken possession of his house on the 23d of August, by order of Captain Carter. On the 24th following, the said Carter's company and parts of several other companies stopped at the petitioner's house, five or six of whom were left there sick, and numbers of them left their arms and accoutrements there, which were found by the enemy upon their arrival. The enemy were about setting fire to the petitioner's house, but were prevailed on to desist by some females of the neighborhood.

The committee do not hold the opinion that the occupation of the petitioner's house as before stated made it a military depot or barracks, in the proper sense and meaning of the terms; nor are they convinced that the goods stated to be stolen and taken away were stolen and taken away by the enemy, or that such depredations were committed because the house was regarded as a public storehouse or barracks. They therefore think that Congress cannot interfere, and offer the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 478.

[2d SESSION.]

LOSS OF A SLAVE IMPRESSED INTO THE PUBLIC SERVICE.

COMMUNICATED TO THE SENATE, JANUARY 20, 1819.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Jacob Purkill, reported:

That in November, 1814, the petitioner hired a fine negro man, named Archy, to a certain James Edwards, commander of John Wills's barge the Kitty, for a voyage to New Orleans and back to Eddyville, on Cumberland river.

On the 17th December following, when the said barge arrived at New Orleans, the black men in said barge, among whom was the slave of your petitioner, were all impressed by order of the commanding general, for fatigue duty, and were sent to cut away the timber in and about the bayou St. John, where they were constantly in wet and in deep mire. So dreadful was the condition of these laborers, that the greatest rigor was necessary to keep them to their duty, and Archy worked incessantly twenty-seven days in the mud and water. By this means he fell sick, and very shortly died of a disease in his lungs.

The loss sustained by your petitioner in the death of this man is estimated at \$700; and as he is informed by the commissioner for property lost, captured, or destroyed, that his authority under the law only extended to actual losses at the time of service, and not to consequential losses, he prays that Congress will feel the justice of his claim, and grant him compensation for a loss of property which is as grievous to him, and as certainly the consequence of taking that property into the public service, as if the death had taken place during the time of his labor at the bayou St. John.

The committee are of opinion that the uncertain character of this, and all claims resting upon consequential losses, forbids them to be allowed. The facts appear to be established, that the servant was impressed into the public service; that he was brought from that service in bad health; and that he subsequently died. There is no proof, nor is the case susceptible of proof, that the servant would not have died before his return, if he had not been impressed, as such property is at all times held subject to those casualties which destroy health and life. The voyage to New Orleans must at all times be considered as hazardous, and the more so in time of war; and the petitioner must be supposed to have hired his servant with a full knowledge of this increased risk. The committee are also of opinion that to grant the prayer of the petitioner would establish a bad precedent, and open a wide field for claims where consequential damages may be alleged. From these considerations, they submit the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

15th CONGRESS.]

No. 479.

[2d SESSION.]

DAMAGES FOR BREACH OF CONTRACT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 20TH OF JANUARY, 1819.

Mr. STORRS, from the select committee to whom was referred the bill for the relief of Ebenezer Stevens, and Lucretia Stevens, late Lucretia Sands, and others, reported:

That shortly after the contract was entered into between Comfort Sands and his associates, and the Superintendent of Finance, for supplying the troops of the moving army of the United States eastward of the river Delaware with provisions, from the 1st day of May, 1782, to the 1st day of January, 1783, Oliver Phelps and Timothy Edwards agreed to furnish to the said contractors, according to the terms of the original contract with the Superintendent of Finance, all the beef which should be required for the supply of the army during the said period; that, in consequence of the withdrawal of the contract by the Superintendent of Finance, the original contractors, not being thereafter supplied with funds, declined to receive during the residue of the period, from the said Phelps and Edwards, the rations of beef which otherwise would have been supplied to the army under their contract with the Superintendent of Finance. In consequence of the said refusal on the part of the said contractors to receive such provisions, the said Phelps and Edwards instituted and prosecuted a suit in the supreme court of judicature of the State of New York against the said Comfort Sands and his associates, and on the 30th day of July, 1783, judgment was rendered therein in favor of the said Phelps and Edwards for the sum of ten thousand three hundred and sixty-seven dollars and fifty cents damages, and costs. It appears, from the documents submitted with this report, that no part of the said damages was awarded for provisions actually furnished, but their claim was founded solely on the non-fulfilment of said contract, by the refusal of the said contractors to receive provisions subsequent to the period of its withdrawal by the superintendent. The committee are of opinion that this portion of the claim of the petitioners is founded in justice, and that they are entitled to indemnity therefor from the United States for the actual damages sustained by them. The amount of this judgment was paid to the said Phelps and Edwards on or about the 1st day of August, 1784. The committee, therefore, recommend to the House the following amendment to the bill:

In the 7th line, strike out the words "twenty-one thousand four hundred and thirty-one dollars and fifty cents," and insert, in lieu thereof, five thousand seven hundred and sixty-one dollars and seventy cents, with interest from the 1st day of August, 1784.

The committee to whom was referred a memorial of the late contractors for the main army, &c., reported:

That the contractors having complained of considerable damage sustained by the Superintendent of Finance not making good his payments according to contract, he proposed to Congress, on the — day of —, as the means of terminating their complaints, and doing justice, that the question in suspense should be determined by arbitration. Congress not having taken any steps on that subject, the financier appointed an accountant, who should, with another person chosen by the parties, hear and determine the case; a third person was chosen by the two first named. They, having signed bonds, sat till the limited time for giving in their award had expired, and the financier did not think fit to renew the bonds. On which the committee submit the following:

Resolved, That three persons be appointed by Congress, to be approved of by the contractors, who shall hear the allegations and proofs of said contractors concerning the losses they have sustained by the Superintendent of Finance not having made his payment according to contract, and that they shall determine what damages, if any, they ought to be allowed, and the United States will compensate them accordingly.

City and State of New York, ss.

Comfort Sands, of the city of New York, being duly sworn, deposes and saith: That the suit commenced in the supreme court of the State of New York, in the year 1783, by Phelps and Edwards, against this deponent and Walter Livingston and others, was brought to recover from the defendants certain damages alleged to have arisen

by reason of the non-compliance of the defendants with a certain agreement, entered into by the defendants with the plaintiffs, for the supply of the rations of beef to the moving army, from the 1st of May, in the year 1782, to the 31st of December following: that the plaintiffs in this suit, at the time of the commencement of the said suit, had no claim on the defendants for provisions actually supplied, but this claim arose entirely and solely from the refusal of the defendants to take the rations of beef from the plaintiffs, from and after the period when the contract between the defendants and Robert Morris was taken from the defendants by the said Robert Morris.

That the said suit was defended by able counsel in every stage of it, and was referred by the court to referees; that the plaintiffs claimed before the referees the actual damage, and that only, which the not receiving of the provisions agreeably to the sub-contract had occasioned.

That the plaintiffs proved that, during the months of May, June, and July, when they furnished the beef under their sub-contracts, little or no beef but stall-fed beef was to be procured, and that that description of beef was high, and that they, during these months, lost by furnishing the defendants at the price stipulated, and that their remuneration would have arisen by supplying grass-fed beef during the last months of the contract. The amount of the judgment, interest on the judgment, the costs and expenses in defending this suit, were claimed of the arbitrators appointed by act of Congress; the exact amount allowed, the deponent is at present unable to state: and further this deponent saith not.

COMFORT SANDS.

Sworn to, this 9th day of January, 1819, before me,

R. RIKER,
Recorder of the city of New York.

The people of the State of New York, by the grace of God, free and independent: To all to whom these presents shall come, greeting:

Know ye that we, having inspected the minutes and proceedings of our supreme court of judicature for our said State, do find two certain entries there remaining of record in the words and figures following, to wit:

"At a supreme court of judicature held for the State of New York, at the city hall of the city of Albany, on Saturday, the 3d day of May, 1783, Oliver Phelps and Timothy Edwards vs. Walter Livingston, Tench Francis, Comfort Sands, and Thomas Lowry:

"On motion of Mr. Burr,

"Ordered, That this cause be referred, pursuant to the statute in such case made and provided, to Mr. Justice Hobart, John Worthington, and Zephaniah Platt, Esquires, and that they, or any two of them, report thereon with all convenient speed."

"At a supreme court of judicature held for the State of New York, at the city hall of the city of Albany, on Wednesday, the 30th day of July, 1783, Oliver Phelps and Timothy Edwards vs. Walter Livingston, Tench Francis, Comfort Sands, and Thomas Lowry: On reading and filing the report of the referees in this cause, by which they report that there is due from the defendants to the plaintiffs four thousand one hundred and forty-seven pounds damages; and,

"On motion of Mr. Burr, for the plaintiffs,

"Ordered, Judgment nisi, &c."

[SEAL.] All which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness, Smith Thompson, Esq., chief justice of our said supreme court at the city of New York, the eighth day of January, in the forty-third year of our independence.

FAIRLIE.

15th CONGRESS.]

No. 480.

[2d SESSION.

HOUSE AND FURNITURE BURNT BY THE BRITISH IN 1814.

COMMUNICATED TO THE SENATE, JANUARY 25, 1819.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Robert Sewall, reported:

That, on the retreat of the American forces from Bladensburg, on the 24th August, 1814, a party of Commodore Barney's men, then a portion of that force, threw themselves into the house of the petitioner, and made an attack from said house upon the advance party of the British army under the command of General Ross; by which attack General Ross's horse was killed, one or two of his men also were killed, and several were wounded.

This adventurous and heroic party were immediately overpowered by the British force; three of them were taken prisoners in the house, whilst the remainder made their escape by flight.

The house of the petitioner, thus made a block-house of by this gallant little band, was instantly set on fire by order of General Ross, and destroyed with all its costly furniture. The house had been deserted by its inhabitants, the proprietor having several months before removed to his farm in Prince George's county for the summer; and his son, Mr. William Sewall, in whose care the house had been left by his father, was then employed in the militia who had been called into service some time before, when the enemy threatened the adjacent country.

A claim for remuneration for this house and furniture was before made to Congress, and by that body ordered to be sent to the Commissioner of Claims, under a supposition that the case was embraced by the ninth section of the claims law. The commissioner takes the same into consideration, and finds that, inasmuch as it is not proved that the house was occupied by order of the commanding officer, the claim does not come under any power of awarding indemnity that he possesses, and therefore surrenders the papers, that the petitioner may again appeal to Congress.

Upon this statement of the case, the committee are of opinion that the occupation of the house of the petitioner was not such a one as brings this case within the general principle laid down by Congress to entitle the sufferer to compensation. They therefore recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

15th CONGRESS.]

No. 481.

[2d SESSION.

ADVANCES TO A REGIMENT OF PENNSYLVANIA MILITIA IN 1813.

COMMUNICATED TO THE SENATE, JANUARY 26, 1819.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Rees Hill, reported:

That, on the 23d of March, 1813, the Secretary of War addressed a letter to the Governor of Pennsylvania, making a requisition of one thousand militia for the immediate protection of the naval armament at the town of Erie, stating that the deputy quartermaster general at Pittsburg would have orders to place the necessary supplies at Erie, and urging the expediency of a prompt execution of the requisition. On the 31st of March aforesaid, the Governor issued general orders, in pursuance of the Secretary's letter, for the detachment to rendezvous at said town of Erie on or before the 20th of April following, and constituting Rees Hill colonel or commander of said detachment. The detachment rendezvoused accordingly, to the number of nine hundred men. The expenses incident to marching the troops to Erie have been defrayed by the State, and the account liquidated. Colonel Hill remained at Erie until August, when he received an order from General Harrison to embark his regiment on board the fleet in order to join him at Lower Sandusky. He had as yet received no funds for contingent expenses, nor the men any pay, and he had been obliged to make considerable advances on his own credit, and the men were in want of many articles of clothing, particularly shoes. In this exigency, he wrote to the Secretary of War, stating his situation, and received an answer, dated 4th of August, directing him to obey General Harrison's order, and that his corps should be mustered and paid when they reached Sandusky. On the 8th of August General Harrison directed him to land at Cleveland, and bring on some boats which were there. On the 11th, he communicated this order to Commodore Perry, who, on the same day, replied that, his object being to reach the head of the lake as expeditiously as possible, he could not consent to stop at an intermediate point, adding that he understood the route by land was excellent. Colonel Hill then appears to have kept his corps together several months, and to have marched them a considerable distance without the men having received any pay, or his having the disposal of any funds but such as he had raised by his own exertion. He furnishes abundant proof that his exertions were very great, as he borrowed sums on his own credit to the amount of \$3,500, which he expended for medical, quartermaster's, and commissaries' stores. On the return of the regiment Colonel Hill was in bad health, and his trunk, containing his vouchers for those expenditures, was conveyed in an open boat, from which he was separated, from the necessity of his going on shore on account of his health. When his trunk was delivered to him at Erie, it had been broken open, part of the papers and clothes missing, and the remainder much defaced by having been wet; from which cause he has hitherto been prevented from a settlement with the United States. The State of Pennsylvania has afforded him a loan to the amount of his unsettled claim, until Congress shall have authorized an equitable adjustment of his accounts. The committee are satisfied that Colonel Hill must have expended considerable sums advanced on his own credit, a part of which has been allowed, and that he had much merit in keeping his men in service under the circumstances in which he was placed; they therefore believe he is entitled to relief, and for that purpose report a bill.

15th CONGRESS.]

No. 482.

[2d SESSION.

INCREASE OF PENSION.

COMMUNICATED TO THE SENATE, JANUARY 26, 1819.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the petition of William McFarland, reported:

That the petitioner states that he is now on the pension list at the highest rate of pension allowed by law for a total disability, but alleges that it should be increased in consequence of his having received (besides the loss of an arm) several wounds in the head, which, at times, produces mental derangement. The committee, however, conceived that in the case stated, as well as in others that have been and may hereafter be presented, the facts of increased disability, as well as the extent thereof, would be scarcely susceptible of proof, and of course the Government rendered liable to constant imposition; and the committee would further observe, as an additional reason for the adoption of the resolution annexed, that, if the general laws on the subject of pensions are not sufficiently liberal and extensive in their operation, they should be enlarged by general provisions embracing all cases coming within their purview; that justice to the public demands, and a regard for the great interest of the nation requires, that the time of Congress should not be taken up in discussing and determining every individual case that may be presented. Indeed, the form of government under which we live, and the numerous representations that compose our national councils, seem to forbid such an expectation. They therefore offer the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

15th CONGRESS.]

No. 483.

[2d SESSION.

PROPERTY DESTROYED BY THE BRITISH AT BUFFALO, IN 1813.

COMMUNICATED TO THE SENATE, JANUARY 28, 1819.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Eli Hart, reported:

That the petitioner was the proprietor of a house and store in the village of Buffalo, State of New York, which, together with his merchandise and out-houses, were destroyed by the enemy in their predatory incursion into the United States on the 30th of December, 1813. He alleges the destruction of his property was occasioned by his buildings being occupied for public military purposes, so as to make them liable to such a disposition by the ordinary usages of war. A valuation of his buildings has been made by commissioners appointed under the authority of the United States, in the execution of which duty they have given evidence in their report that they used much care and diligence. The amount is \$6,670. The petitioner also claims \$8,982 39 for personal property and merchandise destroyed in his buildings. The petitioner adduces strong proof that his house was used as a laboratory for the purpose of making up fixed ammunition, and was at the time of destruction wholly in the public use, and contained the materials and apparatus necessary for fixing ammunition, as aforesaid. The store is proved to have contained muskets, knapsacks, and stores, by several witnesses. The invoice of the personal property is attested to be true, and charged at wholesale prices, by a person who had acted for several years previous to the 30th December aforesaid as clerk to the petitioner. The petitioner appears to have been resident as a proprietor and merchant at Buffalo some years before the war, and his stock does not seem to have been more valuable when destroyed than previously. He has received no part of the sum appropriated by the State of New York for the relief of the sufferers from British violence. This is one of a large list of claims for property destroyed on the same occasion, and the committee are aware of the necessity of a strict investigation of its merits. The dwelling-house, in their opinion, stands clearly within the rule of allowance. The storehouse presents a case of more doubt, as the deposits seem to have been made with the owner's consent, and he continued to transact his own business as usual. Believing, however, that public property, wherever found, is fair prize of war, the destruction of it was an act the enemy might regularly do; and where the building was destroyed with it, as a necessary consequence, the committee are of opinion it would be just to reimburse the value to the owner. The committee admit, most readily, that the petitioner's claim for his merchandise is as imposing as any claim of the kind can well be, as he was resident in business before the war, and his stock had not increased, and that it was destroyed in consequence of its contiguity to public stores; yet they cannot recommend the allowance. The merchandise was removable, and the petitioner must have been aware of the hazard to be incurred on a weak frontier, and to incur that hazard was matter of choice which it would be unreasonable to suppose the Government should be held to insure. They therefore submit the following resolution:

Resolved, That a bill be reported, allowing to the petitioner the appraised value of his buildings.

15th CONGRESS.]

No. 484.

[2d SESSION.

FINAL SETTLEMENT CERTIFICATES.

COMMUNICATED TO THE SENATE, FEBRUARY 3, 1819.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Christopher Fowler, reported:

That, in the year 1787, Samuel Fowler, father of your petitioner, received two final settlement certificates of \$1,475 each: one from a broker, John Murphy, of Newport, which his said father caused at the time to be examined by William Ellery, Esq., loan officer, and by him it was pronounced genuine; the other from a stranger. But the interest on the last certificate had been paid at the time of its receipt at the loan office of Massachusetts, the endorsement of which on the certificate was considered by Mr. Samuel Fowler as conclusive that the certificate was good.

That the father of the petitioner continued to hold these two certificates until the year 1790, and in that time received two several payments of interest on them at the loan office in Rhode Island, and then sold these certificates, with other certificates, at the current market price. These certificates were afterwards presented at the Treasury of the United States in Philadelphia, but were rejected, *because other certificates of the very same description had been previously presented and received*. They were afterwards returned upon his hands, and he paid back the purchase money and damages. For the loss incurred from the purchase of these certificates, the petitioner prays Congress to grant him relief.

The facts stated appear to be well established, and the difficulty seems to have arisen from the fraud of a certain John Phelan, clerk in the office of John Pierce, commissioner of army accounts, State of Rhode Island, who abused the trust reposed in him by the commissioner, who was in the habit of signing blank certificates, and giving them in charge to his clerk, who, in this and other instances, made out duplicate certificates. The persons from whom Samuel Fowler obtained these certificates are long since gone; the broker dead, and his estate insolvent. The stranger from whom he purchased the other he knew not where to find, for there was no trace of him. Mr. Pierce was also dead, and his clerk beyond the reach of the law. No other resource is left to the petitioner than an application to Congress. In the whole of the transaction, nothing culpable appears in the conduct of Mr. Samuel Fowler. Whatever blame may be attached to any one, must be attached to the commissioner for negligence, and to his clerk for fraud. How far the United States may be considered liable in such case, the committee desire the expression of the opinion of the Senate; and for that purpose report a distinct proposition that the prayer of the petitioner cannot be granted.

15th CONGRESS.]

No. 485.

[2d Session.]

INTEREST.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 5, 1819.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of James Price, reported:

That the petitioner states that he is the only son and executor of James Price, deceased; that, on the 8th day of April, 1818, a warrant was granted to him by the Secretary of the Treasury for the sum of one hundred dollars, being the amount of an advance made by his father in specie to the late General Horatio Gates, on the 23d day of December, 1778, at the request of the Board of Treasury, on which he now prays for interest, which has not been paid him.

It appears by the affidavit of James Price, deceased, dated February 17, 1791, that, in the year 1778, General Gates applied to him for the loan of one hundred dollars in specie for the public service, which he accordingly lent, and took an order for the same on John Jay, the President of Congress; that this order was left with Mr. Jay, in September, 1779, who promised to lay it before Congress the first opportunity; that the contents were afterwards promised to be paid out of the first specie that could be procured; that, in the year 1790, the account against the United States, wherein the same sum was charged, was presented to Congress, and, on examining the books at the Auditor's Office, the same was there found credited, an abstract of which was made by Doyle Sweeney, clerk, the 5th day of February, 1790, and that the same had never been paid.

Your committee further find that, on the 28th day of October, 1779, this subject came before the Board of Treasury, and, by their records, it appears that they passed an order in the words following: "The Board having considered a letter from Major General Gates, of the 13th of September, referred to them by Congress, ordered that James Price, Esq. pay to Major General Horatio Gates, or order, one hundred dollars in specie, in part of twenty half-johannes advanced him by Major General Arnold, in Canada, agreeably to the advice of this Board of the 20th of August last, taking duplicate receipts for the sum so to be paid, and transmitting one of them to the Board of Treasury;" the original of which order is filed in the Register's Office. There does not appear to have been any other fund put into the hands of Mr. Price, out of which to indemnify himself for the sum lent to General Gates, except the twenty half-johannes before mentioned. In his account with the United States, which was audited on the 5th day of February, 1790, he charged the one hundred dollars lent General Gates, and credited the twenty half-johannes received of General Arnold, and the Auditor of the Treasury then certified to the Comptroller a balance due to Mr. Price of eight hundred and seventy-eight dollars and six cents, the two sums before mentioned composing a part of the account stated; upon which balance he also certified to be due an interest of six per cent. per annum from the 1st day of January, 1777, being an average period fixed on for the interest to commence. But, on the 10th day of February, only five days after the account was audited, when it was presented to the Comptroller, he rejected the one hundred dollars lent to General Gates, alleging it was unsupported by any voucher, and the Register of the Treasury sanctioned that rejection in February, 1806. Your committee would here remark that the proper voucher had been lodged with Mr. Jay, the President of Congress, as a voucher for that body to act upon; and when, in pursuance of it and the letter of General Gates, Congress referred the subject to the Board of Treasury, and that Board ordered the payment of the one hundred dollars out of a specific fund, it seems clear that all the evidence essential to substantiate the charge was, at the time when the account was exhibited, on the records of the Treasury Department, and that the rejection of it by the Comptroller and Register was occasioned by their mistake and want of attention to the order of the Board of Treasury before recited. This opinion is confirmed by a certificate of the same Register, Mr. Nourse, given on the 22d day of December, 1817, in which he certifies as follows, viz: "When I gave the within certificate [alluding to the certificate of 1806, rejecting the charge] I had not any knowledge of the order of the Board of Treasury of the 28th October, 1779, (herewith,) the authenticity of which is fully recognised; the deduction, therefore, of one hundred dollars specie by the Comptroller of the Treasury, on the 10th February, 1790, appears to be a matter of revision by the accounting officers of the Treasury Department." The same was accordingly revised, and the principal sum of one hundred dollars paid on the warrant of the Secretary of the Treasury, of April 8, 1818, before mentioned, but the interest was not admitted as a subject of revision by the accounting officers of the Treasury.

It appears, further, that the father of the petitioner was the surviving partner of the firm of Price & Haywood, who had furnished sundry supplies for the revolutionary army, and that the balance of eight hundred and seventy-eight dollars and six cents, with interest from a period hereinafter mentioned, was in fact due to him at the time when his account was audited. The average period fixed on by the Comptroller for the interest to commence on the balance of the account, after expunging from it the one hundred dollars, was the 29th day of August, 1783, as certified by that officer February 10, 1790, when the account, being audited as before mentioned, was presented to him; so that the interest on the principal sum of the one hundred dollars, expunged from the true balance of the account, was then clearly due by the rules of computing the interest adopted by the Treasury Department, to be computed from the 29th day of August, 1783. It appears, also, that repeated applications were made to the representatives of General Gates for the payment of the money lent him, on the suggestion of the Register of the Treasury of his having been liable, which does not appear to have been the case, and, therefore, payment was refused. In the year 1812 the petitioner applied to Congress for relief, and his application resulted in the revision of his account at the Treasury Department, and a refusal of the interest, as before stated.

Under all these circumstances, the committee are of opinion that the prayer of the petitioner ought to be granted, and report a bill for his relief.

15th CONGRESS.]

No. 486.

[2d SESSION.]

PROPERTY DESTROYED BY THE BRITISH AT BUFFALO, IN 1813.

COMMUNICATED TO THE SENATE, FEBRUARY 15, 1819.

Mr. WILSON, from the Committee of Claims, to whom was referred the memorial of Vincent Grant, of Buffalo, in the State of New York, reported:

That the said Grant prays indemnity for a storehouse, (in the back part of which he resided,) furniture, and merchandise, destroyed by the British in December, 1813.

That it appears in evidence that the cellar under the storehouse was occupied early in the war, by order of the navy agent on that frontier, as a depot for the naval stores of the United States; that it continued to be so occupied up to the time of its destruction; and the claim is founded on the presumption that its destruction was owing to its being thus occupied.

The committee might here remark that the burning of Buffalo was alleged to have been done *in retaliation* for the burning of Newark; that buildings which were not used as depots shared the same fate with those which were; and that it is not probable the property of Mr. Grant would have escaped this indiscriminate conflagration, although it had not been occupied as a military depot. But as they wish to act on the most liberal principles which can safely be adopted, they rather incline to consider it as within the provisions of the act making compensation for property destroyed, and to recommend such allowance as this act and the evidence will justify.

With respect to the merchandise and furniture destroyed: as they would have admitted of a removal from the scene of danger, and as there is no satisfactory testimony of the quantity or value thereof, the committee do not consider them as proper subjects of allowance.

The building is described as framed, thirty-six feet long by twenty-six deep, two stories high, the front finished in the usual style of country stores, and the back part in a neat, plain manner, and occupied by said Grant as a dwelling. It is differently appraised by different house carpenters, and is charged by the claimant at \$4,250. The committee, however, have adopted the sum at which it was valued, under oath, by seven appraisers, viz. \$3,350, which they believe to be a liberal allowance for a building of these dimensions and of this description; and for this amount they report a bill.

15th CONGRESS.]

No. 487.

[2d SESSION.]

MONEY LOST BY A PURSER IN THE NAVY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 19TH FEBRUARY, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the bill from the Senate entitled "An act for the relief of James H. Clark," reported:

That the said Clark claims the relief which the bill is intended to provide, upon a statement of facts, of which the following is the substance, to wit: That, on the 17th day of November, 1815, he was ordered by Commodore Shaw to proceed from Port Mahon, in the Mediterranean, to Marseilles, for the purpose of purchasing clothing for the crew of the frigate United States; and that, having arrived at Marseilles, and taken lodgings at an hotel, he was, on the night of the 3d of December of the same year, robbed of \$816 by a seaman, who had accompanied him in the capacity of a servant.

That he received the order above mentioned, and having taken with him \$1,600 in Spanish gold, he proceeded to Marseilles, took lodgings at an hotel, and was robbed of about the sum alleged, there can be but little if any doubt; and it is for Congress to decide whether the loss shall fall upon him or the United States. It appears, from the evidence exhibited by the claimant, that he and a Major Hall, of the marines, lodged at the same hotel, and that the money in the custody of each, amounting, in the whole, to something more than 19,000 francs, was deposited in a trunk in the room where they lodged; and that, on the evening of the said 3d of December, they locked their room, and, leaving the key in the hands of the porter of the hotel, went to the theatre, from whence they returned at about 11 o'clock. On entering the hotel, and inquiring for the key, they were told by the porter that their servant had already taken it, and must then be in their apartment; but on going thither they found the key in the door, their trunk forced, and a large portion of their money and their servant missing. Having learned from the door-keeper of the hotel that the servant had left the house at about 10 o'clock, the American consul and a police officer were immediately notified, and every reasonable exertion made to apprehend the servant, but without effect.

At the last session of Congress an act was passed for the relief of Major Hall, and, if the decision in that case was correct, there can be no strong reason urged why a like decision should not be made in favor of the present claimant; but if, for want of an opportunity to investigate the subject, or from any other cause, the decision in the case of Major Hall was not such as can be justified upon principles of sound policy, no argument can be drawn from that case in favor of the one under consideration. The committee are of opinion that the Government ought not to make itself responsible for the losses of its agents, except in extraordinary cases, where no vigilance reasonably within the power of the agent could have protected him from the loss. Should the Government remunerate for losses which it may be nothing more than inconvenient for an agent to prevent, it is believed that a habit of consulting convenience rather than the interest of the United States would be encouraged to a dangerous extent among the public agents.

If the present claimant allowed his servant to have access to his room in his absence, it appears to the committee that there was a want of care, for which the Government ought not to be responsible, particularly while it is in

proof that the servant was no other than a Neapolitan seaman, and their money no otherwise secured than in a leather trunk, for the forcing of which nothing but a knife was necessary. If the servant was not allowed to have access to the room, care should have been taken that the key should not have passed into his hands.

Believing, then, that there was a degree of negligence not altogether excusable, and that otherwise the money would not have been lost, the committee recommend the adoption of the following resolution:

Resolved, That the bill from the Senate entitled "An act for the relief of James H. Clark," be indefinitely postponed.

15th CONGRESS.]

No. 488.

[2d SESSION.

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 20, 1819.

Mr. JOHNSON, of Kentucky, from the Military Committee, to whom was referred the petition of Ruth Reed, reported:

That the petitioner states that she is the widow of William Reed, late a soldier in the army of the United States; that the said William Reed enlisted into the twenty-ninth regiment of infantry on the 12th day of April, 1814, to serve during the war; and that he died at the recruiting rendezvous at Greenwich, in the State of New York, on the 3d day of June in the same year, not having lived to join or be mustered in his regiment; leaving the petitioner destitute of property, with eight children, six of whom were at that time under the age of sixteen years.

That in the year 1817 the petitioner applied to the Department of War, stating the aforesaid facts, for a half-pay pension for five years in lieu of bounty lands; and, by frequent instructions from said Department, procured, at great expense, letters of administration on the estate of the said William, for the sole purpose of establishing her claim for a pension. That she was also put to great expense in obtaining the required proofs of the enlistment, service, and death of the said William, in consequence of the death of his recruiting officer.

That, having obtained and forwarded to the proper Department the documents which had been required, the claim of the said petitioner was disallowed, because the said William had died "not mustered"—a fact which, under a general regulation at the Department of War, excludes the representatives of the enlisted soldier from the right to bounty lands, or pension in lieu thereof, under the act of the 16th of April, 1816.

The testimony in the case fully establishes the facts set forth in the petition.

The committee are of opinion that the peculiar circumstances of the case of the petitioner furnish ample cause for exempting it from the effect of the general regulation referred to, and that the petitioner is entitled to half the monthly pay for five years in lieu of bounty lands, to which the said William Reed was entitled at the time of his death; and have prepared a bill accordingly.

15th CONGRESS.]

No. 489.

[2d SESSION.

BRITISH SHIPS CAPTURED IN 1779, AND CARRIED TO A PORT IN NORWAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1819.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of James Warren, reported:

The petitioner states that in the year 1779 he was a lieutenant of marines on board the Alliance frigate, belonging to the United States, and then commanded by Peter Landais, Esq. That during a cruise that year on the coast of England, in company with the ship Bon Homme Richard, commanded by Paul Jones, they took two valuable English ships, and carried them into Bergen, in Norway; that the said prizes were demanded by the British Government, and surrendered to them by the Danish Government, or placed out of reach of the captors, notwithstanding the remonstrances of the French Government against the surrender. The petitioner further states, he has understood that the Danish Government have directed latterly that the value of the said vessels should be paid to the claimants. He also states that he understands Congress have made a specific grant to Peter Landais on account of his claim.

The committee observe that the claim of Peter Landais has been several times presented to Congress, and, as a claim upon the principles above stated, they believe, always rejected. It is true Congress made a grant of money to Peter Landais, but that grant was made under circumstances of a character so peculiar that it ought not to be considered as deciding the principles of this case, which the committee think are in opposition to the claim. As to prizes made by the public ships, the proceeds are, when brought safe into port and legally condemned by a proper tribunal, to be divided, where the captured vessels are inferior in force, as in this case, between the Government and the captors; and it does seem proper that they ought jointly to incur the hazards of recapture, loss, &c. If a prize is taken and run into the nearest neutral port, and by any means lost to the captors without the default of the Government, the latter would be made to stand in the place of insurers of the property, and the captors be placed in a much more eligible situation than they would otherwise be; as they would thus escape the dangers of the sea, of recapture, &c., which would be incurred by carrying the prize vessels into the ports of their own country for adjudication. The committee observe that this principle has been recognised in one case, at least, during the late war: they allude to one of the prizes made by Captain Stewart, of the frigate Constitution, near the Cape de Verd islands, and taken out of a Portuguese port by the British, under the guns of the fort. The proper mode of proceeding, in such cases, is for the Government to obtain redress of such neutral, by negotiation or otherwise; that mode has been pursued in the present case, but has not yet terminated in a successful result. The committee recommend to the House the following resolution:

Resolved, That the petitioner have leave to withdraw his petition and documents.

[16th CONGRESS.]

No. 490.

[1st SESSION.]

INCREASE OF PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1819.

Mr. BLOOMFIELD, from the committee on the subject of revolutionary pensions, in the case of Louis Joseph de Beaulieu, reported:

That, by authentic documents, it appears the said Beaulieu was a lieutenant in Count Pulaski's legion, raised by order of Congress, and served therein with great reputation until the reduction of the said corps; that, on the 14th May, 1780, in an action near Charleston, he received four wounds—two, by a broad sword, were very severe; one, on his forehead, near his left eye, penetrated through one table of the skull, and shattered the bone greatly; the other, on the left arm, injured the tendons of three of his fingers.

The petitioner states that he received fourteen wounds in the battles at Little Egg Harbor and Monk's Corner, and in the sieges of Charleston and Savannah; that his health is materially injured, having lost one eye, and one arm lamed; that, in consideration of the wounds he had received in the continental service, and the recommendation of General Washington, Congress honored him with the brevet rank of captain, and also voted him a pension of \$100 per annum; that he has lived on that small pension, and by teaching the French language; but his sight being now impaired, his infirmities increasing with his age, (being in his 68th year,) he will be deprived of this means of supporting himself, his wife and child; and, therefore, Captain Beaulieu prays his melancholy case may be taken into consideration, and his pension augmented. It appears, by evidence before the committee, that, without increase of pension, Captain Beaulieu, at an advanced age, must be reduced to the condition of the most deplorable poverty and want.

The committee report a bill to give Captain Beaulieu the benefit of the act of 18th March, 1818.

[16th CONGRESS.]

No. 491.

[1st SESSION.]

BALANCE DUE TO A COMPANY OF VIRGINIA MILITIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 15, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Samuel Q. Adams, of the State of Virginia, reported:

That the petitioner states that, some time in the month of August, 1814, he was called into the service of the United States as captain of a militia company from the city of Richmond. On his arrival at Camp Holly, then under the command of General Paterfield, he was transferred to the command of a company of militia from the county of Hanover, in which he continued till the end of the war. When they were discharged, a number of his men were out of camp, on furlough, and many had died previously thereto, whilst in camp; in consequence of which, the pay for their services could not be drawn at that time without powers of attorney from those who were absent, and from the representatives of those who had died. Feeling it a duty that the men and their families should receive the pay to which they were entitled, he obtained from them, as early as practicable, the powers of attorney requisite for that purpose, together with similar authority from Lieutenants Pendleton and Bord. On making application to Major Turner, deputy paymaster, then in the town of Petersburg, he received for answer that he had no funds of the United States in his hands for that purpose, and that the claims could not be satisfied unless the rolls of his company were regularly made out, and receipted, and delivered in at the proper office in Washington. All of which the petitioner did accordingly, and received in return the receipt or due bill of the paymaster for the sum of \$1,574 04, the amount which then appeared due to the company.

The petitioner further alleges that he was induced to this measure from the belief that it was the only and most regular method by which he could obtain payment for the services of his officers and men; that the representations of the deputy paymaster left no doubt on his mind of receiving the aforesaid amount. But in this just expectation he has been deceived, although frequent application has been made; and he believes the deputy paymaster is not now able to pay the amount, however willing he might be to do so. He therefore prays that Congress will pass a law, authorizing the officers of Government to satisfy the claims of his company.

The committee think that, notwithstanding the situation of the petitioner may be a very disagreeable one, it would not be proper for Congress to interfere. He himself contributed principally to the production of all the difficulties of which he complains. He has done an act in his own wrong. Had he not given a receipt to the paymaster, Government could have coerced the payment. But, as it is, the paymaster is released from all obligation to the United States, and is now responsible only to the petitioner. On that responsibility the committee think he should now depend, more especially as he seemed in the first instance to prefer it to the responsibility of his own Government. The following resolution is submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

[16th CONGRESS.]

No. 492.

[1st SESSION.]

REVOLUTIONARY OFFICERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 20, 1819.

Mr. SERGEANT, from the select committee to whom was referred the memorial of the surviving officers of the army of the Revolution, praying for an equitable adjustment of their claim of half-pay for life, reported:

The memorialists represent that, by the resolve of the 21st of October, 1780, Congress stipulated that half-pay for life should be allowed to the officers of the revolutionary army who should continue in service till the end of the war; that they did continue in service till the end of the war, and therefore became entitled to the benefit of the contract thus entered into with them by their country; that this contract has not been fulfilled, and they are now entitled to ask its fulfilment.

They further represent that the commutation offered and received under the resolve of the 22d of March, 1783, ought not to be considered as cancelling the obligation of the Government, or impairing the claims of the officers, because it was itself an acknowledgment by the Government of its incapacity at that time to fulfil the contract; because it was offered, not to individuals, but to lines and corps, for their acceptance, which gave an undue influence to officers of age and rank, who were likely to be gainers by the arrangement, and did not afford a full opportunity to the younger officers of inferior grade, who were chiefly interested in retaining the half-pay for life, and excluded altogether from a voice in the decision many meritorious officers, whose lines had been broken up by the casualties of war; because, also, it was offered to men whose necessities obliged them to accept what they could obtain for the immediate supply of their wants; and, finally, because the commutation was not, as it ought to have been, and was intended to be, an equivalent for the half-pay for life.

Referring to a report made to the House in the month of January, 1810, a copy of which accompanies the present report, and contains at length the several resolves of Congress, and the principal facts and arguments having relation to the claim, [See No. 203, page 372; also report No. 413, page 591,] the committee proceed respectfully to submit their views of the nature of the case, and of the obligations on the part of the Government thence arising.

It is not necessary to remind the House, either of the merit or the value of the services rendered by the memorialists to their country. History has already consecrated the one, and the other is sufficiently attested, in a manner that must appeal to the best feelings of every citizen of the United States, by the rapid growth and eminently happy condition of that country, for which they devoted the most valuable portion of their lives; for which they took up their swords; and for which, too, with no less patriotism, they laid them down when her liberty and independence had been effectually secured. If, in behalf of this interesting remnant of the officers of the Revolution, of all that remains to us to cherish of the gallant and illustrious band who have done so much for us, an appeal were made to the national sense of gratitude, we presume respectfully to say that it could scarcely be resisted. It would then be recollected that these survivors are precisely the men who have made the greatest sacrifices for their country, as, from the time that has since elapsed, it will be seen that most of them must have spent in her service that very portion of life when, according to the order of nature, the habits are formed, and the acquirements made, which in a great measure determine its future fortune and character; and that, while they were thus generously preparing for the nation an abundant harvest of political and social happiness, they gave up the only opportunity for themselves of becoming qualified for any occupation which in time of peace could assure to them the means even of a comfortable subsistence. If accidental good fortune, or distinguished capacity, or the good feelings of their fellow-citizens, displayed in selecting them for public offices of profit, have placed some of them above the reach of want, it is nevertheless believed that there are many who have little to console them in the decline of life but the recollection of the share they have contributed in laying the foundation of their country's independence. To all such, how welcome and how gladdening would be the substantial manifestation of that country's gratitude! A provision for their few remaining years would alleviate the sufferings of age; and the veteran of the Revolution would feel continually, and be quickened and animated by the feeling, that the time he had devoted to the public service was not to himself altogether waste and unprofitable; that his exertions and his sufferings were not wholly overlooked; but, by a natural and honorable return, that country, whose infancy he had aided by his sword to guard, now, in the day of her strength and her prosperity, extended her hand to soothe and to support the weakness of his declining years.

It is not, however, upon grounds like these that the memorialists rest their application. They claim upon the footing of right, maintaining, your committee respectfully submit, with great force, that what they ask for is due to them by contract. In the examination of this claim, it appears to the committee that towards men whose merits are so unquestionable the Government ought to be guided by principles of liberal justice, having regard to all the circumstances, giving them all their due weight, and even, where there might be some doubt upon the application of the rules that govern between man and man, to incline in favor of the memorialists. With this explanation, the committee beg leave to state that they consider the resolve of the 21st of October, 1780, as a contract between the Government and the officers, voluntarily and freely entered into at a time when both parties were at liberty in regard to the subject of it, and stipulating, as the consideration on the part of the officers, their future services until the end of the war, whatever might be its duration. It is not to be questioned that the stipulated service was rendered, nor that it was eminently useful. But it deserves to be remembered, in connexion with all which subsequently occurred, that, after the officer had rendered the service, he had no further reliance but upon the faith and ability of the Government. This was his condition when the resolve of the 22d of March, 1783, was adopted. The preliminaries of peace had been signed, the army was about to be disbanded, and he to be thrown into society, there to seek his livelihood by civil pursuits, for which the tenor of his preceding life was calculated only to disqualify him. Had he, under the pressure of circumstances so urgent, and growing out of his previous services, assented to the commutation, his country could scarcely deem it a voluntary assent, but rather a submission to an uncontrollable and instant necessity, which admitted of no deliberation or delay. But there is another reason why this assent ought not to be considered as binding. The contract of 1780 was with the individual officers, and it is not strictly reconcilable with justice that it should be varied, rescinded, or released, as to any one of them, without his own individual consent. The commutation, except as to certain retired officers, was offered, not to the individuals, but to lines and corps; thereby subjecting the individual, as to his own particular rights, to the decision of others, and, with respect to the younger and inferior officers, exposing them to be governed by the overruling influence of superior rank and years, to which they were habitually accustomed to submit.

The committee are aware that it may be urged (and between individuals it might be decisively urged) that the subsequent acceptance of the commutation certificate, of itself, amounted to an assent. If the officer had been left free to make his choice, and, having made it, the Government had given him what he freely consented to receive,

the argument would not have been without some force. But he was not so free. The resolve of Congress (an act of the Government and a law) left him no choice except to abide by the decision of the lines and corps of the army, or wait, whatever might be his wants, until a more fortunate period should enable him to approach that body, not with a power to enforce his right, but only to sue for it in the language of solicitation. It may be remarked, though somewhat out of order, that this is substantially the course which these memorialists are now pursuing. They have waited until their country is able to do them justice; and they now petition for their right, offering to relinquish all they have received.

But it is also true, and furnishes an additional answer to the objection, that the Government was not able to comply with the terms of the resolve of 1783. It could not pay in money, and it did not pay in what was equivalent to money. The commutation certificate was then, and for some time after, worth not more than one-eighth (perhaps even less) of its nominal value. When, at the distance of eight years afterwards, the funding system was established, it is notorious that, generally speaking, the certificates no longer remained in the hands of the officers. The restoration of the public credit came too late for men whose necessities were so imperious; and thus, the half-pay for life, which had been solemnly stipulated, and most meritoriously earned, dwindled in the hands of the officers, without any fault of theirs, to scarcely more than half-pay for a single year.

Under this view of the case, it seems to your committee just and reasonable, and becoming the faith of the nation, to execute the contract originally made, upon the terms proposed by the memorialists: that is to say, of deducting from the arrears of the half-pay, computed from the cessation of hostilities to the present time, the full nominal amount of the commutation certificate, and paying to the surviving officers the balance; and henceforward, during the remainder of their lives, paying to them the half-pay stipulated by the resolve of 1780. For the arrears, the memorialists are willing to receive stock, bearing an interest.

In order to define and limit, with as much precision as possible, the extent of the demand which will thus be created upon the Treasury, your committee have thought it right to assume as a basis the number of surviving officers and the aggregate of claim which are stated by the memorialists themselves; and they recommend, respectfully, that any provision which may be made be limited accordingly, so as not to exceed that sum.

In conformity with these suggestions, the committee herewith report a bill.

16th CONGRESS.]

No. 493.

[1st SESSION.]

DEFECT IN THE TITLE OF A LOT SOLD FOR THE BENEFIT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 27, 1819.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the memorial of Hugh McCullough, reported:

That the petitioner states that he was the purchaser of a lot of ground in the town of Washington, North Carolina, sold by the marshal of the district for taxes due to the United States; that he received a deed, and actually paid the purchase money; that the heir of the person for whose debt the lot was sold instituted an action at law, which suit was ultimately decided in the supreme court of North Carolina in favor of the claimant. The petitioner, therefore, prays that the purchase money, with interest, be returned to him.

The committee are of opinion that it is the duty of the purchaser to ascertain that the title he receives is good. The marshal conveyed, in this instance, only the title of the person to whom he supposed the property belonged. The committee submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 494.

[1st SESSION.]

BRITISH FLOTILLA CAPTURED BY A DETACHMENT OF THE ARMY IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 27, 1819.

Mr. SMYTH, from the Committee on Military Affairs, to whom was referred the petition of Rebecca C. Appling, reported:

That it appears to your committee that Colonel Daniel Appling, of the army of the United States, commanding a body of about one hundred and thirty riflemen, did, in the year 1814, at Sandy creek, of Lake Ontario, in the State of New York, defeat Captain Popham, of the British navy, commanding about two hundred seamen and marines, and captured his flotilla, consisting of several gun-boats and barges, and carrying several pieces of ordnance.

As the prize made by Colonel Appling would have been distributed among the captors had they belonged to the navy of the United States, it seems to your committee to be just and reasonable that the value of the prize should be paid to the representatives of Colonel Appling, (who is deceased,) and to his officers and men, in the usual proportions. They therefore report a bill.

[16th CONGRESS.]

No. 495.

[1st SESSION.]

PRIZE MONEY EMBEZZLED BY THE CLERK OF THE DISTRICT COURT OF NEW YORK.

COMMUNICATED TO THE SENATE, DECEMBER 29, 1819.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Noah Brown, for himself and others, submitted the following report:

That the petitioners were, during the late war with Great Britain, owners of the private armed brig Warrior, lawfully commissioned to cruise against the commerce of the enemy; said brig captured a British vessel with a valuable cargo on board, which she brought into the port of New York for adjudication, where she was libelled, together with her cargo, on behalf of the captors. By order of the proper court, said vessel and cargo were sold by the marshal, and the proceeds paid over subject to its order. A decree of condemnation was passed against the vessel and part of her cargo; counter-claims being interposed for the residue, it was reserved for future adjudication. So far as the decree of condemnation reached, the proceeds of the sales of said vessel and cargo were paid to the petitioners. A final decree of condemnation was made against the remainder of the cargo, of the value of about \$20,000, on the 26th of June, 1817. The petitioners immediately applied for the moneys awarded to them by the said final decree, and were informed by the court it no longer possessed the control of them, they having been embezzled by the clerk, who had disappeared. For the said sum of about of \$20,000 the petitioners ask indemnification out of the public treasury.

The committee apprehend that, in the application of legislative relief, it will be found wise and just to follow, as far as practicable, settled and uniform principles. If it be considered expedient and correct in all cases to make good the wrongs which official misconduct may occasion, the claim under consideration will press strongly for a favorable decision.

The parties interested, by encountering heavy expenditures of money, perils at sea, and hazards in battle, had become legally entitled to the avails of the prize which had been placed in custody of the court, and of which they have been deprived by heinous wrong. The committee believe, however, that such a principle never has been, nor ever can be, judiciously adopted. The most demoralizing frauds and collusions, beyond the power of Government to detect, must follow such a policy; and, further, it would promise an increase of the public burdens beyond all its revenue faculties. In this case, the conduct of the claimants is very far above all suspicion, and the committee readily admit them to be not only innocent, but meritorious sufferers. They cannot, however, assent to the observation of the petitioners, that Government should be answerable for the conduct of its own appointed agents. Men in and out of office are liable to commit crimes; and if a principle of public restitution be insisted upon in the one case, it is not very obvious why it should not in both, as where allegiance is claimed protection is due.

While the committee have strongly felt the hardship of the petitioners' case, a careful consideration of the petition has made it their duty to recommend that it be not allowed. Therefore,

Resolved, That the petitioners have leave to withdraw their petition.

[16th CONGRESS.]

No. 496.

[1st SESSION.]

SLAVE KILLED IN THE MILITARY SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 31ST DECEMBER, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Basil Shaw, reported:

That the petitioner states that, at the call of his country, he joined General Carroll's division, and received the appointment of adjutant general; that, instead of taking a soldier from the lines to wait on him, as by law he was authorized to do, he employed a negro servant, and contracted to pay for him unless returned; that in the battle at New Orleans, on the 8th day of January, 1815, the said servant was killed with a cannon-ball in the general's camp; and, consequently, that the petitioner had to pay Mr. Walton, the owner of the slave, \$500.

The following certificate accompanies the petition:

NOVEMBER 21, 1815.

I certify that Major Basil Shaw had a negro man killed on the morning of the 8th of January last, at the battle below New Orleans, by a cannon-ball from the enemy's works.

Major Shaw acted as my assistant adjutant general during the campaign.

WM. CARROLL, *Major General Tennessee militia.*

And also the certificate of George Poindexter, stating that he was present in the same room with General Carroll when the cannon-ball passed through and killed Major Shaw's negro boy, and that he is confident the loss was attributable to the casualties of war, and not to any negligence on the part of Major Shaw.

The law authorized Major Shaw to receive the pay and rations of a private soldier for the negro servant; but no law has heretofore provided for the payment of the value of a slave so lost.

The committee conceive that to make such provision at this time is inadmissible, and therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner be not granted.

16th CONGRESS.]

No. 497.

[1st SESSION.]

SLAVE DISABLED WHILST GRATUITOUSLY AIDING A WAGON LOADED WITH
ORDNANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1819.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Thomas Hightower, of South Carolina, reported:

That the petitioner states that, in the fall of 1817, a wagon loaded with ordnance, belonging to a detachment of artillery in the service of the United States, passing from Charleston to Augusta, *stalled* near his residence; and that, application having been made to him for assistance, he sent his negro man, (a slave,) who, while engaged in assisting the wagoner, received an injury which has totally disqualified him for the usual labors about a plantation, and rendered him of but little or no value. Upon this statement of facts, the truth of which is certified by sundry persons, (one of whom is a professional man, who describes the injury,) the petitioner claims remuneration from the Government.

Although the committee are of opinion that, in affording the assistance mentioned, the petitioner gave proof of a goodness of disposition honorable to himself; yet it is not perceived that he can have a claim upon the Government for remuneration. The committee, therefore, recommend that the claim of the petitioner be rejected.

16th CONGRESS.]

No. 498.

[1st SESSION.]

HOUSES BURNT AT BUFFALO BY THE BRITISH, IN 1813.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 3, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the bill from the Senate for the relief of Eli Hart, submitted to the House the following report:

That the bill from the Senate directs the accounting officers of the Treasury Department to settle the claim of Eli Hart, and to allow him the sum of \$6,670, the appraised value of his buildings destroyed on the 30th of December, 1813, at Buffalo, in the State of New York.

The claim of Eli Hart belongs to the class of Niagara cases, which have often been before the House, and as often rejected. At the first session of the last Congress, this claim, with one hundred and fifty-eight other cases of a similar description, was examined and reported on by the committee. [See No. 430, page 603.] The claimants then demanded of Congress payment for buildings and other property destroyed by the British between the 19th of December, 1813, and the 1st of January, 1814, both days inclusive. After the most patient and deliberate investigation, the committee were satisfied that, under the law of the 9th of April, 1816, the claimants had no right to the indemnification which they asked. They now beg leave to adopt, in part, and to offer to the House, their report in these cases, made at the former session, in 1818. It is as follows:

“That, during the period above named, (to wit, from the 19th of December to the 1st of January, inclusive,) nearly every building on thirty-six miles of frontier, from Fort Niagara to Buffalo, except the fort and its appendages, which were captured on the night of the said 19th of December, were, with their contents, destroyed by the enemy, which, it is alleged, was in consequence of a military occupation by the United States.

“The law of the 9th of April, 1816, was intended to grant relief to the citizens whose property might have been destroyed in consequence of some act of the Government, and to such only ought it to be confined in its application. But the circumstance of there being a war between the United States and Great Britain, and the enemy during its progress destroying the property of our citizens, would not prove that this Government was the cause of the destruction, unless it shall have given to the property a character which, by the usages of civilized war, would render the destruction legal; any other rule would give an enemy the right to destroy the property of our citizens in peace as well as in war.

“The committee have endeavored to ascertain, from the mass of testimony in these cases, whether the burning on the Niagara frontier was of such a character as to entitle the claimants to relief under the provisions of the above-recited act, and their examination has resulted in a unanimous opinion that it was not.

“It appears from the evidence that, at different periods of the war, particularly in the fall of 1813, many of the buildings on the frontier were occasionally and partially occupied for military purposes, but very few of them are alleged to have been so occupied as to exclude from them the families or their effects, and, in most cases, that the buildings were used for barracks.

“From the fore part of July, 1813, till after the commencement of the burning, there were but few troops on the American side of Niagara river; consequently, during that period there must have been but a very partial occupation by the United States. It is stated that, for some time before the villages between Fort Niagara and Black Rock were burnt, (the 19th December, 1813,) there were only about fifty draughted militia on the whole frontier.

“That, between the 19th and 29th, the neighboring militia, to the number of from two to three thousand, had assembled at Black Rock and Buffalo, and sheltered themselves from the inclemency of the weather with the families of the citizens.

“On the morning of the 29th December the enemy landed at Black Rock, and, having burnt the village at that place, proceeded to Buffalo; which latter place capitulated on the express condition that public property should be surrendered, and that the citizens and their effects should be protected. After having burnt a few buildings, the hand of desolation was staid till the 1st of January, when all were reduced to ashes, except a very few, (which

are supposed to have escaped more from accident than design,) and that, too, without allowing to the inhabitants an opportunity to withdraw their moveable effects.

“That some of the buildings, particularly at Buffalo, were so occupied as to give them an unquestionable military character, is undoubtedly true; and had no others been burnt, the committee would not have stopped to inquire whether the occupation by the United States had been the cause of the destruction. But they have yet to learn that, because a building may have been occupied for military purposes at a remote period anterior to its destruction, or because a few militia may for a moment have taken shelter with a hospitable family, the destruction of the buildings, with the effects of the family, can, upon any legal principle, be justified; more particularly when the enemy shall have possessed himself of it by a capitulation like the one above mentioned.”

These, and some other views, as will more fully appear on reference to the report itself, induced the committee at that time to recommend the passage of a law giving to all the sufferers on the Niagara frontier a sum equal to one-half the amount of their claims for the buildings which had been destroyed, and thirty per cent. on the loss of personal property, exclusive of merchandise. A bill for that purpose was reported, was fully discussed in the House, and, after various modifications, was finally rejected by a considerable majority. This decision is evidence to the committee that Congress thought not only that the claimants had no legal demand against Government, but that it would be inexpedient to grant them any thing in the nature of charitable relief, as had been proposed by the committee. At the last session many of these claims were again presented, and the committee, in accordance with the opinion of the House, reported against them.

At this session the claim of Eli Hart, included in the number of those heretofore rejected, has been brought forward in the Senate, and a bill for his relief sent from that body to this House for concurrence, proposing to allow him \$6,670 for the loss of his buildings. The committee are not aware that it is either just or expedient now to depart from the rule heretofore assumed, and grant this allowance to a single individual, when one or two hundred other persons, neighbors and fellow-citizens of the present petitioner, can make claims equally urgent upon our justice, or appeals equally forcible upon the charity of Government.

The petitioner, however, alleges that his claim comes within the provisions of the act of April, 1816, and therefore it should stand on its own merits, apart from the claims of his fellow-sufferers.

The ninth section of the act is in these words: “That any person, who, in the time aforesaid, has sustained damage by the destruction of his or her house or building by the enemy, while the same was occupied as a military deposit under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage: provided it shall appear that such occupation was the cause of the destruction.”

It appears to the committee that the claimant must prove, clearly and unequivocally, that the *occupation* was the *cause* of the destruction, before he can be entitled to relief under the law. For how else can we account for the insertion of a proviso to that effect in the law? It evidently goes on the presupposition that a house may be occupied, that it may be destroyed, but that the occupation was not the cause of the destruction.

In the case before us, the committee have already stated that the occupation was not the cause of the destruction. It cannot be alleged that all the houses were occupied; but yet all were destroyed. What, it may be asked, caused the enemy to burn and destroy the property of our citizens wherever he landed during the late war? In this District, under the eyes of Congress; on the shores of the Chesapeake, in Virginia and Maryland; in the State of Louisiana, and neighborhood of New Orleans, heaps of ruin, the remains of his wantonness and barbarism, are yet to be seen. Did he not, in his official correspondence with our Government, assign to himself other motives for these acts? As well might it be supposed that the house in this city, belonging to Christiana Hamilton and Samuel S. Hamilton, was destroyed in consequence of military occupation, when only a few old books and journals of Congress had been deposited there for safe-keeping, as to suppose that the enemy, in the present instance, was influenced by any other motive than that of the indiscriminate wantonness which usually characterized his aggression upon every quarter of the country.

The principle contended for by the claimant in this as well as in all the other cases of destruction on the Niagara frontier would tend, in the judgment of the committee, to most dangerous consequences, and no Government can safely assume it as a rule of action. War at all times is a great evil: the losses of property incident to it are often very calamitous, and wo be to him on whom the heaviest portion may chance to fall; but he must sustain it, and well may he do so, when life itself is often surrendered for the public good. The committee can see no reason to indemnify one class and not another. No rule of propriety, for example, would require that persons should be paid for the loss of their houses, while the farmer or planter who loses in the reduced price of his crop, or the merchant in the capture of his vessels at sea, should not be paid.

If Government sanctions the principle contended for, may not an enemy wage war upon the property of our citizens, and thus aim an effectual blow at the finances of the country? Every man on the frontier may, at one time or another, during the existence of hostilities, be called out in the military service; when so called out, according to the doctrines assumed, he would not be permitted to shelter himself under his own roof, because, if he did, the enemy would, from that circumstance, be legally authorized to burn and destroy it. It has, therefore, appeared to the committee that a transient, casual, accidental, or contingent occupation of houses by the military forces of the United States cannot be considered as imparting to them that belligerent character (so to speak) which would justify the enemy in destroying them. For, otherwise, every house in the country, the city of New York, Philadelphia, or Baltimore, might, if defended by a military force, be destroyed by a victorious enemy.

In another point of view, the committee think it impolitic, if not dangerous, for Congress to assent to the present demand. It is believed that the Americans are as generous and patriotic in devotion to the cause of their country as any other people in ancient or modern times. The committee would not be understood to cast the least imputation on the present petitioner or his fellow-sufferers. But if Government should hold out to them the assurance that they should be indemnified for all losses of property of this description, would it not tend to lessen their determination to defend it? Might they not be disposed to abandon it, to yield it up an easy prey to an invading enemy?

There can be no doubt that an enemy would avail himself of any such assurance to our great injury; that he would wage war upon our property; that he would exhaust the national resources by acts of wantonness, of mere devastation and pillage, instead of meeting us in honorable conflict.

The committee, therefore, recommend to the House that the bill from the Senate for the relief of Eli Hart be indefinitely postponed.

16th CONGRESS.]

No. 499.

[1st SESSION.]

JUDICIAL EXPENSES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 3, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Jennings O'Bannan, reported:

That the petitioner states that he in the year 1814 acted as paymaster to a battalion of South Carolina militia, then in the service of the United States; that as soon as practicable he closed his accounts with the United States, and forwarded on his vouchers to the Treasury Department; that one of the clerks in that Department, in making out a list of paymasters who had not made any returns to that Department, reported him as a defaulter to the Third Auditor, and the Auditor to the Comptroller, who directed the district attorney to institute a suit against him and his sureties; in consequence of which he has been put to about \$200 expense, in employing counsel in court and travelling expenses, and making out duplicate accounts to be certified by a notary public; that when his accounts were taken up at the Treasury Department, a balance of \$7 48 was found against him, which he has since paid; that he has a family to support, and is in rather indigent circumstances, and hopes his expenses will be refunded.

The committee observe that the above facts are substantiated by the testimony. The order for the commencement of the suit was issued by the Comptroller in consequence of a mistake of the officers of the Treasury Department, or some one of them. It does not appear to the committee that there has been inexcusable negligence on the part of the Treasury officer, but the mistake is of that nature which sometimes unavoidably happens in public offices. In principle, the committee are unable to distinguish this case from one which more frequently occurs. In every instance where a suit is brought against an individual by the United States, and the suit is not sustained, the party against whom the suit is brought might make his claim upon the United States for reimbursement of his expenses, and state as a reason that the suit was commenced through mistake. Although the claim of the petitioner is perhaps as strong in this case as it could be in any case of this nature, yet the committee are of opinion, by allowing the claim, a precedent would be set, which would be dangerous, and attended with many and great inconveniences. They therefore recommend the following resolution:

Resolved, That the claim of Jennings O'Bannan ought not to be allowed.

16th CONGRESS.]

No. 500.

[1st SESSION.]

EXECUTION OF THE ACT PROVIDING FOR PERSONS ENGAGED IN THE LAND AND NAVAL SERVICE OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1820.

Mr. BLOOMFIELD, from the Committee on Revolutionary Claims, to whom was referred the resolution of December last respecting the execution of the act of the 18th March, 1818, to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war, reported the following resolution:

Resolved, That it is not expedient, neither will it comport with the honor and dignity of the American nation, to repeal the law of the 18th of March, 1818, which "provides for certain persons engaged in the land and naval service of the United States in the revolutionary war."

SIR:

CONGRESS HALL, December 17, 1819.

I am instructed by the Committee on Revolutionary Pensions to ask information relative to the "manner in which the act of the 18th March, 1818, has been executed; ascertaining, as far as may be practicable, the class or classes of cases which it has been construed to embrace, and such as have been excluded from its provisions; whether the objects contemplated by its passage have been, or probably will be, effected by the operations of the law; and, if not, whether it be susceptible of such amendments as will insure the accomplishment of those objects;" also, a "statement of the number of certificates of pension which have been issued under the said law; the number of cases suspended; the number rejected; and the number of applications received, that have not been acted upon."

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

JOSEPH BLOOMFIELD, *Chairman*.Hon. JOHN C. CALHOUN, *Secretary of the Department of War*.

SIR:

WAR DEPARTMENT, December 22, 1819.

In reply to your letter of the 17th instant, inquiring "into the manner in which the act of the 18th March 1818, has been executed; ascertaining, as far as may be practicable, the class or classes of cases which it has been construed to embrace, and such as have been excluded from its provisions," I have the honor to enclose a copy of the regulations which have been adopted by the Department to carry it into effect.

The act has invariably received a strict construction, and none have been intended to be admitted but those who, under such construction, were believed to have "served in the war of the Revolution until the end thereof, or for the term of nine months or longer, at any period of the war, on the continental establishment," and who were

in such "reduced circumstances in life" as to be "in need of assistance from" their "country for support;" to all of which facts, the oath of the party and the certificate of the judge have been required. Under which construction the following classes of applicants have been excluded:

Those who are not in such reduced circumstances in life as to need assistance from their country for support.

Those belonging to the general civil staff, the medical excepted. Under this head are included quartermasters not holding commissions in the line, but acting under warrants from the head of that branch of the staff; wagon-masters and wagoners; forage and barrack-masters; artificers, such as carpenters, &c.; bateau-men, employed in the quartermaster's department, in the transportation of troops or military stores.

Those who belonged to State troops, *i. e.* military forces of every description, acting under the authority of, or commissioned by, the Executive of a State, and not by Congress, and those who belonged to corps for local defence, except such as were recognised by the old Congress as being on the continental establishment.

Those who served in privateers, transports, vessels bearing despatches to foreign countries, as well as persons who served in civil capacities on board of national vessels of war, such as captains' clerks, &c., are also excluded.

Finally, those who, though they served nine months, did not so serve under one enlistment.

To answer that part of your inquiry, "whether the objects contemplated by its passage have been, or probably will be, effected by the operations of the law; and, if not, whether it be susceptible of such amendments as will insure the accomplishment of those objects," it will be proper to consider those who were intended to be benefited by the act in two different characters: First, Whether they were of the description of persons, and performed such military or naval service, as is contemplated by the act; and, Secondly, Whether they are in the condition in life, as to property, which Congress intended. It is believed that, under the first description, the object of the act has been effected, and that very few frauds have been attempted, and of those it is believed that none, or very few, have proved ultimately successful. Great pains have been taken to collect all of the documents which could supply the place of those which were destroyed when the War Office was burnt; and, with this view, a correspondence was opened with the Executives of the original States to obtain copies of those which were preserved in the archives of their respective States. Where the defect of those in the Department has not been supplied, greater caution has been observed as to the proof of service. It will be proper here to observe that, at first, occasional errors were committed in determining the character of certain regiments or corps; and some were considered continental, which, on full inquiry, proved not to be so. Where such errors have been committed, they have been corrected, and those improperly admitted have been dropped from the list of pensioners. It is believed that the act has been less successfully executed in regard to the condition in life, as to property, of those who have obtained pensions. A very great number of communications have been received by the Department from respectable sources, which represented many of the pensioners to be in more affluent circumstances than that which the act contemplated. A memorandum was directed to be made of all such cases, in order that such as seemed to require it might be inquired into. In some cases, where there appeared to be satisfactory proof of fraud or mistake, the pensioners have been dropped from the roll. The impositions or mistakes, if they exist, as it appears probable they do to a considerable extent, have taken place, notwithstanding the continued vigilance of the Department. Impositions, as to the circumstances of the applicant, were early apprehended; and, to guard against them, the oath of the applicant, and the certificate of the judge, as to his reduced circumstances, though not expressly required by the act, were required by the regulations of the Department. But it is obvious, where the judge has been careless, or has been imposed on by the applicant as to his property, the Department can rarely have any means in its power to prevent the consequence, but from the informal information or impression of such persons as may feel an interest in the correct execution of the act. Even facts, thus communicated, have usually been received after the pension has been granted. There is another difficulty connected with the execution of this part of the act, of still greater magnitude—I refer to the various constructions which different judges give to the words "in such reduced circumstances in life as to need the assistance of their country for support." It is believed the difference in the construction has been very great; nor has it been possible for the Department to give specific instructions to them as to their construction, as the necessity of the applicant does not depend simply on the amount of property which he may possess, but on many other circumstances. His health and bodily strength, the number and ability of his family to aid in his support, the cheapness or dearness of articles of subsistence in the section of the country in which he resides, and many other circumstances, have a strong bearing on it. In the midst of these difficulties, the necessity of the applicant must, in most cases, be left to the sound discretion of the judge.

I am not aware of any amendment of which the act is susceptible, by which uniformity of construction can be secured on the part of the judges, or imposition on them much diminished, unless it should be the intention of Congress to confine their bounty to the lowest grade of poverty. Any condition, above mere indigence, would admit of a latitude of construction; and it appears impossible to fix on a particular amount in value of property to entitle the applicant to a pension which would be just in its operation, or which would not involve great difficulty in its execution.

The number of pension certificates issued under the law amounts to 16,270.

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|---|---|---|---|---------------|
| The number of claims received and acted on is | - | - | - | 28,151 |
| The number of claims received and not acted on is | - | - | - | 404 |
| | | | | <u>28,555</u> |

It is impossible to state precisely how many have been absolutely rejected, or how many suspended, as, in some cases, claims which have been rejected have afterwards been admitted; and others which have been suspended have been finally rejected. If from the total number of claims admitted be subtracted the total number received and acted on, the number suspended or rejected will be 11,881.

I have the honor to be, with great respect, your obedient servant,

J. C. CALHOUN.

Hon. JOSEPH BLOOMFIELD,
Chairman of the Committee on Revolutionary Pensions.

Rules and regulations for substantiating claims to pensions, to be observed under the law of Congress of the 18th of March, 1818, viz:

Regulation of the 26th of March, 1818.

The commissions of officers and the discharges of the regular soldiers of the army of the Revolution (if in existence) applying for pensions under the above act will, in every instance, be furnished to the War Department;

and the signatures of the respective judges certifying in these cases must be attested by the seal of the courts where such judges preside; the person applying for pension to declare, under oath, before the judge, that, from his reduced circumstances, he needs the assistance of his country for support.

Regulation of the 27th May, 1818.

It is expected that the judges will certify as well to the reduced circumstances as to the continued service of nine months, required by the law of the 18th of March, 1818; and pensions will invariably be refused unless the declarations of the applicants shall be accompanied by such certificates. The applications for pensions belonging to New Hampshire, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, will be delayed until further evidence of their service shall have been received from the several executive officers of the States.

Regulation of June, 1818.

In a case where the name of the applicant cannot be found on the rolls, the evidence required to substantiate his claim is, the deposition of two disinterested witnesses as to the service and discharge of the applicant, corroborating his own statement. The magistrate who administers the oath must certify to the credibility of the witnesses, and the official character and signature of the magistrate must be attested by the county clerk, under his seal of office. [This rule has extended to such cases only as seemed to require extraordinary proof. In a case, for example, where the rolls of the regiment in which the applicant served were complete for the period at which he is stated to have served, and his name could not be found; and in cases where the applicant's statement has not agreed with historical facts.]

16th CONGRESS.]

No. 501.

[1st SESSION.]

SHIP BURNT BY THE BRITISH IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 5, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of William Rice, of the town of Bangor, in the district of Maine, reported:

That the petitioner represents that, during the late war, and previous to the 4th day of September, 1814, he was owner of three-fourth parts of the hull of a new ship, of about two hundred and fifty-six tons burden, lying in the Penobscot river, near said town of Bangor; that he, being liable to do militia duty, was ordered into service on the 1st day of said month, to assist in repelling the invading enemy, who were approaching up said river; that he continued in service until the militia retreated on the 3d day of said month, when the enemy advanced and took possession of Bangor, and of all the vessels lying near that town; that, on the morning of the 4th of said month, the said enemy burnt and wholly destroyed said vessel. He further represents that, if he had been at liberty to attend to his property on the 2d and 3d days of said month, he could have saved the said vessel, by taking her to a place of safety, or have sunk her in deep water in the river. He asks Congress to make him remuneration for his loss.

Several witnesses testify as to the fact of Mr. Rice being in the service of his country as above stated, some of whom state that they understood at the time that the enemy gave as a reason for burning said vessel that she belonged to persons living on the west side of said river, and who were fighting against them; and that this was the only vessel burnt on the east side of said river at that time.

The committee recollect of no case where Congress have made remuneration for property lost under such circumstances, and think it would be inexpedient to do so in the present case. They therefore recommend that the prayer of the petitioner be rejected.

16th CONGRESS.]

No. 502.

[1st SESSION.]

LOSS ON A CONTRACT FOR MUSKETS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Stephen Jenks and Sons, reported:

That the petitioners claim an extra allowance for a quantity of arms manufactured by them under a contract with the United States, and allege in support of their claim, in substance, as follows, viz:

1st. That they completed a large number of arms, in all respects agreeably to a pattern-musket furnished by the agent of the United States, which the inspector refused to receive.

2d. That the inspector directed several alterations from the pattern, viz: that the plate of the lock and hammer should be made thicker, the neck of the bayonet shorter, and the blade thicker; to alter the guard, "and make several other alterations," which, it is alleged, created an additional expense.

3d. That they were not bound by the contract to deliver flints, or boxes for packing the arms, both of which they have delivered—the former without compensation, and the latter at a price greatly below the cost.

4th. That, while they were subjected to expenses not contemplated by the contract, they sustained a loss by an advance in the price of materials, occasioned by the war.

5th. That, notwithstanding they suffered a loss in each stand of arms, they have, through great exertions, and in the worst of times, and previous to the close of the war, delivered to the United States 4,300 stands of arms of a superior quality to any which were made by other contractors, and equal to any made at the armories of the United States; that they have fulfilled their contract by the delivery of arms at \$10 75 each, while others, who had failed in fulfilling their engagements, had been permitted, under new contracts, to remunerate for moneys advanced them by delivering arms at \$14; and, appealing to the justice and liberality of the Government, they submit the following schedule of their claim:

| | | | | | | |
|---|---|---|---|---|---|--------------------|
| Short pay for 172 boxes, at 90 cents each, | - | - | - | - | - | \$154 80 |
| 4,300 flints, at 2 cents each, | - | - | - | - | - | 86 00 |
| Boxing 4,300 stands of arms in 172 boxes, at 35 cents each, | - | - | - | - | - | 60 20 |
| Short pay for 4,300 stands of arms made, worth \$3 25 each more than the pattern, by reason of alterations directed by the inspector, | - | - | - | - | - | 13,975 00 |
| Amounting in the whole to | | | | | | <u>\$14,276 00</u> |

Among the papers referred to the committee is one purporting to have been the original contract, bearing date the 24th of October, 1808, which stipulates for the delivery to the receiver of public arms in Connecticut of 800 stands within one year from date, and the like number within each of the succeeding four years, for which the United States were to pay \$10 75 each. The contract is silent on the subject of flints and boxes for packing. It stipulates that the muskets and bayonets shall, in all their parts, be made conformable to two selected patterns made at the public armories at ———, but gives no other description of the patterns, nor is it shown that any were delivered.

The petitioners offer in support of their claim the affidavits of a large number of persons, all tending to prove that the arms manufactured by the petitioners were done in a workmanlike manner, and the deviations from the pattern, pointed out by the inspector, rendered the arms more valuable to the Government, and more expensive in the fabrication, than the pattern; but it is not in proof that the pattern of which the witnesses speak was one by which the petitioners were authorized to work, nor does a single witness give an opinion as to the amount of expenses incurred by the deviation from the pattern.

It appears that, at a former session, a correspondence took place between a committee of the House and the Secretary of War in relation to this claim, which elicited a report from the commissary general of purchases, and an affidavit from Mr. Charles Williams, who inspected the arms in question.

The commissary expresses an opinion that the petitioners have no claim to an extra allowance, and supports his opinion by statements which are, in substance, as follows:

1st. That the petitioners were bound to work by selected patterns, which, he is informed, were good; and he doubts very much whether the arms made by them were, in all respects, equal to the patterns.

2d. That he has no knowledge of the alleged alterations, and presumes they were trifling, as contractors are not in the habit of agreeing to alterations which will subject them to much inconvenience or expense, unless an agreement is made to remunerate them—a fact of which his experience in the Department leaves no doubt.

3d. He is clearly of opinion that the musket is not complete without a flint, and hence the contractor is bound to furnish it; without it, the lock could not be proved. Flints are delivered by all other contractors without an intimation of an expected allowance; and that, were the flints a fit subject for a charge, the demand is enormously high, being 150 per cent. more than he paid at any period of the war. The charge for packing the arms is altogether inadmissible.

4th. That boxes to contain the arms have been delivered by every contractor at \$1 10 each, [the price which the committee presume was paid to the petitioners,] and that no contractor, at the settlement of his account, has intimated an expectation of receiving more.

5th. That, in the year 1808, \$6,400 was advanced to the petitioners to enable them to purchase materials; not a cent of which was accounted for until five years had nearly expired; and he thinks the use of the money sufficient to indemnify them for the alleged losses in the advanced price of materials occasioned by the war.

6th. That the petitioners have failed to fulfil their contract, as, up to the date of the report, (16th March, 1818,) of the 4,000 stands contracted for, only 2,875 had been delivered—a deficiency which, with others, obliged him to enter into new contracts. He gave \$14 25 for arms under new contracts, but they were very superior to any previously furnished on contracts with the Government—better worth \$16 than those furnished under the contracts of 1808 were worth \$10 75; that, in August, 1813, the petitioners had delivered but 2,350 stands, for which they were paid, leaving the \$6,400 in their hands to that time, although by October of the same year they should have delivered 4,000.

7th. The commissary says: "In the memorial I find they state they had delivered 4,300 stands. These *two* contracts [were] with nearly the same persons—one with 'Stephen Jenks and Sons' for 4,000; the other with 'Jewett, Jenks, and Sons' for 3,000: on the latter contract they received an advance of \$6,450, and retained it nearly three years. All the reasons which apply to one contract will apply with equal force to the other."

8th. That, when the settlement of the accounts of the late purveyor of public supplies was committed to him, he wrote to all the contractors, offering to receive the balance due from them, either in money or muskets. If the muskets were worth \$3 25 more than the sum for which they received a credit, he is astonished that they should have preferred to deliver muskets instead of paying the money without interest.

9th. That, under the contract with Jewett, Jenks, and Sons, Colonel Wadsworth allowed them to deliver to the State of Rhode Island 250 stands, at \$14 each; and that, under the instructions of Mr. Graham, he settled the account at \$13 48 each, and they were delivered without inspecting. He expresses a fear that this allowance has given rise to the present claim.

Charles Williams, who inspected the arms, states in his affidavit that the alterations in the muskets were necessary, but cost a mere trifle either in money or time; and, in his opinion, were made upon no other consideration than a recommendation of the work of the petitioners, or upon his suggestion that the Government would want more arms, and that the best workmen would most likely be continued in employment. He never held out a prospect of remuneration, either in pursuance of orders, or upon his own responsibility.

Upon an examination of the foregoing statements and facts, the committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

16th CONGRESS.]

No. 503.

[1st Session.]

LOSS OF A SLAVE IMPRESSED INTO THE PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Jacob Purkill, praying that a law may pass allowing him the sum of \$700 for his negro man Archy, who died, as the petitioner alleges, in consequence of a disease contracted by working in mud and mire at New Orleans, under the order of General Jackson, who had impressed him into the service of the United States, submitted the following report:

James Edwards states on oath that, in the month of November, 1814, being employed by John Willis as patrolman or commander of the barge Kitty, then lying at Eddyville, he hired Jacob Purkill's negro man Archy for the purpose of making a voyage to Orleans and back; that they arrived at Orleans about the 17th of December, when the white men were taken to man the lines, and the negroes (among whom Archy was one) were impressed by order of General Jackson for fatigue duty; that, after said negro had been thus employed for twenty-six or twenty-seven days, on hearing he was sick, the witness went and found him in a very exposed situation, lying on three boards on a small tuft surrounded by mud and mire more than shoe deep; that the negro was taken to the barge, where he remained three days; that Mr. Willis then sent him to a boarding-house, where good care was taken of him until some time in March, when he was brought to the barge, then about to return home, but where he died on the first night, as the witness *believes*, with a swift consumption, occasioned by his exposure in the mud and water in which the said witness had seen him at work.

Two other witnesses, George Gracey and William Story state that they were well acquainted with the negro alluded to; that he was a valuable slave, weighing about one hundred and seventy pounds; that they saw him at work in the swamp nearly up to the hips, and likewise at the boarding-house whilst he was sick, as the witnesses believe, with a consumption, which, as they *understood*, was occasioned by his exposure in the swamp while in the service of the United States.

No official document accompanies the petition showing that the negro was *really* impressed into the service; no deposition or certificate from the owner of the vessel, (Mr. Willis,) under whose care and protection the negro was placed; and no certificate or statement from any surgeon of the army or physician to show that the disease was *really* contracted by his exposure as before stated.

If the facts were established beyond the possibility of a doubt that the negro contracted the disease of which he died whilst in the service of the United States, it would be considered a *consequential injury*, for which the petitioner is not entitled to pay; but the evidence being defective, and by no means the best in the power of the petitioner to obtain, either in relation to the impressment or to the cause of his death, the committee, without hesitation, recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 504.

[1st Session.]

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 7, 1820.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of John Payue, jun., reported:

That the petitioner represents that in the year 1814 he entered the Military Academy at West Point as a cadet, under a warrant duly granted to him for that purpose; that he continued in the performance of his duty at that place until the month of June, 1815, when, by the accidental discharge of a piece of ordnance, whilst he was in the act of charging it, his right hand and a part of his arm were torn off, and his eyesight greatly impaired. For these injuries the petitioner prays that a pension may be granted to him, of such amount as may be deemed reasonable and just.

The committee further report that the case of the petitioner, in their opinion, does not come within any of the laws of the United States in relation to pensions; and that it would be inconsistent with justice and good policy to extend relief to the students in the Military Academy for injuries received whilst pursuing their studies, or discharging the other duties assigned to them. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

[16th CONGRESS.]

No. 505.

[1st SESSION.]

LOST CERTIFICATE FOR ARMY SUPPLIES IN THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 10, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Edward Smith, styling himself executor of Philip Bush, deceased, (on the 13th day of December, 1819,) have had the same and the papers accompanying it under consideration, and report thereon:

The petitioner states that his testator, Philip Bush, in consideration of provisions furnished for the use of the army of the United States on the 31st of March, 1780, received a certificate from J. Brown, jun., for A. Steel, deputy quartermaster general, for the sum of \$32,842⁵⁵/₁₀₀, old emissions, which (as he states) will appear from the margin of certificates issued by the said J. Brown, jun.; that, in the year 1785, the said certificate was lost, and that neither the petitioner's testator, nor any one for him, has received one cent therefor; that the said Philip Bush, on the 18th of January, 1797, presented a petition to Congress, praying remuneration, which was rejected, as the petitioner believes, as well for want of evidence that it had not been paid, as from the statute of limitations being supposed to have run against it. The petitioner also states that, at a subsequent day, to wit, on the 5th of March, 1800, the said Philip Bush presented another petition, supported (as he states) by the strongest possible testimony; which petition and testimony he refers to as a part of this petition, but which, for some cause or other, which he cannot well ascertain, was also rejected; and he states that the testimony shows that the provisions were furnished by said Bush; that a certificate was granted therefor; that the said certificate was lost, and has never been paid for. And this petitioner, with the knowledge (as he states) that this claim had been previously twice rejected in the time of Philip Bush, hath presented his petition, styling himself executor of Philip Bush, deceased, and prays that his claim may be considered, and that justice done towards him to which he is entitled.

The committee further report that they have had reference to the original petition referred to by this petitioner, presented by Philip Bush, Philadelphia, January 18, 1797; in which it appears that Philip Bush stated that, being possessed of a printed certificate, under the hand of John Brown, jun., for A. Steel, deputy quartermaster general, he has lost the same, to his great injury and distress; but he does not state the number of the certificate, nor for what consideration issued, nor the sum of money claimed to be due. It appears, by endorsements on this petition, that, on the 18th of January, 1797, it was referred to the Committee of Claims; that, on the 7th February, 1797, report was made, and its consideration postponed until the first Monday of December next; that, on the 20th February, 1798, it was recommitted to the Committee of Claims; that, on the 9th March, 1798, report was made, and committed to a Committee of the Whole House on Wednesday next; that, on the 22d of March, 1798, the report was agreed to, and the prayer of the petitioner rejected. To that report this committee do refer. [See No. 100, page 216.]

The committee further report that there were filed by the petitioner, in support of his said claim, certificates from the respective commissioners of the loan offices in the several States of the United States, to show that a certificate (No. 26) issued to Philip Bush by John Brown, jun., for Archibald Steel, deputy quartermaster general, for \$32,842⁵⁵/₁₀₀, had not been presented for settlement at either of the said loan offices; that all the said certificates are dated previous to the year 1798, and are therefore presumed to have been in possession of the Committee of Claims at the time of making the report above mentioned and referred to, and in possession of the House of Representatives at the time that the said report was agreed to. A certificate of William Simmons, dated 24th February, 1795, is filed among the papers accompanying the petition; it states that it appears by the margin certificate issued by J. Brown, jun., for A. Steel, deputy quartermaster general, that a certificate of the following description was issued to Philip Bush, assistant quartermaster, viz: a printed certificate (No. 26) for \$32,842⁵⁵/₁₀₀, old emissions, which sum is said to be due to him the 31st March, 1780. It seems as if on this certificate of William Simmons all the said certificates of the commissioners of loan offices were bottomed; and, from the date of this certificate, it is presumed that it was in possession of the Committee of Claims at the time that the report above mentioned and referred to was made, and also in possession of the House at the time said report was agreed to. A paper, purporting to be a deposition of a certain George Slough, also is with said petition; it is dated in January, 1797, and states that, in November, 1785, he received from Philip Bush, in Winchester, Virginia, a certificate which he was to deliver to Mr. Archibald Steel, at Lancaster; that, Mr. Steel not being there, he, in the month of December, 1785, enclosed the same certificate in a letter directed to Mr. Philip Bush, of Winchester; that he gave it to a certain John McMinn, to carry and deliver to the said Philip Bush, which he promised to do, saying he knew him well. That this deposition was in possession of the Committee of Claims when they made the said report, and in possession of the House when the said report was agreed to, is presumed. This deposition, however, does not identify the certificate alleged by the petitioner to have been lost.

On the 5th March, 1800, another petition of Philip Bush appears to have been referred to the Committee of Claims by the House. He appears, by his statements in that petition, to have acquired a knowledge of the certificate alleged to have been lost. In that petition he states that the said certificate was issued by J. Brown, jun., for A. Steel, deputy quartermaster general, on the 31st of March, 1780, for \$32,842⁵⁵/₁₀₀, old emissions, which, he states, will appear from the margin of the certificates issued by the said J. Brown, jun. This statement shows that he derived some, if not all, of his knowledge of said certificate from the certificate of margin given by William Simmons. In that petition he states that said certificate was lost in 1785, and therein he refers to the said certificates from the commissioners of the loan offices, and prays that he may receive that justice which he is entitled to. An instrument of writing, dated 26th March, 1800, purporting to be a deposition of Philip Bush, is filed with said petition, and is presumed to have been in possession of the committee, together with the certificates from the several commissioners of loan offices, who decided on the said last-mentioned petition. In this deposition Philip Bush does not identify the said certificate alleged to be lost, but refers to the deposition of George Slough, and his petition; and states that he does verily believe that the said certificate is lost, but does not swear to the absolute loss thereof.

This committee further report that it appears that the said last-mentioned petition was, on the 22d April, 1800, reported on, [See No. 116, page 241,] and that report referred to a Committee of the Whole House on Thursday next; that, on the 27th November, 1800, it was again referred to the Committee of Claims; and that, on the 26th of January, 1801, a report was made, and referred to a Committee of the Whole House on Monday next; and that, on the 21st of February, 1801, that report was considered, and the prayer of the petitioner rejected.

This committee further report that this petitioner hath, as was before observed, presented, without any additional testimony, his claim to be paid for said certificate, with the knowledge that this claim had been previously twice rejected, and again presented by him, after a lapse of years from the 21st of February, 1801.

This committee have considered this claim, and the testimony adduced to support it, and several reports made by the Committee of Claims thereon, and can discover no reason to differ with the said reports, and do concur in opinion with them that this claim ought to be rejected.

This committee further report that this claim, as the petitioner, Philip Bush, deceased, in his second petition, did state, and as the petitioner, Edward Smith, does state, is for provisions furnished for the army of the United States, and for which a certificate was issued on the 31st of March, 1780, by J. Brown, jun., for A. Steel, deputy quartermaster general, for the sum of \$32,842⁵⁵/₁₀₀, old emissions, which, as he states, will appear from the margin certificate issued by the said J. Brown, jun.; the margin certificate referred to is presumed to be that of which William Simmons appears to have given a certificate. So far as relates to this particular case, that certificate states that it appeared by said margin that a certificate for \$32,842⁵⁵/₁₀₀ had been issued by J. Brown, jun. to Philip Bush, assistant quartermaster. This certificate, then, to Philip Bush, assistant quartermaster, is of a different character from a certificate to Philip Bush in his individual capacity, and, being presumed to have been made payable to him or bearer, could have been passed on from hand to hand.

The resolve of Congress of the 5th of March, 1770, directed the payment of, and established regulations respecting, certificates for provisions furnished to the army; and the quartermaster general and his deputies were thereby authorized and directed to pay all certificates (of the authenticity whereof they are or shall be satisfied) for provisions furnished by the inhabitants to the troops. The alleged certificate appears to have been issued (if legally issued) under said regulations, and Philip Bush ought to have applied, as an assistant quartermaster, to his principal for payment, if not previously paid. The Congress of the United States, by a resolution of the 28th May, 1780, recommended to the several States to receive in payment of taxes certificates given by the quartermaster general's department for provisions and other articles previous to the 1st of March in that year; and that the States, respectively, shall have credit for the same on their quota of taxes due to the 1st of March aforesaid, under the regulations prescribed in that resolution. The alleged certificate appears to have been issued subject to the regulations of the resolve of the 5th of March, 1779; and by that resolution it was provided that no certificate given after the date of that resolution shall be paid, unless presented to the proper officer within three months after the date thereof. Of this provision Philip Bush ought to have availed himself. On the 5th of August, 1780, the Congress of the United States was informed that General Green refused to act any longer as quartermaster general; and, on the 26th of August following, Congress passed a resolution, calling on General Green, late quartermaster general, to render an account to the Board of Treasury of the amount of moneys due from him on certificates or otherwise on public account, specifying the sum due in each State, in order that warrants may issue in their favor on the treasuries of such States for payment of the same out of the moneys to be collected for the United States; which warrants being paid, shall be accepted by the Treasurer, towards such States' quota of the moneys to be raised as aforesaid. And it is further recommended to such States to provide that the certificates of said quartermaster, and those who purchased under him, be received in payment of the said taxes, to the amount of such warrants, under proper regulations for preventing fraud. Under the authority of that resolution, Philip Bush could, if he would, have had his said alleged certificate settled and paid. He might have received bills of new emission for his alleged certificate of old emissions, if he did not receive them. On the 23d February, 1785, Congress resolved that one additional commissioner be appointed in the States of Virginia and Pennsylvania, for liquidating and settling the accounts of individuals against the United States, and prescribed rules respecting certificates; and directed that the commissioners of accounts be instructed to be careful how they admit charges against the United States on certificates which are not clearly supported on the authority of Congress, and the accounts of the officers who have issued them. Of the provisions of this resolution Philip Bush might have availed himself, and have presented the said alleged certificate to the commissioner of accounts in the State of Virginia, to have had a liquidation and settlement thereof, (if it had not been previously paid or settled for as provided by resolutions of Congress;) the said Philip Bush, in either case, having substantiated the validity of said certificate by showing that it was duly supported by authority of Congress, and the accounts of the officer who issued it.

On the 19th of November, 1779, Congress passed a resolution that the commissioners of the continental loan office of the United States be respectively directed to receive, for loan office certificates, such bills of credit only as have been or may be emitted by Congress, any resolution to the contrary notwithstanding. Hence it is inferred that the certificates of the several commissioners of loan offices, adduced in support of this claim to show that the said alleged certificate has not been paid, have not any bearing in support of this claim; but the said alleged certificate could and might have been disposed of in payment of taxes in the State of Virginia; or it could and might have been liquidated and settled by the commissioner for settling accounts in that State; or it could and might have been paid for by the proper officer in the quartermaster general's department. The petitioner alleges the said certificate to have been lost in 1785, and the said Philip Bush does not appear to have done any thing, or to have made any application for payment thereof, until the year 1797; and this delay is an objection against the justice of this claim. On the 23d of July, 1787, Congress passed a resolution, precluding from settlement or allowance all unliquidated claims against the United States, pertaining to the quartermaster's department, which were not exhibited to the proper commissioner for settling the accounts of that department within eight months after the date of that resolution; and the committee beg leave to make the said two previous reports part of this report.

The committee further report that, having considered this claim in all its circumstances, viz: that it is not supported by sufficient testimony; that it has been long since barred by the statute of limitation; that two several reports have heretofore been made against it, and that these reports have been agreed to and confirmed by the House of Representatives of Congress; and that it is not, nor has been for many years, covered by any resolution or act of Congress, they are of opinion that it is inexpedient, and would be highly dangerous, to provide, at this late period, by law, for the liquidation and payment of this claim of the petitioner, or of any other similar claim, and therefore submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

16th CONGRESS.]

No. 506.

[1st SESSION.]

COLLECTOR EXCLUDED IN THE APPORTIONMENT OF THE PROCEEDS OF GOODS FORFEITED FOR A BREACH OF THE REVENUE LAWS.

COMMUNICATED TO THE SENATE, JANUARY 12, 1820.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of Thomas Chapman, collector of the customs for the district of Georgetown, in the State of South Carolina, reported:

That the petitioner states that, in the month of February, 1814, he, as collector aforesaid, was called on by the captain and supercargo of the brig *Diana*, a Swedish vessel, then lying without the bar, to know if the vessel might enter the port without paying tonnage and light-money, she being in great distress; and, after obtaining the necessary information, the vessel was brought into port. Soon after her arrival, she was boarded by Lieutenant Mark, commanding the United States cutter *Boxer*, who, from circumstances, suspected that attempts had been and were making to smuggle the cargo, and called the attention of the petitioner, as collector, to the subject. The petitioner went on board himself, and also sent an inspector, with a view of preventing injury to the revenue. From all the circumstances of the case, the petitioner did not think the evidence of improper conduct such, on the part of the said vessel, as to justify the issuing of legal process against her for a breach of the revenue laws. The petitioner further states that, at the instance of Lieutenant Mark, commander of the cutter, the said vessel was libelled for such breach of the laws, and was condemned before the proper court; that the petitioner, having been called on as a witness on the part of the Swedish claimants of the property, gave testimony accordingly; that the vessel was acquitted on the trial in Charleston, but the cargo condemned; that an appeal was taken to the Supreme Court, where the decision of the court below was finally affirmed; that, in apportioning the proceeds of the condemned cargo among the persons entitled to receive it under the acts of Congress on this subject, the part of the collector was one-fourth, but the court determined that your petitioner, the collector, having been examined as a witness in the cause, was expressly excluded by the words of the statute, which opinion was confirmed by the Supreme Court. The petitioner states a number of reasons which, in his opinion, will justify Congress in giving to him that portion of the condemned property to which, under certain circumstances, he would have been entitled, and finally prays the passage of a law granting the amount to him.

The committee, having attentively considered the circumstances of this case, are unable to discover any thing which would justify Congress in making any change of that disposition of the property which has been made by the courts through which this case has passed. It was there investigated fully, no doubt, by able counsel on both sides, as the sum of \$13,000 was depending on the issue, and finally decided before tribunals fully competent to give correct decisions. That part of the forfeiture of property condemned for the violations of the revenue laws which is given to the officers who are instrumental in detecting frauds attempted to be practised was undoubtedly intended to excite those officers to vigilance in frustrating such attempts, and bringing to justice the perpetrators thereof; but the petitioner, so far from having been instrumental in the condemnation of the *Diana*, appears, from his own showing, to have been ignorant of the law under which the proceedings were carried on, took no part whatever in the prosecution—indeed, refused to take a part—and was examined as a witness on the opposite side of the question.

Considering all the circumstances of this case, the committee recommend to the Senate the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 507.

[1st SESSION.]

COMPENSATION FOR CARRYING A FLAG OF TRUCE TO THE HOSTILE INDIANS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 12, 1820.

Mr. ROBERTS, from the select committee to whom was referred the memorial of the Kentucky Legislature in behalf of Christopher Miller, reported:

That, although the memorial of the Kentucky Legislature was the only evidence laid before the committee in support of the claim of Christopher Miller, they feel bound, by the high character of that instrument, to believe every statement it contains.

It is referred to and made a part of this report, and, in the opinion of the committee, gives Mr. Miller a strong claim to the favorable consideration of Congress.

Wherefore, they beg leave to report a bill for his benefit.

The Legislature of Kentucky cannot view the present happy state and condition of their country, as it respects her being secured from foreign invasion, without looking back and inquiring how, and by what means, she has attained this high, dignified, and honorable station: in doing which, she discovers herself justly indebted in gratitude to many worthy men who are now no more; but the eye falls upon one, Christopher Miller, who is yet living, and who has never been noticed by the General Government, to whom, they conceive, she is greatly indebted, not only upon the principle of rewarding real merit, but upon a score of justice, founded on a promise made by a man on the part of the United States, on whose promise Christopher Miller had a right to rely.

In the year 1783, Christopher Miller, of Hardin county, in the State of Kentucky, who was then about fifteen years of age, was taken prisoner by the Indians; he remained a prisoner with them till the year 1794, when he

was taken from them by the spies of General Wayne. No sooner did he find himself in the midst of his brothers of America, than that spark of love of country, which had been almost extinguished by savage habits, burst into a flame, and he tendered his services to the general as one of his spies. In this character he acted for some time, going into the environs of the towns of the enemy, taking prisoners from his old masters, and bringing them to his general. At length it became necessary to send another flag to the enemy, several having been sent and none returned. The eyes of the board of officers were turned to Miller; he was applied to by the general, with an assurance that if he would undertake the task, and should succeed in the undertaking, he should receive from his Government an independent fortune. The agreement is made; the ambassador sets out; the anxious eyes of his countrymen follow him; but scarcely a gleam of hope is left them that he will ever return: but, to their great joy, he performs the undertaking, finishes the task, effects the objects of his mission, and on the fourth day returns to his general. Peace is concluded; the shedding of human blood is thereby stopped. Wayne is now no more; Miller still lives, but has a family of promising children, is poor, and has never received any compensation for his services. We are told that application was once made to Congress for him, but, for the want of proof in support of the facts alleged, no allowance was made. The Legislature of Kentucky, having, at their present session, members of their own body who know the facts herein stated to be true, have thought it their duty to interfere in behalf of one of their countrymen, and pray your honorable body to make such provision, by law, for the said Christopher Miller, as you, in your wisdom, may think just.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the acting Governor of Kentucky be requested to transmit copies of the foregoing memorial to each of our Senators and Representatives from the State of Kentucky in the Congress of the United States, and that they be directed to lay the same before Congress, and use their best exertions to have it acted upon during the present session.

J. CABELL BRECKINRIDGE,
Speaker of the House of Representatives.
W. B. BLACKBURN,
Speaker of the Senate.

Approved, 25th January, 1819.
By the Lieutenant Governor:

GABRIEL SLAUGHTER.
JOHN POPE, *Secretary.*

16th CONGRESS.]

No. 508.

[1st SESSION.]

RULES AND REGULATIONS IN RELATION TO THE EXECUTION OF THE ACT FOR
THE PAYMENT FOR PROPERTY DESTROYED BY THE BRITISH.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 12, 1820.

SIR: DEPARTMENT OF WAR, *January 11, 1820.*

In conformity with a resolution of the House of Representatives of the 23d ultimo, directing the Secretary of War to lay before that House the rules and regulations established by the commissioner, and adopted by the War Department, in relation to the execution of the "act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," passed the 9th of April, 1816, particularly in relation to horses lost, I have the honor to transmit, herewith, the rules and regulations required.

I have the honor to be your most obedient servant,

J. C. CALHOUN.

Hon. H. CLAY, *Speaker of the House of Representatives.*

Regulation for the government of the Commissioner of Claims, dated July, 1816.

The act of the 9th April, 1816, authorizing the appointment of a commissioner for the liquidation and payment of claims for property lost, captured, or destroyed in the service of the United States, and for other purposes, having subjected the commissioner appointed under that act to such rules as the President shall prescribe for the government of his conduct, the President, upon due consideration, has been pleased to direct that all cases comprehended in the fifth class of claims under the said act shall be referred to the additional Accountant of the War Department before any decision shall be made thereon, in order to ascertain whether the same shall not have been previously satisfied.

Approved:

WM. H. CRAWFORD.

JAMES MONROE.

Supplementary regulation.

The evidence of officers of the late army, and the certificates of those now in service, taken under the original regulations prescribed by the Commissioner of Claims, must state whether any certificate or voucher in relation to such claim has been heretofore given, within the knowledge of the witness, or of the officer whose certificate is required. The claimant must also state, on oath, whether he has received any voucher, and account for its non-production where any has been obtained. In all cases, the name of the officer by whom the voucher was given, and its date, as nearly as can be ascertained, must be disclosed.

Approved:

WM. H. CRAWFORD.

JAMES MONROE.

Sir:

DEPARTMENT OF WAR, *September 7, 1816.*

The President has been pleased to direct that the occupation of houses and buildings by the military force of the United States is embraced by the ninth section of the act "to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," and that compensation shall be allowed for damages sustained in consequence of such occupancy, in the same manner as if such houses and buildings had been occupied as a military deposite under the authority of an officer or agent of the United States.

I have the honor, &c.

WM. H. CRAWFORD.

RICHARD B. LEE, Esq., *Commissioner.*

Sir:

DEPARTMENT OF WAR, *September 19, 1816.*

In looking over some of the cases referred by you to the Accountant, it has occurred to me that the public interest requires that some additional regulations should be made to guard the Government against imposition.

In some cases, the evidence discloses the name of the officer by whose authority the impressment of the property for which compensation is claimed has been made; in others, there is no such disclosure. In the first case, where the original certificate of the officer, or his evidence, is not produced, it is but a reasonable precaution, to guard the public against imposition, that his testimony should be obtained. In the second, the evidence appears to me to be too loose to justify an award in favor of the claimant. The name of the officer by whose authority the property has been taken, with convenient certainty as to the time and place, should be disclosed, to enable the Government to obtain the benefit of his testimony. In some of the cases which I have looked into, the loss appears to have been sustained by the unauthorized depredations of the soldiers, and does not come within the provisions of the law.

The case of charges for attending to sick soldiers appears to me to be liable to the same objection. The witnesses in some cases swear generally to the fact of impressment, where it is difficult, if not impossible, to conceive how impressment could have existed.

Under all these circumstances, I have conceived it to be my duty to submit to the consideration of the President the propriety of directing that, in all cases of property impressed coming within the provisions of the law, the name and rank of the officer by whose authority it has been made shall be disclosed in the evidence, and that the testimony of such officer shall be obtained by the commissioner, where it is practicable, before any decision shall be made in favor of such claimant; that the case of charges for attending sick soldiers, and the loss or destruction of property by the unauthorized acts of the soldiery, are not within the provisions of the law. In making this communication, I feel it my duty to observe that, in the execution of an act giving such extensive jurisdiction, under rules formed without experience, it would have been extraordinary if every difficulty had been foreseen and provided for in the regulations thus digested. In this, as in every theoretical essay, defects will necessarily be discovered in practice, which experience alone will be able to remove.

I have the honor to be, &c.

WM. H. CRAWFORD.

RICHARD B. LEE, Esq., *Commissioner.*

Sir:

WAR DEPARTMENT, *October 21, 1816.*

Pursuant to the eleventh section of the "act making provision for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," the President has been pleased to direct—

That the first and second sections of the said act do not embrace the case of officers of the regular army; and that the property which a regular officer may have taken with him in the service, or which he may have been required by law to keep, is not comprehended by the terms "impressed or by contract," used in the third section.

That the provisions of the third section extend only to losses resulting from the acts of the enemy, or from the failure of the Government to supply the necessary forage.

That the ninth section of the act extends only to cases of destruction of property by the enemy which are justifiable by the laws of civilized warfare. That the occupation of houses or buildings as places of military deposite, or by an armed force, must be continued up to the time of destruction. That the occupation of houses or buildings by an armed force for a night, upon a march, is not within the meaning of the said section, unless in the immediate presence of an enemy. That no compensation, by way of interest, rent, or damages, can be allowed under the act for the time which elapses between the destruction of the property and the decision of the commissioner. That the act does not extend to the case of consequential injury resulting from the destruction of houses or buildings under the ninth section. No compensation can, therefore, be allowed for the destruction of houses or buildings not occupied as a military deposite, or by a military force. That, in all cases of doubt, or of great importance, the commissioner shall submit the evidence to the Executive before any decision is made.

WM. H. CRAWFORD.

To RICHARD B. LEE, Esq., *Commissioner.*

Sir:

WAR DEPARTMENT, *October 30, 1816.*

Your communications, dated the 25th and 28th of this month, have been submitted to the President, who has instructed me to say that the third section of the act to authorize the payment for property lost, captured, or destroyed, &c. will not justify the payment of claims for partial injuries to oxen or horses. I am also instructed by the President to request that you will suspend all decisions under the ninth section of the above-mentioned act until further advised.

I have the honor, &c.

GEORGE GRAHAM.

RICHARD B. LEE, Esq., *Commissioner.*

Sir:

WAR DEPARTMENT, *September 27, 1816.*

Pursuant to the ninth section of the act of April, 1816, for compensating claims for property lost, captured, &c. during the late war, the President has been pleased further to direct that, in cases of property alleged to have been impressed or taken by public authority for the use or subsistence of the army, the name and rank of the officer by whom or by whose order such impressment shall have been made shall be disclosed in the evidence of the

claimant, and no decision shall be made in his favor until the evidence of such officer shall be obtained in the case, unless it shall appear that such evidence cannot be obtained by the commissioner. The President has also directed that the said act does not extend to cases of property destroyed by the irregular conduct of the soldiery, nor to expenses incurred by individuals in attending to sick or disabled soldiers.

RICHARD B. LEE, Esq., *Commissioner*.

WM. H. CRAWFORD.

SIR: DEPARTMENT OF WAR, *December 16, 1816.*

I am directed by the President to inform you that, under existing circumstances, it is thought proper that no final decision be made in any case now depending, or that may be exhibited, under the act, &c. &c. You will, however, proceed to prepare and arrange all such cases for decision when it shall be deemed proper.

GEO. GRAHAM.

RICHARD B. LEE, Esq., *Commissioner*.

SIR: DEPARTMENT OF WAR, *January 1, 1817.*

I am instructed by the President to inform you that it is not deemed expedient to deduct from the amount which you may allow to any individual for the loss, capture, or destruction of his horse, such sum as may have been paid him for the use and risk of such horse.

I have the honor, &c.

GEO. GRAHAM.

RICHARD B. LEE, Esq., *Commissioner*.

OFFICE OF CLAIMS FOR PROPERTY LOST, &c.,
WASHINGTON, *March 26, 1817.*

By the act passed on the 9th day of April last, entitled "An act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," all claims provided for by the said act must be presented at this office on or before the 9th day of April, in the year 1818; as, if not presented within that period, they cannot be received, examined, and decided on at this office.

First class of cases.

The claims provided for by the said act are, 1st. "Any volunteer or draughted militiaman, whether of cavalry, mounted riflemen, or infantry, who, in the late war between the United States and Great Britain, has sustained damage by the loss of any horse which was killed in battle, or which has died in consequence of a wound therein received, or in consequence of failure, on the part of the United States, to furnish such horse with sufficient forage while in the service of the United States, shall be allowed and paid the value of such horse." This provision comprehends three descriptions of cases:

1st. A horse killed in battle.

2d. A horse dying in consequence of a wound received in battle.

3d. A horse dying in consequence of not being furnished with sufficient forage by the United States.

To substantiate a claim of either description:

1st. The order of the Government authorizing the employment of the corps to which the original claimant belonged, or the subsequent acceptance of such corps, or approbation of its employment, must be produced.

2d. The certificate of the officer or surviving officer commanding the claimant at the time of the accident on which the claim is founded, which certificate, if not given while the officer was in the service of the United States, must be sworn to; and, in every case, it must, if practicable, state the then value of the horse so killed or dying. Before any other evidence will be received, the claimant must make oath that it is not in his power to procure that which is above specified, and that the evidence which he shall produce in lieu thereof is the best which he is able to obtain. In every case, the evidence must be on oath, and the value of the horse so killed or dying ascertained. All evidence offered must be taken and authenticated in the manner hereinafter directed, and, in all these cases, the claimant must declare, on oath, that he has not received another horse from any officer or agent of Government in lieu of the one lost.

Second class of cases.

"Any person, whether of cavalry, or mounted riflemen, or volunteers, who, in the late war aforesaid, has sustained damage by the loss of a horse, in consequence of the owner thereof being dismounted, or separated and detached from the same by order of the commanding officer, or in consequence of the rider being killed or wounded in battle, shall be allowed and paid the value of such horse at the time he was received into the public service." This class comprehends two descriptions of cases:

1st. When the owner has been dismounted, or separated and detached from such horse by order of the commanding officer.

2d. When the rider has been killed or wounded in battle, and the horse lost in consequence thereof.

The same evidence, in all respects, which is required in the first class of cases, will be required in this.

Third class of cases.

"Any person who, in the late war aforesaid, has sustained damage by the loss, capture, or destruction, by an enemy, of any horse, mule, or ox, wagon, cart, boat, sleigh, or harness, while such property was employed in the military service of the United States, either by impressment or by contract, except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner, if it shall appear that such loss, capture, or destruction was without any fault or negligence of the owner; and any person, during the time aforesaid, who has sustained damage by the death of such horse, mule, or ox, in consequence of failure on the part of the United States to furnish sufficient forage while in the service aforesaid, shall be allowed and paid the value thereof." This class comprehends two cases:

1st. The loss or destruction of property by an enemy, taken by impressment or engaged by contract in the military service of the United States, being either a horse, a mule, an ox, wagon, cart, boat, sleigh, or harness, excepting articles for which the owners had agreed to run all risks, or which were lost or destroyed by fault or negligence of the owners.

2d. When a horse, mule, or ox, so taken or employed, has died from the failure of the United States to furnish sufficient forage.

In the first of these cases, the claimant must produce the certificate of the officer or agent of the United States who impressed or contracted for the property above mentioned, and of the officer or surviving officer under whose immediate command it was taken or destroyed by an enemy. Such certificates, if such officers or agents at the time of giving them be not in the military service of the United States, must be sworn to, and must positively state that the property was not lost or destroyed through the fault or negligence of the owner, and that the owner did not agree to run all risks. Furthermore, the usual rate of hire of the articles so impressed or contracted for in the country in which they were employed must be stated.

In the second case, the certificate of the officer or agent of the United States, under whose command such horse, mule, or ox was employed at the time of his death, must be produced.

Before any other evidence will be received, the claimant must make oath that it is not in his power to produce that which is above specified; and, further, that the evidence which he offers in lieu thereof is the best which he is able to obtain. In every case, the evidence must state distinctly the time, place, and manner of the loss, and the value thereof.

Fourth class of cases.

"Any person, who, during the late war, has acted in the military service of the United States as a volunteer or draughted militiaman, and who has furnished himself with arms or accoutrements, and has sustained loss by the capture or destruction of them, without any fault or negligence on his part, shall be allowed and paid the value thereof." This class comprehends two cases:

1st. The loss of such arms or accoutrements by the enemy.

2d. The loss of the same articles in any other way, without the fault or negligence of the owner.

This provision does not include the clothing of soldiers, or the clothing and arms of officers, who, in all services, furnish at their own risk their own. The same evidence in all respects is required in this as in the first class; and, moreover, that the loss did not happen from the fault or negligence of the owner.

Fifth class of cases.

"When any property has been impressed or taken by public authority for the use or subsistence of the army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof, deducting therefrom the amount which has been paid, or may be claimed, for the use and risk of the same while in the service aforesaid."

This provision relates to every species of property taken or impressed for the use and subsistence of the army not comprehended in any of the preceding classes, and which shall have been in any manner destroyed, lost, or consumed by the army, including in its scope all kinds of provisions, forage, fuel, articles for clothing, blankets, arms, and ammunition—in fact, every thing for the use and equipment of an army. In all these cases, the certificates of the officers or agents of the United States taking or impressing any of the aforesaid articles, authenticated by the officer commanding the corps for whose use they were taken or impressed, and, furthermore, of the officers and agents under whose command the same were destroyed, lost, or consumed, specifying the value of the articles so taken or impressed, and destroyed, lost, or consumed, and if any payment has been made for the use of the same, and the amount of such payment, [must be furnished;] and, if no payment has been made, the certificate must state that none has been made.

Before any other evidence will be received, the claimant must name the person taking or impressing such property, and show that it is impracticable to procure that which is above specified; and, further, that the evidence which he offers in lieu thereof is the best which he is able to obtain.

Under this provision, no claim can be admitted for any article which has not been taken by the orders of the commandant of the corps for whose use it may be stated to have been taken. For any taking not so authorized, the party's redress is against the person committing it.

Sixth (and last) class of cases.

"When any person, during the late war, has sustained damage by the destruction of his house or building by the enemy, while the same was occupied as a military deposite under the authority of an officer or agent of the United States, he shall be allowed or paid the amount of such damage, provided it shall appear that such occupation was the cause of its destruction."

In this case, the certificate of the officer or agent of the United States, under whose authority any such house or building was occupied, must be furnished. Before any other evidence as to this fact will be received, the claimant must name the person under whose authority such house or building was occupied, and show that it is impracticable to procure such certificate, and that the evidence which he shall offer in lieu thereof is the best which he is able to obtain.

Furthermore, in all cases submitted to this office, every claim must be accompanied by a statement, on oath, by every claimant, of all sums which he may have received on account of such claim, from any officer, agent, or department of the Government of the United States; and where he has received nothing, that fact also must be stated on oath by him.

It will be particularly noted by claimants that the preceding rules of evidence generally and more especially apply to claims which shall not exceed in amount two hundred dollars; and that in all cases in which the claims in amount shall exceed two hundred dollars, a special commissioner will be employed to take testimony; but, in these cases, as far as it shall be practicable, the same rules of evidence will be observed.

In all cases in which the officers or agents of the United States shall have taken or impressed property for the military service of the United States, which property so taken or impressed shall have been paid for by them out of their private funds, or the value thereof recovered from them in due course of law, such officers or agents are entitled to the same remuneration to which the original owners of such property would be entitled if such payment or recovery had not been made, and can settle their claims at this office, producing authentic vouchers for such payment or recovery. Nor will any original claimants be paid through this office till they release all claims against such officers or agents of the United States on account of such taking or impressment.

In every case, no claim will be paid but to the person originally entitled to receive the same, or, in case of his death, to his legal representative, or, in either event, attorney duly appointed. When attorneys shall be employed, it is recommended to the parties interested to have their powers executed in due form.

All evidence offered must be sworn to (except the certificates of officers who, at the time of giving them, shall be in the military service of the United States) before some judge of the United States or of the States or Territories of the United States, or mayor or chief magistrate of any city, town, or borough within the same, notary public,

or a justice of the peace of any State or Territory of the United States duly authorized to administer oaths, of which authority proof must be furnished, either by a certificate under the seal of any State or Territory, or the clerk or prothonotary of any court within the same. But the seal of any city, town, or borough, or the attestation of any judge of the United States, will require no further authentication.

By the law of the 3d of March, 1817, the various articles described in the third class of cases are to be paid for, not only on the contingency of their being "taken and destroyed" by the enemy, and, in the case of horses, mules, and oxen, on the contingency of their dying "in consequence of failure on the part of the United States to furnish sufficient forage," but whenever the loss shall happen from any other cause while the property was in the military service of the United States, "without any fault or negligence on the part of the owner," except in cases where the risk to which the property would be exposed was agreed to be incurred by the owner.

By the first section of the last-mentioned law, it is also provided that the ninth section of the first-mentioned act, of the 9th of April, 1816, comprehending the sixth class of cases, "shall be construed to extend only to houses or other buildings occupied by the order of an officer or agent of the United States as a place of deposit for military or naval stores, or as barracks for the military forces of the United States." In all the cases arising under the ninth section, thus modified and explained, the facts established by the evidence in each case are to be reported "to Congress as soon as may be, that such provision may be made for the relief of the respective claimants as shall be deemed just and proper."

It is earnestly recommended to claimants of every description to conform strictly to the directions contained in this paper. In all cases comprehended in the fifth class of cases especially, the testimony of the officer impressing or taking the property cannot be dispensed with, unless it be proved to be impracticable to obtain it. *In every case he must be named.* It is also recommended to claimants to estimate their damages at the most reasonable valuation, as extravagant valuations create distrust, and, in such instances, will compel the commissioner to resort to further investigation, and consequently will induce delay.

All persons who have business with this office are requested to address their letters to the subscriber as commissioner, which will be transmitted free of postage.

RICHARD BLAND LEE, *Commissioner of Claims, &c.*

SIR:

DEPARTMENT OF WAR, April 23, 1817.

Your communications of the 31st of March and of the 19th instant having been submitted to the President, I am instructed to inform you that the decision of the Attorney General in the case of Joseph Anderson, which excludes "houses and buildings" from the operation of the fifth section of the "act to authorize the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," and which limits the terms used in that section to personal or moveable property as distinct from real estate, is not considered as extending to growing crops of grain, grass, vegetables, or growing timber, which may have been taken by public authority for the use or subsistence of the army—the act of taking in such cases implying a severance from the ground, and a consequent change in the nature of the property. The mere occupation of private buildings by troops for temporary accommodation, on a march for example, is not thought by the President to be such an occupation as would bring them within the meaning of the terms used in the first section of the amendatory act passed the 3d of March last, as a continued possession for some time would do; but as the cases arising under that section are all to be submitted to Congress, and not to this Department, for final decision, the President sees no objection to your acting on the construction which you have given to the words "as barrack" used in that section, because, Congress being in possession of the facts, each particular case will determine how far the temporary occupation of a building may make it a barrack.

I have the honor, &c.

GEORGE GRAHAM.

RICHARD BLAND LEE, Esq., *Commissioner.*

16th CONGRESS.]

No. 509.

[1st SESSION.

HORSES LOST IN THE SEMINOLE WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Robert Carr Lane, late a surgeon's mate of the fourth regiment of United States infantry, reported:

That the petitioner states that, on the 23d of November, 1817, while in the line of his duty, and during an engagement with the Seminole Indians at Fowltown, two horses belonging to the petitioner took fright at the firing, and made their escape, and were taken by the enemy, and he never recovered them again. He therefore prays Congress to compensate him for his horses, saddles, and bridles, so lost.

It appears from the certificate of Charles L. Barron, hospital surgeon of the fourth regiment of infantry, that he had the horses of the petitioner under his charge, and that they escaped from him shortly after the firing commenced, and were caught by the Indians. Several other certificates of these circumstances, and of the value of the horses and their equipments, estimated at \$175, accompany the petition, which the committee think it of less importance to detail, as they do not bring the claim of the petitioner within the operation of any law granting relief for horses lost in the military service; and it is presumed that Congress will not now make any new and broader rule of compensation in such cases.

They therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

16th CONGRESS.]

No. 510.

[1st SESSION.]

REVOLUTIONARY SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 14, 1820.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred, on the 13th of December, 1819, the petition of John Mercereau, sen., of the State of New York, reported:

That the petitioner states that he took an active part in the defence of his country at an early period of the war; that, soon after the British troops took possession of Staten Island, in the year 1776, he was employed by his excellency General Washington to procure intelligence from within the enemy's lines, and such information as might prove serviceable to the common cause; that in that line of service he continued for several years; that, to accomplish that important undertaking, he was obliged to establish correspondents within the British lines; that neither of whom, as well as the petitioner, have ever received, as he states, the least compensation for their services, excepting the thanks of his excellency General Washington for the valuable services rendered to their country. He states that he is entitled to a just settlement of his accounts, and to the payment of such balance as, upon examination, shall appear to be due to him from the public. The petitioner afterwards (as he says to enable us to form a correct judgment of his pretensions) states that he furnished the army with several teams in the year 1777, which were continued for a considerable length of time in the public service, for which he was to be allowed at the rate of twenty shillings per day for each team so employed, in good money, equal in value to Spanish milled dollars; that several of his teams were never returned to him, but charged to the public, as will appear, as he says, by the statement accompanying his petition; that he delivered in his accounts to the deputy quartermaster general, and received, in part, their several payments, as stated in the account current annexed; but, by reason of the sudden death of the Rev. James Caldwell, (deputy quartermaster general,) the said accounts were never finally discharged; that he lodged his accounts with the said deputy quartermaster general, and that it was long before they were found deposited in a box somewhere in Philadelphia; that he is now far advanced in years, and cannot expect to continue much longer in the present state of existence; that his duty to his posterity loudly calls on him to set his house in order before he be summoned to the world of spirits. He therefore prays that his accounts may be examined, and that the sum be determined which he is justly entitled to receive in extinguishment of his claims on the United States; and he states that he is willing to receive a grant for a quantity of unappropriated land, equal in value to the sum that may be allowed to him.

The committee further report that, for all services performed by the petitioner to obtain information, as by him stated in his petition, it is presumed he was fully paid and satisfied; that General Washington would not permit the important services of any man employed by him, as commander-in-chief of the American army, to go unpaid, and without compensation. Besides, General Washington lived many years afterwards, and was President of the United States eight years, during which time the petitioner could have made application for compensation for his said services, if he had not been previously paid, and could have called on General Washington, then President, to attest the same.

The petitioner states that he received several payments from the deputy quartermaster general; and the strong presumption is, that he was fully paid and satisfied for all services by him performed in respect to wagons and teams, and for them: if so, it was, as he states in his petition, by the quartermaster's department, which was authorized to pay for all such services.

The committee further report that, on the 20th of February, 1782, Congress resolved that a commissioner for each State, for the purposes therein mentioned, be appointed, and therein define the duties of said commissioners; and the petitioner might, if he would, and if not previously settled, have had all his claims and demands (if any he had) liquidated and adjusted; that, on the 27th February, 1782, Congress resolved that five commissioners be appointed, under direction of the Superintendent of Finances, namely, one for the quartermaster's department, one for the commissary's department, one for the hospital department, one for the clothing department, and one for the marine department, each of which commissioners shall have full power and authority to liquidate and finally settle the accounts of the departments respectively assigned to them, up to the last day of December, 1781; and Congress, in that resolution, recommended to the several Legislatures of the States to empower the said commissioners to call for witnesses, and examine them on oath or affirmation touching such accounts as are respectively assigned to them for settlement; that the petitioner could, if he then had any just claims against the United States, have had his accounts settled by the proper commissioner appointed under that resolution. On the 3d June, 1784, Congress resolved that it shall be the duty of the commissioners to attend in different counties or districts, when, in his opinion, it will save expense and expedite the settlement of accounts. That, in virtue of said resolutions, the petitioner could have had his claims and accounts settled, if any he had to settle. It appears that the department of quartermaster general was abolished by a resolution of Congress of July 25th, 1785, previous to which the petitioner could have had all his accounts settled and paid by that department; and the presumption is strong against him that all his accounts were completely settled. On the 8th of May, 1786, Congress elected Jonathan Burrell commissioner for settling the accounts of the quartermaster and commissary's departments, and by him the petitioner might have had a settlement of his accounts and claims, if he had any just claim or account against the United States to settle; and he gives not any reason for not doing so, but only that his papers had been deposited with a deputy quartermaster, Mr. Caldwell, and were not found for a considerable time afterwards, as he states, somewhere in Philadelphia. That reason is of no force, inasmuch as he had, or could have had, duplicates of all his accounts, to have enabled him to obtain a settlement of them. Congress, on the 23d July, 1787, resolved that all persons having unliquidated claims against the United States, pertaining to the late quartermaster's department, shall exhibit particular abstracts of such claims to the commissioner appointed to settle the accounts of that department, within eight months from the date of that resolution; and persons having other unliquidated claims against the United States shall exhibit a particular abstract thereof to the Comptroller of the Treasury within one year from the date of that resolution; and all accounts not exhibited as aforesaid shall be precluded from settlement or allowance. On the 4th of September, 1786, Congress resolved that the Comptroller, in settling the accounts of Joshua Mercereau, be directed to pass to his credit all such necessary sums of money as may appear to have been disbursed by him in the hire of John Mercereau as an assistant, while acting as deputy commissary of prisoners. That resolution appears to afford conclusive evidence that the petitioner was an assistant to Joshua Mercereau. At the time when that resolution was made, there appears to have been nothing said relative to any claim of John Mercereau in his individual capacity; and certainly if the petitioner had, at that time, any just claim against the

United States, Mr. Lawrence, who made the motion on which that resolution was bottomed, and Mr. Smith, who seconded it, or either of them, (they being delegates from the State of New York,) would have been informed of the claim of the petitioner, if he at that time had any just claim against the United States; and it is not reasonable to believe that John Mercereau, if at that time he had any just claim against the United States of his own, would have refrained from informing Mr. Lawrence or Mr. Smith thereof, either by himself or Joshua Mercereau, whose assistant he appears to have been, to the end that they or either of them might have presented the said claim, and have had it, if just, included within the provision of that resolution for settlement.

The committee further report that this claim now set up by the petitioner is about forty years old, or more, and the petitioner has not given any good reason why he did not heretofore, in due time, obtain a settlement thereof if it was just; that the petition is not supported by testimony; that it is presumed that the petitioner was fully paid and satisfied for all his services and every thing by him performed, and for all articles and every kind of property by him furnished to the United States; that this claim is long since barred by the statutes of limitation; that there is not any law of the United States admitting to settlement, at this late period, the said claim of the petitioner; that it is inexpedient, and would be very dangerous, to provide by law for the settlement of this claim of the petitioner, or for any similar claim; and therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

[16th CONGRESS.]

No. 511.

[1st Session.]

SURETIES OF A NAVY AGENT.

COMMUNICATED TO THE SENATE, ON THE 19TH OF JANUARY, 1820.

Mr. SANFORD, from the Committee of Finance, made the following report:

The Committee of Finance submit to the Senate their report upon the petition of Henry Ingraham, Robert Hazlehurst, and William Smith, jun.

The petitioner Henry Ingraham is the surviving partner of the late mercantile house of Nathaniel Ingraham and Son, of Charleston, in South Carolina. It is stated that the said house were, on the 27th March, 1809, appointed navy agents of the United States for the port of Charleston, and continued to act as such until the 9th of April, 1813. Upon the final settlement of the accounts of the agency, a balance of \$21,649 95 was found to be due to the United States. The petitioners, Robert Hazlehurst and William Smith, jun. were the sureties of the navy agents in their official bond. A judgment has been obtained by the United States against the petitioner Henry Ingraham for \$28,324 83, which sum includes \$6,674 88 as interest upon the balance of principal debt. Judgments have also been obtained against the petitioners Robert Hazlehurst and William Smith, jun. for the amount of their bond. The petitioners pray to be exonerated from the payment of the interest.

Several circumstances are stated as matters of hardship, which are not here recited, because they appear to the committee to be plainly without weight in a question between the public and its debtors. The chief ground upon which relief is asked is, that the interest in question accumulated in consequence of a delay of more than four years, on the part of the officers of the United States, in adjusting the accounts of the agency at the Treasury. Upon this point, the views of the committee are these:

Any balance of principal debt from the navy agents was so much public money in their hands. It was always their business to know the true amount of any such balance. When the agency ceased, it was their duty to know the final balance of debt due from them to the public; and it was their duty to pay that balance immediately. If, then, it were true that there had been a long or unreasonable delay at the Treasury in adjusting the accounts of the agency, that fact would afford no reason for remitting the interest which accrued during such a period. The debt might have been paid at any time, and the omission to discharge it is wholly the default of the debtors. They are, therefore, justly chargeable with interest. It is not suggested that the interest adjudged by the court has been awarded upon any unfair principle. The committee, accordingly, consider the interest which has been adjudged as equitable interest upon a balance of public money in the hands of public debtors.

The case of the sureties is not different from the case of any other sureties for the faithful conduct of a public officer. The official bond was taken for the purpose of securing the public against such delinquencies as have occurred in this case.

The following resolution is therefore proposed:

Resolved, That the petitioners have leave to withdraw their petition.

[16th CONGRESS.]

No. 512.

[1st Session.]

PROPERTY SEQUESTERED IN ENGLAND AFTER THE DECLARATION OF WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 19, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petition of Jacob and Henry H. Schieffelin, reported:

For the facts connected with this claim, the committee would refer the House to the petition, and the report thereon made by the Secretary of State, on the 6th of January, to the House of Representatives. The committee are of the opinion that it would be inexpedient to grant the prayer of the petitioners, and therefore recommend the following resolution:

Resolved, That the claim of Jacob and Henry H. Schieffelin ought not to be allowed.

DEPARTMENT OF STATE, *January 6, 1820.*

The Secretary of State, to whom, by a resolution of the House of Representatives of the 22d of last month, was referred the petition of Jacob and Henry H. Schieffelin, with direction to report to the House what measures have been taken, if any, to obtain redress from the British Government in the case of those petitioners, respectfully reports that the statement of the petitioners, and the documents supporting it, show that the property to which they refer was, on the 15th of December, 1813, by a decision of the British court of appeals in prize causes, condemned as prize of war then belonging to enemies of Great Britain.

At the negotiation of the peace of Ghent, efforts were made by the plenipotentiaries of the United States, in conformity with their instructions, to obtain from the British Government a stipulation for restitution or indemnity for property which had been condemned, as this is understood to have been, contrary to the rules generally observed among civilized nations. When these efforts were found unavailing in regard to the general principle, they were reiterated in behalf of property under circumstances similar to that belonging to the petitioners, namely, of vessels and cargoes which, having accidentally been in British ports at the period when the war broke out, were considered by the United States as exempted, by the customary law of nations, from seizure and condemnation, at least during a period of time sufficient for their removal. The British Government were as inflexible upon cases of this description as upon the others; and the discussion was not abandoned on the part of the United States until it became apparent that further perseverance in it could only terminate in the failure of the main object of the negotiation. It was distinctly understood that no retrospect was to be taken on either side of losses occasioned by the hostilities incident to war; and no discrimination admitted between such as had and such as had not been sanctioned by the ordinary usages of that relation. The British Government explicitly avowed their determination to make no restitution in any such case whatever, and declared their acquiescence in the same rule of rigor on the part of the United States. The treaty of peace having been signed with this mutual understanding, it would have been obviously useless to urge, after its conclusion, claims which had been thus unequivocally excluded before; and it is presumed this was the reason which eventually led to the conclusion that it would not be advisable to present to the consideration of the British Government any claim which it had been ascertained could prove to be no otherwise than ineffectual.

Respectfully submitted.

JOHN QUINCY ADAMS.

To the honorable the Senate and House of Representatives of the United States in Congress assembled: The petition of Jacob Schieffelin and Henry H. Schieffelin, of the city of New York, druggists, and citizens of the United States of America, respectfully represents:

That, in the course of their business, they had funds to a large amount at Point Petre, island of Guadaloupe, prior to the month of December, 1807, and payable only in sugars; that, in consequence of the non-intercourse law, these funds could not reach them; that, availing themselves of the benefit of the supplementary embargo act, they obtained a special permission from his excellency the President of the United States, in the month of April, 1808, for the American ship Brunswick, Charles A. Coffin, master, to proceed in ballast to the said island of Guadaloupe, and there to load and take in the sugars, the *bona fide* property of your petitioners.

That, on or about the 2d day of June, 1808, the said ship Brunswick, having received a full cargo of sugars, cost \$18,181 06, as per invoice B, the sole property of your petitioners, sailed therewith for New York, and on the next day was captured by His Britannic Majesty's schooner Bacchus, Lieutenant Malbone, and ordered for Antigua for adjudication, where, after a detention of near a month, a trial was had, the cargo condemned (as per sentence A) as enemy's property, there taken out, and sold by the captors. From which cruel and unjust sentence your petitioners appealed to the high court of admiralty, London, where, after a long and tedious delay in the law, and the expense of several thousand dollars, this sentence was reversed in the month of November, 1810, decreeing the goods appealed for to be restored, or the value thereof to be paid to your petitioners, subjecting them, nevertheless, to all the expenses of the suit, although it resulted from the mistake of the judge of the vice-admiralty court at Antigua. The captors' interest prevailing, the registrar merchants who audit the accounts for the damages, delayed its liquidation, and, being appointed by the Government, your petitioners could not hasten their report, and by this delay only a part of the moneys had been paid to the registrar of the high court of admiralty, which, on the declaration of the late war by our Government, was seized, sequestered, and declared to be good and lawful prize to the King of Great Britain, as having belonged at the time of capture, 3d June, 1808, to subjects of the United States. This singular order of sequestration of the amount of their sugars was dated at the Council Chamber, Whitehall, Wednesday, 15th December, 1813; a copy of which is hereto annexed, (C.)

Your petitioners further state that the original document C, with others, have been deposited in the office of the Secretary of State; and that the property of your petitioners, so unjustly condemned as good prize to the King of Great Britain, has never been restored to them, nor any part thereof; that they have now no means left of obtaining the restitution thereof, and therefore implore the interposition of their Government, from which alone can they have redress.

Wherefore, they humbly pray that the honorable the representatives of their country in Congress assembled will deign to take into consideration their singularly and unprecedented hard case, and grant them such remuneration as they in their wisdom shall think just and equitable for the amount of their property sequestered and condemned by the British Government in consequence of the declaration of the late war.

And your petitioners will ever pray.

J. SCHIEFFELIN,
HENRY H. SCHIEFFELIN.NEW YORK, *December 18, 1819.*

A.

Sentence at Antigua.

ANTIGUA, ss.

At a court of vice-admiralty, held for the said island of Antigua, at the court-house in the town of St. John's, in the said island, on Monday, the 11th July, 1808: Present: The worshipful Edward Byam, judge.

Our sovereign lord the King *against* the cargo or lading of the ship Brunswick, whereof Charles A. Coffin is or was master, seized or taken by His Majesty's ship of war Bacchus, whereof Samuel Malbone, Esq. is commander, and brought into the port of St. John's, in the island of Antigua.

Proclamation being made, and the court called and sat, Mr. Wyke, of counsel for the claimants, moved that the trial of this cause should be brought on this day instead of the 25th instant, when the monition which had issued

would expire; and the counsel for the captors consenting thereto, it was ordered accordingly. The substance of the allegations was then opened by His Majesty's advocate general; three preparatory depositions taken in this case were read; and a claim of Charles A. Coffin, master of the said ship, for and on behalf of Henry W. Bool and Joseph Williams, for the said ship, her tackle, apparel, and furniture, and for and on behalf of Jacob Schieffelin & Son, for the cargo or lading of the said ship, and for all such losses, costs, damages, demurrage, and expenses, which had arisen, or should or might arise, having been interposed by Mr. Wykes:

His worship the judge, after hearing the arguments of His Majesty's advocate general in support of the allegations, and Mr. Wykes in support of the claim, admitted the claim of the said master for the said ship, her tackle, apparel, and furniture, and all of her cargo, or loading, except such parts thereof as were the returns of bills of exchange, pronounced the same to have belonged as claimed, and directed the same to be restored to the claimant thereof, but rejected the claim of the said master as far as related to such parts of the cargo of the said ship, claimed on account of the said Jacob Schieffelin & Son, as amounts to the sum of eleven thousand one hundred and eighty-three dollars, being the proceeds of certain bills of exchange negotiated between the said Jacob Schieffelin & Son and Joseph Deville, pronounced the same to have belonged at the time of capture to enemies of the Crown of Great Britain, and as such, or otherwise, subject or liable to confiscation, and condemned the same as good and lawful prize taken by His Majesty's ship of war Bacchus, Samuel Malbone, Esq. commander. Whereupon, Mr. Wyke, on the part of the claimant, gave notice of an appeal from the said sentence; and the judge, at the petition of His Majesty's advocate general, directed the sentence to be suspended, on bail being given to answer the appeal.

By the court:

THOMAS THOMAS, *Actuary in Admiralty.*

B.

Invoice of 129 hogsheads 5 tierces and 22 barrels of Muscovado sugars, 127 hogsheads 74 tierces and 181 barrels of clayed sugars, shipped by Joseph Deville, on board the ship Brunswick, Charles A. Coffin, master, for account and risk of Jacob Schieffelin & Son, merchants at New York, and citizens of the United States of America.

| | | | | | | |
|---------------------------|--|--|-----------------|-----|---|-------------|
| Nos. 1 to 134 | 129 hhds. 5 tierces 22 barrels | } Muscovado sugar, nett 152,904 lbs. at \$3 per 100 lbs. | - | - | - | \$4,687 12 |
| 1 to 18 | 18 hhds. clayed sugar, nett 18,387 lbs., at \$5 per 100 lbs. | | - | - | - | \$919 35 |
| 19 to 30 | 12 hhds. do. | 13,383 | 5 $\frac{1}{4}$ | do. | - | 702 61 |
| 31 to 42 | 12 hhds. do. | 13,357 | 5 | do. | - | 662 85 |
| 1 to 19 | 19 tierces do. | 9,305 | 5 $\frac{1}{4}$ | do. | - | 488 52 |
| 43 to 54 | 12 hhds. do. | 12,513 | 5 | do. | - | 625 65 |
| 55 to 67 | 13 hhds. do. | 13,527 | 4 $\frac{1}{4}$ | do. | - | 583 40 |
| 20 to 24 | 5 barrels do. | 1,140 | 6 | do. | - | 68 40 |
| 25 to 49 | 25 tierces } do. | 19,014 | 5 | do. | - | 950 70 |
| 50 to 82 | 22 barrels } do. | 6,538 | 6 | do. | - | 392 28 |
| 83 to 112 | 30 barrels do. | 3,302 | 5 | do. | - | 165 10 |
| 68 to 70 | 3 hhds. do. | 7,087 | 5 | do. | - | 354 35 |
| 71 to 76 | 6 hhds. do. | 9,677 | 6 | do. | - | 580 62 |
| 113 to 131 | 18 tierces } do. | 10,962 | 5 | do. | - | 547 60 |
| 77 to 86 | 10 hhds. do. | 1,112 | 6 | do. | - | 66 72 |
| 87 | 1 hhd. do. | 9,940 | 5 $\frac{1}{4}$ | do. | - | 521 85 |
| 132 to 185 | 54 barrels do. | 16,997 | 5 $\frac{1}{4}$ | do. | - | 992 34 |
| 88 to 101 | 14 hhds. do. | 10,951 | 4 $\frac{1}{2}$ | do. | - | 492 29 |
| 102 to 110 | 9 hhds. do. | 9,667 | 4 $\frac{1}{4}$ | do. | - | 410 85 |
| 111 to 118 | 8 hhds. do. | 6,873 | 5 $\frac{1}{2}$ | do. | - | 378 01 |
| 186 to 190 | 5 tierces } do. | 8,835 | 5 | do. | - | 441 71 |
| 121 to 124 | 3 hhds. } do. | 12,327 | 4 $\frac{1}{2}$ | do. | - | 554 71 |
| 191 to 194 | 4 barrels } do. | | | | | |
| 132 to 137 | 6 hhds. } do. | | | | | |
| 195 to 199 | 5 barrels } do. | | | | | |
| 200 to 235 | 35 barrels } do. | | | | | |
| 236 to 242 | 7 tierces } do. | | | | | |
| 243 to 255 | 11 barrels } do. | | | | | |
| | | | | | | 10,899 94 |
| | | Duties to be deducted, | | | | 85 00 |
| | | | | | | 10,814 94 |
| | | <i>Charges.</i> | | | | |
| Duties on exportation, | - | - | - | - | - | 1,269 00 |
| Cooperage, | - | - | - | - | - | 868 00 |
| Negro hire, | - | - | - | - | - | 7 00 |
| Flats on board, | - | - | - | - | - | 90 00 |
| Certificate of the judge, | - | - | - | - | - | 4 00 |
| | | | | | | 2,238 00 |
| | | Commissions, 2 $\frac{1}{2}$ per cent. | | | | 17,740 06 |
| | | | | | | 441 00 |
| | | Errors excepted: | | | | \$18,181 06 |

JOSEPH DEVILLE.

POINT PETRE, May 31, 1808.

C.

Extract from the registry of His Majesty's High Court of Appeals for Prizes.

WEDNESDAY, December 15, 1813.

At the Council Chamber, Whitehall: Present, The Right Hon. Sir Wm. Grant, knight, master of the rolls.
Sir William Scott, knight.
Frederick Robinson.

In the presence of James Bush, one of the deputy registrars.

SHIP BRUNSWICK, C. A. Coffin, master.

The lords, at the petition of Bishop, on motion of His Majesty's advocate, by their interlocutory decree of the 17th November, 1810, decreed the goods appealed for to be restored, or the value thereof to be paid to the claimants, and now pronounce such parts thereof as have not been restored under the said decree, or the proceeds thereof remaining unpaid to the claimant, to have belonged, at the time of capture and seizure thereof, to subjects of the United States of America, now enemies of the Crown of Great Britain, and condemn the same as good and lawful prize to our sovereign lord the king, taken prior to hostilities against the said United States; and directed the British claimants' expenses to be paid out of the said proceeds, unless the same shall have been otherwise paid or received.

ARDEN, Registrar.

Slade, Bedford, & Slade, proctors for appellants.

[16th CONGRESS.]

No. 513.

[1st SESSION.]

LOSS OF THE SHIP ALLEGANY.

COMMUNICATED TO THE SENATE, ON THE 20TH JANUARY, 1820.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Bowie & Kurtz, and others, submitted the following report:

The petitioners were owners of the ship Allegany, chartered in 1812, by the United States, to carry the annual present to Algiers, according to the treaty then existing with that Power. By consent of the United States, about \$8,740 worth of merchandise was shipped in said vessel on the owners' account, which, added to the amount of original bills submitted to the committee showing the value of the vessel, makes the amount, including commissions, of \$34,342 97; for which sum reimbursement is prayed. No accident occurred to disturb the voyage until the arrival of the ship at Algiers, where the policy of insurance which had been effected on the vessel closed. The Dey perversely refused to receive the present, and ordered the ship to depart without delay, and to withdraw all citizens of the United States from Algiers, on pain of the ship's immediate confiscation, and the slavery of the crew and all American citizens who might be found in the city. The owners had addressed a letter to Colonel Lear, the consul of the United States, to assist with his advice, as to the further destination of the vessel and private adventure, the captain, to whom they had consigned them. In the emergency at Algiers, Colonel Lear applied to the consuls of the European Governments there resident for the usual passports, but did not obtain one from the British consul. There was no alternative but to withdraw the ship and all Americans from the rapacity of the Dey, with the whole cargo on board. Colonel Lear decided it to be best to go to Gibraltar; which decision appears to have been acquiesced in by the captain, who had the control of the ship, both as master and consignee of the owners. The voyage to Gibraltar appears to have been decided upon as a measure advisable entirely on public reasons. It was the point from whence the consul could best disseminate intelligence of the state of our relations at Algiers through the Mediterranean, and where he could best dispose of the public property, which it was desirable to do, to meet bills which he had been obliged to draw on Mr. Gavino before leaving Algiers. Four days after the arrival of the Allegany at Gibraltar, the news of the declaration of war by this Government against England having arrived there, the said vessel, with the cargo on board, was seized as prize of war, and, as such, condemned and totally lost. The voyage from Algiers to Gibraltar being entirely on public account, there is no doubt a liberal freight due to the petitioners, but which has been hitherto unpaid, as the Department of State is only willing to extend the price of freight *pro rata* with the voyage, and the claimants require a freight to cover the vessel and their private adventure. Thus has the decision been referred to Congress.

The committee, on this, as on all other occasions, feel themselves bound to deny that the Government is liable for the conduct or misconduct of its agents, whose discretion, and not law, has produced the action. If Colonel Lear had reason to apprehend he would find Gibraltar an enemy's port, his determination to proceed there was highly blameable. There is no proof he did apprehend it, though he admits the British consul at Algiers sent the ship no passport. If she had had it, it would have availed her nothing. The committee are therefore bound to believe Colonel Lear had no idea of hazarding the ship to unnecessary danger. She must have left Algiers, and she was in no condition to proceed on her voyage encumbered with the public cargo on board. The accident at Algiers left it only in Colonel Lear's power to disencumber the ship as soon as he could, as it was his duty to apply the public property to public use, if possible. His going to Gibraltar seems to have been with laudable intentions as an officer, and to disclose no forgetfulness of the request of the owners for his advice. Unfortunately, by change of place, danger at Algiers was exchanged for destruction at Gibraltar. The loss to the petitioners was severe, but it seems to have occurred without fault on the part of Colonel Lear, as there appears nothing of neglect or of inconsiderateness on his part. The question arises, is there any further just liability on the part of the United States but for liberal freight? It is one of the most embarrassing questions which has been referred to the committee to decide. Every thing more than liberal freight, they conceive, would be an act of grace, and they are disposed to recommend such an act to the extent of half the value of the vessel at the time she sailed. This is not chosen as a medium limit; but as every limit must be discretionary, this they think one which comports with the dignity and superintending care of the Government. The following resolution is therefore submitted:

Resolved, That a bill be reported appropriating — dollars for the relief of the petitioners.

16th CONGRESS.]

No. 514.

[1st Session.]

PENSIONS UNDER THE ACT OF 1818.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 20, 1820.

SIR:

WAR DEPARTMENT, *January 19, 1820.*

In compliance with the resolution of the honorable the House of Representatives of the 20th ultimo, requiring the Secretary of War to state to the House "whether, in pursuance of the act of the 18th of March, 1818, any pensions have been granted which, for reasons which he will state, ought not to have been granted, and what course has been pursued in relation to such pensions, or those to whom they may have been granted, and the number and names of those who have been placed upon the pension list from each State under the said law; and, also, the regulations adopted by the War Department in relation to the examination and admission of claims for pensions under the said act," I have the honor to transmit a list containing the name, rank, and line of every person inscribed on the pension roll under that act.

The description of persons whose pensions have been granted improperly may be comprised in the following classes:

1st. Those who served in corps which, at first, were considered continental, but which, on full inquiry, proved not to be so. The course pursued in relation to such cases has been to drop the names from the rolls. The names of such persons will be found on the list transmitted, with the proper remarks annexed.

2dly. Those who are not in such reduced circumstances in life as to need the assistance of their country for support. In cases where satisfactory proof has been adduced that the pensioners were not in needy circumstances, their names have been dropped from the rolls. The names of such persons are also on the list, with suitable remarks.

It may be proper here to observe that, in some cases, where information has been received that the pensioners, or persons applying for pensions, are not in such circumstances as to need assistance, their claims have been suspended. The names of such pensioners are likewise noted on the list.

The accompanying statement of the amount of funds placed in the hands of each agent of the United States for paying pensioners, will, so far as is practicable, show the amount paid in each State for the year commencing with the 5th of September, 1818, and ending with the 4th of September, 1819, inclusive.

For information concerning the regulations adopted in regard to the examination of claims under the act, I would respectfully refer you to my letter of the 22d ultimo to the chairman of the Committee on Revolutionary Pensions, which was contained in the report to the House of Representatives on the 28th ultimo.

I have the honor to be, with great respect, your obedient servant,

J. C. CALHOUN.

HON. HENRY CLAY, *Speaker of the House of Representatives.*

16th CONGRESS.]

No. 515.

[1st Session.]

FINAL SETTLEMENT CERTIFICATE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 21, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred a bill from the Senate of the United States, entitled "A bill for the relief of Samuel Ward," together with a petition of said Samuel Ward, and other papers relative thereto, have had the same under consideration, and report thereon:

The petitioner states that he, with his brothers John and Richard Ward, under the firm of Samuel Ward & Brothers, in New York, and of John Ward & Company, in Providence, Rhode Island, purchased in Providence, about the month of June, 1788, of Abraham Whipple, Esq., a final settlement certificate, (No. 281,) dated October 23, 1786, for one thousand and forty-seven dollars and fifty-two ninetieths, issued by Benjamin Walker to Abraham Whipple, bearing interest from July 23, 1780, which certificate (as he states) was enclosed in a letter by John Ward & Company to Samuel Ward & Brothers, and put by John Ward into the post office in Providence; but the letter was never received, whereby, as he states, the said certificate was then, and has always been, lost to the said Samuel Ward and his brothers; and the said Samuel Ward prays for a renewal of the said certificate.

The committee further report that it is presumed the said certificate, which the petitioner prays may be renewed, was made payable to bearer; that Congress, on the 8th day of January, 1784, resolved that certificates made payable to bearer, and lost, are not renewable; and, on the 19th of August, 1785, Congress resolved that, in all cases where certificates of the United States payable to the bearer have been lost, and no satisfactory evidence given of the same having been destroyed, it would be improper that any new certificates should issue to replace them; that there is not any evidence or testimony adduced in this case to show satisfactorily that the said certificate was destroyed. A document, purporting to be a deposition of John Ward, the brother and partner in trade, as is stated, of the petitioner, states that John Ward enclosed the said certificate in a letter, and put it into the post office at Providence, addressed to Samuel Ward & Brothers, his copartners in trade in New York, as a remittance; and further states that the letter, with the enclosure, was never received: that the said testimony does not prove that the said certificate was destroyed, neither does it conclusively prove that the said certificate was altogether lost and out of circula-

tion; the deposition of John Ward does not state the day on which he put the said letter, covering said certificate, into the post office at Providence, Rhode Island, and there is not any evidence adduced to prove that point. The committee are of opinion that the petitioner hath not produced testimony to show satisfactorily that the said certificate has been destroyed; that, therefore, he is not entitled to have it renewed. The said certificate appears to have been purchased as an article of trade, and, if lost, it may be considered, like all other mercantile transactions, *a misfortune*. That it is inexpedient to enact any law providing to make compensation to the said petitioner for the said certificate; and therefore submit the following resolution:

Resolved, That the said bill be rejected.

16th CONGRESS.]

No. 516.

[1st Session.]

ARREARS OF PAY AND LOSS ON COMMUTATION CERTIFICATE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 28, 1820.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Henry Bedinger, late captain in a Virginia regiment, revolutionary army, reported:

The petitioner states that, in the time of the revolutionary war, he entered the service of the confederation of the States in the month of July, 1775, in the volunteer corps of riflemen under the command of Captain Hugh Stevenson, in Virginia, for one year, and marched to Boston; that he was commissioned a lieutenant on the 9th of July, 1776, in a regiment commanded by said Hugh Stevenson, and was attached to Captain Shepherd's company; that he raised his quota of soldiers, and marched with the regiment to Bergen; that Colonel Stevenson had died, and the command of the regiment devolved on Lieutenant Colonel Moses Rawlins; that the petitioner, with the greater part of Colonel Rawlins's regiment, was captured at Fort Washington, on York island; that he remained a prisoner of war until the 1st day of November, in the year 1780; that, after being exchanged, he joined his regiment in the Virginia line on continental establishment; that, on the 21st of May, 1781, he was promoted to the rank of captain, and continued in that line to the end of the revolutionary war; and, after having served eight years three months and twenty-six days without intermission, he returned to his residence in Virginia. He states that, during the whole period of his services as a commissioned officer, he never received any regular monthly pay or any extra rations, nor any payment for extra rations; and he prays that his claim for arrears of pay and for extra rations may now be paid to him, with interest thereon from the date of the dissolution of that army. The petitioner further states that the auditors of public accounts in Virginia, at the close of the war, issued to him a certificate for five hundred and ten pounds, Virginia currency, as depreciation for pay; that Andrew Dunscomb, United States commissioner for the State of Virginia, delivered to him a final settlement certificate for forty-one dollars and — cents as a balance of depreciation and pay; that, at the same time, he accepted from the said Dunscomb a commutation certificate for five years' full pay instead of the half-pay during life; that he received one Morris's note for thirty dollars, and one month's pay in goods, at Richmond, Virginia; that, having retired to his residence in Virginia, and although several times informed that all claimants for arrears due to them were called on to exhibit their respective claims, he did not attend to this call, from the nature of his avocations and pecuniary circumstances, until acts of limitation precluded all hopes of redress. And he further prays, as he was not consulted respecting the commutation of five years' full pay instead of half-pay for life, and as the said certificate greatly depreciated before he could part with it, that such remuneration will be made to him as justice seems to require.

The committee further report that, from the statements of the petitioner himself, it may be presumed and concluded that he received full pay for all services by him performed to the United States in the time of the revolutionary war; for, by his own statement, it appears that he received from the auditors of accounts for the State of Virginia, at the close of the war, a certificate for five hundred and ten pounds, Virginia currency, as depreciation of pay, and that he received from Andrew Dunscomb, United States commissioner for the State of Virginia, a final settlement certificate for forty-one dollars and — cents, as a balance of depreciation and pay, and that he received, at the same time, from Andrew Dunscomb, a commutation certificate for five years' full pay instead of the half-pay during life. From this statement of receiving of certificates by the petitioner, it is presumed and concluded that all the claims and demands of the petitioner against the United States were completely and finally adjusted and settled; and if they were not so settled and adjusted, the petitioner does not state or show that he objected to and refused the said adjustment and settlement of his claims, and insisted on a settlement more favorable to himself, by showing to the said auditors, or to Andrew Dunscomb, that there were certain items of his claims not enumerated in the said settlement of his claims.

On the 20th day of February, 1782, Congress resolved that a commissioner for each State be appointed, for the purposes mentioned in that resolution. On the 23d of February, 1785, Congress resolved that one additional commissioner be appointed in each of the States of Pennsylvania and Virginia, for liquidating and settling the accounts of individuals against the United States. On the 2d day of November, 1785, Congress resolved that all persons having claims for services performed in the military department be directed to exhibit the same for liquidation to the commissioners of army accounts on or before the 1st day of August ensuing the date thereof; and that all claims under the description above mentioned, which may be exhibited after that period, shall forever thereafter be precluded from adjustment or allowance; and that the commissioner of army accounts give public notice of this said resolve in all the States for the term of six months. The petitioner very candidly states that he was several times informed that all claimants for arrears due them were called on to exhibit their respective claims, but he states that his avocations and pecuniary circumstances, by their nature, did not permit him until acts of limitation precluded all hopes of relief. To this objection it may be answered that if, in his opinion, he had any existing claims against the United States, it was a duty he owed to himself to have exhibited them to the proper commissioner in due time, and, by so doing, have prevented the statute of limitation, of which he appears to have been informed, to have run against him; and, as he did not, it is presumed that all his claims were adjusted and settled.

On the 22d of March, 1783, Congress resolved that such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years' full pay in money, or securities on inter-

est at six per cent. per annum, as Congress shall find most convenient, instead of the half-pay for life promised; provided, it be at the option of the lines of the respective States, and not of officers individually in those lines, to accept or refuse the same. The petitioner states that he was not consulted respecting the certificate of commutation for five years' full pay. That objection cannot avail, for it is presumed the Virginia line of officers did accept the commutation, and that election was signified to Congress by the commander-in-chief pursuant to the said resolution, and that the certificates of commutation were issued accordingly. The petitioner states that his commutation certificate greatly depreciated before he could part with it: that may have been, but Congress did honorably compensate the officers of the revolutionary army to as great an extent as they did promise, and any depreciation of such certificate cannot be ascribed to Congress; and this is apparent, inasmuch as all such certificates, which were produced agreeably to the laws for funding them, were funded, principal and interest, at their nominal value; and hence it follows that the debt of which such certificate was the evidence having been fully paid and satisfied, a claim for indemnification for any loss sustained by a voluntary sale and transfer of such certificate ought not now to be set up to require a payment thereof.

The committee are of opinion that the petitioner doth not maintain any claim against the United States; that there is not any law of the United States embracing any claim by him set up; that it is inexpedient to provide by law for this case of the petitioner, or for any other similar case; and therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

16th CONGRESS.]

No. 517.

[1st Session.]

ARREARS OF PAY, &c. OF MAJOR GENERAL BARON DE KALB.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1820.

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 10th of December, 1819, the petition of Elie, Baron of Kalb, knight of the royal order of military merit, and Maria Anna Carolina, of Kalb, widow Geymuller, Swissen officer, have had the same under consideration, and report thereon:

The petitioners state that they are the only children and heirs of the late General Baron of Kalb, killed on the *champ d'honneur* of Camden, South Carolina, the — day of August, 1780, at the head of the American troops whom he commanded, with the rank of major general; and they state that they hope that the American Government will authorize the payment of any arrears of pay which may be due to their father, and also of the indemnities, whether of five years' pay or in lands allowed by the United States to the widows and families of the officers killed in defending the American independence.

The committee further report that, on the 15th of September, 1777, the Baron de Kalb was elected by Congress a major general in the army of the United States; and, on the 4th of October following, Congress resolved that the Baron de Kalb's commission be dated the same day with that of the Marquis de la Fayette, agreeably to the baron's request.

Congress, on the 14th of October, 1780, resolved that a monument be erected to the memory of the late Major General the Baron de Kalb, in the city of Annapolis, in Maryland, with the following inscription:

“Sacred to the memory of the Baron de Kalb, knight of the royal order of military merit, brigadier of the armies of France, and major general in the service of the United States of America. Having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780; where, leading on the troops of the Maryland and Delaware lines against superior numbers, and animating them, by his example, to deeds of valor, he was pierced with many wounds, and, on the 19th following, expired, in the forty-eighth year of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument.”

The committee further report that the Congress of the United States, on the 3d of August, 1785, resolved “that existing resolutions of Congress sufficiently provide for a just settlement of the accounts of the late Baron de Kalb, and that the paymaster general be, and he is hereby, directed to govern himself accordingly.” This committee presume that all the accounts of the said late Baron de Kalb have been liquidated and settled, in pursuance of the said resolution, and therefore submit the following resolution:

Resolved, That the petitioners have leave to withdraw their petition.

To the honorable the Senate and House of Representatives of the United States: The petition of Elie, Baron of Kalb, knight of the royal order of military merit, and Maria Anna Carolina, of Kalb, widow Geymuller, Swissen officer, respectfully sheweth:

That they are the only children and heirs of the late General Baron of Kalb, killed on the *champ d'honneur* of Camden, South Carolina, the — day of August, 1780, at the head of the American troops whom he commanded, with the rank of major general.

The petitioners, who send to the most honorable Congress a legal act, passed before notaries and witnesses, with all the formalities desired in France, which proves the truth of what they say, hope that the respectable American Government will authorize the payment of any arrears of pay which may be due to their father; and also of the indemnities, whether of five years' pay or in lands allowed by the munificence of the United States to the widows and families of the officers killed in defending the American independence.

The petitioners having been prevented from making an earlier application by the sad circumstances which have so long tormented France—circumstances which obliged them to leave that country for a while—will certainly be

excused by the most honorable Congress, who, always great and generous, will remove the proscription which may affect the just claims of the children of him who has lost life for their defence.

In that hope, justly conceived, they are, with the greatest respect,

E. BA. DE KALB.
M. A. C. DE KALB,
Veuve Geymuller.

PARIS, *April*, 1818.—Chez M. Dezos de Laroquette, avocat à la cour royale de Paris, chevalier de la légion d'honneur, rue Chanoinesse, No. 2.

16th CONGRESS.]

No. 518.

[1st SESSION.

PROPERTY DESTROYED BY THE BRITISH DURING THE REVOLUTION.

COMMUNICATED TO THE SENATE, FEBRUARY 11, 1820.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Martha Youngs, Samuel Youngs, and others, submitted the following report:

The petitioners represent that their father, Joseph Youngs, deceased, was the owner of a house and farm, at the commencement of the revolutionary war, about three miles east of the Hudson river, on the road leading from Tarrytown to the White Plains; that, during the progress of the war, the house and buildings of the said Joseph Youngs were often occupied by the American troops when stationed on that part of the lines; that, in December, 1778, a Captain Williams, of the American army, after a sanguinary conflict, was captured in the said house by a party of refugees, who burnt the barn with its contents, and set fire to the house, (which the family, however, extinguished,) taking said Youngs into captivity, and retaining him in the most cruel confinement for the space of a year. In February, 1780, a party of the American troops were captured at said house, by a superior British force, after a gallant resistance, at which time the house and all the buildings of the said Youngs were consumed, with his bedding and furniture. The buildings thus alleged to have been destroyed are estimated at the value of from \$3,000 to \$4,000. The depositions of several officers of the continental army, and other persons connected with the military service at that time, are offered to prove the facts. They all appear to have been taken since some time in the year 1817. The committee have no doubt of the truth of the statements generally, though they certainly entertain doubts of a regular military occupancy of the premises, so as to justify the enemy in destroying them after the conflict had ceased, which fact is admitted by the petitioners. But the fact of there having been no ascertainment of the value of the buildings near the time of destruction, and of no claim having been presented, either to the accounting officers of the Government, or to the Congress, before 1817, presents sufficient obstacles, in the opinion of the committee, to its allowance. They therefore submit the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

16th CONGRESS.]

No. 519.

[1st SESSION.

PENSIONERS UNDER THE ACT OF 1818.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1820.

SIR:

DEPARTMENT OF WAR, *February 7, 1820.*

I enclose, herewith, a statement of the number of persons placed on the pension roll, under the law of the 18th of March, 1818, who served for one, two, or three years, and during the war, respectively. This statement is made as accurate as practicable from the documents in this office; and although it may not be critically correct, as some may have served under other terms than those for which they obtained pensions, yet that number is believed to be so limited that, if it could be precisely estimated, it would not vary the statement materially.

About one-half of all the applications under the law of the 18th of March, 1818, came in prior to the 4th of September, 1818; and should the plan proposed by the committee of allowing two years' pay to those who served for one year be adopted, about one-half of that class will have received two years' pension on the 4th of September next, and before the next semi-annual payment thereafter nearly the whole of that class of pensioners will have received two years' pension.

I have the honor to be your most obedient servant,

J. C. CALHOUN.

HON. SAMUEL SMITH, *Chairman Committee of Ways and Means.*

Number of persons placed on the rolls of the States and Territories of the United States, under the law of the 18th of March, 1818, who served for the several periods, according to the following statement, viz:

| States and Territories. | No. of those who served one year, or 9 months. | No. of those who served more than one and not more than two years. | No. of those who served three years and upwards, and of those who served more than two and less than three years. | No. of those who served for three years and during the war; i. e. those who served at least 3 years at one period, and were in service at the end of the war. | Total. |
|---------------------------|--|--|---|---|--------|
| New Hampshire, - - | 449 | 140 | 353 | 200 | 1,142 |
| Massachusetts, - - | 1,072 | 313 | 675 | 454 | 2,514 |
| Rhode Island, - - | 98 | 26 | 58 | 67 | 249 |
| Connecticut, - - | 392 | 126 | 459 | 396 | 1,373 |
| Vermont, - - | 443 | 156 | 464 | 233 | 1,296 |
| New York, - - | 717 | 330 | 1,031 | 1,118 | 3,196 |
| New Jersey, - - | 177 | 34 | 93 | 163 | 467 |
| Pennsylvania, - - | 229 | 165 | 378 | 316 | 1,090 |
| Delaware, - - | 10 | 7 | 12 | 12 | 41 |
| Maryland, - - | 85 | 96 | 227 | 167 | 575 |
| Virginia, - - | 72 | 232 | 218 | 171 | 693 |
| North Carolina, - - | 64 | 40 | 66 | 42 | 212 |
| South Carolina, - - | 18 | 46 | 49 | 17 | 130 |
| Georgia, - - | 6 | 9 | 18 | 13 | 46 |
| Kentucky, - - | 60 | 122 | 197 | 95 | 474 |
| West Tennessee, - - | 13 | 27 | 50 | 21 | 111 |
| East Tennessee, - - | 15 | 26 | 37 | 25 | 103 |
| Ohio, - - | 125 | 89 | 250 | 183 | 647 |
| Louisiana, - - | 1 | - | - | - | 1 |
| Indiana, - - | 11 | 16 | 41 | 28 | 96 |
| Illinois, - - | 1 | 1 | - | 2 | 4 |
| Mississippi, - - | 1 | 1 | 1 | 3 | 6 |
| Alabama, - - | 2 | 1 | 1 | 1 | 5 |
| Missouri, - - | - | 2 | 3 | 1 | 6 |
| Michigan, - - | - | 1 | 1 | 1 | 3 |
| District of Maine, - - | 743 | 183 | 744 | 154 | 1,824 |
| District of Columbia, - - | 7 | 8 | 23 | 13 | 51 |
| | 4,811 | 2,197 | 5,449 | 3,898 | 16,355 |

16th CONGRESS.]

No. 520.

[1st SESSION.]

BRITISH DESERTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 18, 1820.

Mr. SMYTH made the following report:

The Committee on Military Affairs have had under consideration the petition of William Cogswell, to them referred, and report:

That the petitioner states that he was an inhabitant of Upper Canada at the commencement of the late war, served the British two months, took protection under the American forces, gave information where some British public property was secreted, which was taken by the American troops, had to fly from Canada, and lost his property and papers; that he afterwards remained on the lines, and served with American parties.

Your committee are of opinion that the rewards of such persons for such services should be secret; and that it does not become the Legislature of a great, just, and honorable nation, by its acts, to reward any kind of treachery. They therefore submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 521.

[1st SESSION.]

. RENT FOR A WHARF, &c. IN BOSTON, USED AS A SHIP-YARD IN THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Daniel Goodwine, on the 8th of February, 1820, have had the same, and the documents accompanying it, under consideration, and report thereon:

The petitioner states that he is the executor of the last will and testament of Benjamin Goodwine, late of Easttown, deceased; that, in the month of March, 1777, Thomas Cushing, Esq., then (as the petitioner states) agent

for the United States for the building a seventy-four gun ship in Boston, took possession of the dwelling-house, stores, yard, and wharf of the said Benjamin Goodwine, for the use of the United States in building said ship, and accommodating the people employed thereon; that the said Benjamin not having received any compensation for the use of his property taken for public service as aforesaid, or for damages which it had sustained while so employed, in March, 1781, entered into an agreement with the said Thomas Cushing, agent, as aforesaid, submitting his demand for rent and damages to the award of three judicious and indifferent men, who awarded, (as he states,) for rent and damages, to the 1st day of April, 1781, the sum of £237 10s. in specie; that, for the payment of the said sum, he was referred by the said Thomas Cushing to the Navy Board for the eastern district, who (as he states) succeeded the said Thomas Cushing in his agency relative to building said ship; that possession of the said Benjamin's property was continued for the uses aforesaid until the 1st day of March, 1784, when the said ship, which had never been completed, was sold on the stocks, on behalf of the United States, by Thomas Russell; that the Navy Board, after repeated applications, declined paying the said Benjamin Goodwine, alleging that the said Thomas Russell was appointed agent, and that he ought to pay; that the said Thomas Russell declined to pay the said account, alleging he had no authority to pay the same; that the said Benjamin then expected that his accounts would be adjusted when the accounts of the said Thomas Cushing were settled; that, in the mean time, the said Thomas Cushing died, and that Thomas Cushing, son of the said Thomas, deceased, in settling the accounts, stated to the commissioner the claim of the said Benjamin, but the aforesaid award and other papers relative to it being mislaid, the said demand was not adjusted, and that it has not been in the power of the said Benjamin or of the petitioner (as he states) to obtain a settlement of the said claim, or any satisfaction therefor; and the petitioner now prays Congress to direct the accounting officers of the Treasury to audit the said account, to the end he may be paid what is justly due to him.

The committee further report that the petitioner has heretofore had this his said petition presented to the House of Representatives of the Congress of the United States, and that on the 15th January, 1795, it was referred to the Committee of Claims; that, on the 22d of said month, that committee made a report thereon as follows, that is to say:

"The Committee of Claims report on the petition of Daniel Goodwine, executor to the last will of Benjamin Goodwine: states that the said Benjamin did certain services, and afforded supplies in the naval department; Thomas Cushing, Esq. was authorized by the Navy Board to settle with the said Benjamin, and his claims were submitted to be decided by arbitrament; a decision was had ascertaining the sum; the said Benjamin and the petitioner expected to look to Mr. Cushing for his pay; Mr. Cushing died, and his executors, in settling with the public officer, did not carry forward this claim, it being mislaid, and Mr. Goodwine dead. His executors now pray that the statute of limitation may be suspended as it respects his claim. The committee [that is, that committee] are of opinion that the limitation ought not to operate against this claim, and therefore ask leave to report the following resolution, viz:

"Resolved, That the proper officers in the Treasury Department be, and they are hereby, directed to examine and settle the claim aforesaid, in the same manner as though it had not been barred by the limitation act."

That the said report was committed to a Committee of the Whole House "to-morrow;" that, on the 23d of the said month, (December, 1795,) that report was disagreed to, and the petitioner had leave to withdraw his petition.

The committee further report that this said petition was afterwards (on the 4th January, 1814) referred to the Committee on Pensions and Revolutionary Claims; that, on the 31st of said month, a report was made and committed, but said report is not found.

This committee further report that it does not appear that the said Benjamin Goodwine did any services to the United States. It does not appear that he afforded any supplies, otherwise than in the petition alleged, to the United States. That the petitioner states the award and papers were mislaid, but he states not the time when nor where they were afterwards found; that the deposition of Thomas Cushing, filed with the petition, states that the said papers were mislaid; that he could not ascertain the sum, and Mr. Goodwine having removed out of Boston, he could not postpone the settlement of his father's estate on account of Mr. Goodwine; but the said Thomas Cushing gives no dates of these transactions in his said deposition. That the petitioner gives no reason satisfactory for his delaying so long, to wit, until the year 1814, to present this claim, after he had leave to withdraw his papers, as before mentioned, viz: in December, 1795.

That, on the 23d of October, 1777, Congress resolved that a warrant issue on Nathaniel Appleton, commissioner of loans in Massachusetts, for fifty thousand dollars, in favor of the Navy Board for the eastern department, and on the same day resolved that a warrant issue on Joseph Clark, commissioner of loans in the State of Rhode Island, for fifty thousand dollars, in favor of the Navy Board for the eastern department; both sums of money being for the service of the navy.

That, on the 21st of August, 1781, Congress resolved that an agent of the marine be appointed, and that, as soon as the said agent shall enter into the execution of his office, the functions and appointments of the Board of Admiralty, the several Navy Boards, and all civil officers appointed under them, shall cease and determine; and that the registers, books, and papers belonging to the Admiralty and Navy Boards, or in their custody, shall be delivered over to the said agent, and preserved by him.

That, on the 7th of September, 1781, Congress resolved that, until an agent of marine shall be appointed by Congress, all the duties, powers, and authorities assigned to the said agent be devolved upon, and executed by, the Superintendent of Finance; that, as soon as the said superintendent shall take upon him the duties, power, and authority hereby devolved on him, the functions and appointments of the Board of Admiralty, the several Navy Boards, agents, and all civil officers under them, shall cease and determine.

That, on the 27th of February, 1782, Congress, in pursuance of a report of a committee to whom was referred a letter from the Superintendent of Finance, resolved "that five commissioners be appointed for the settlement of accounts under the direction of the Superintendent of the Finances, [one of said commissioners for the Marine Department,] each of which commissioners shall have full power and authority to liquidate and finally settle the accounts of the departments respectively assigned to them, up to the last day of December, 1781, inclusive;" and the Superintendent of Finance was then authorized and directed to appoint the said five commissioners, and to report their names to Congress; that, on the 19th of June, 1783, the Superintendent of Finance reported to Congress that he had appointed Joseph Pennell, Esq. a commissioner to settle the accounts of the Marine Department, pursuant to the resolution of the 27th February, 1782; that Congress, by a resolution of the 24th March, 1786, repealed the resolution of the 27th February, 1782, respecting the commissioners in the five departments, and their powers ceased; that, on the 8th of May, 1786, Congress resolved that the powers and duties of the commissioners for the hospital, marine and clothier's departments be exercised by one commissioner, to be elected annually by Congress, and thereupon Benjamin Walker was elected commissioner for settling the accounts of the hospital, marine, and clothier's departments; and this, probably, is the Benjamin Walker who, in January, 1794, appears to have written a letter to W. Braison, Esq., the substance of which is, that he, Benjamin Walker, knew nothing relative to this claim.

The petitioner does not show by satisfactory testimony that Thomas Cushing was authorized, by any proper authority under Congress, to submit to arbitration the claims of the said Benjamin Goodwine against the United States; that it does not appear that Thomas Cushing, jun. had any authority to settle with the proper commissioner the claim of Benjamin Goodwine, deceased, unless the said Thomas Cushing the elder had received money of the United States, and that there was in his hands a sufficient sum of money to have settled said claim; that the said Benjamin Goodwine, if his claim had not been paid by the Navy Board, could, after the dissolution of that board, have applied to the Superintendent of the Finances, and have had his accounts settled; and, if not, he could have exhibited his accounts and claim to Joseph Pennell, the commissioner, and have had his claim adjusted; that the petitioner does not state that the said Benjamin Goodwine did exhibit the said claim to the Superintendent of Finance, nor to Joseph Pennell, the commissioner, for settlement; that the petitioner does not state that he did so exhibit the said claim for settlement; that the petitioner having stated that the said award and papers were mislaid, and Thomas Cushing having, in his deposition, stated that the said papers were mislaid, and no satisfactory evidence being produced on that point, this claim might have been presented to either the agent of the Navy Board, or to the Superintendent of Finance, or to Joseph Pennell, and have been settled pursuant to resolutions of Congress; and, if not, that further time was allowed to the said Benjamin Goodwine, if he so long lived, or to the petitioner, by the resolution of Congress of the 23d of July, 1787, to have exhibited the said claim for settlement previous to the time limited for barring this and all similar claims; that there is not any resolution or act of Congress providing for this claim of the petitioner, and that it is inexpedient to provide by law for this claim of the petitioner, or for any other similar claim; that this committee do concur with the decision of the House of Representatives of the Congress of the United States which reversed the report of the Committee of Claims of the 22d January, 1795, and therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

16th CONGRESS.]

No. 522.

[1st SESSION.]

ACCOUNTS OF A DEPUTY QUARTERMASTER IN THE ARMY OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 23, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 20th of December, 1819, the petition of Sarah Staterbury, Susan Gamble, Chany Hughes, and Ruth D. Hughes, heirs of the late Hugh Hughes, deceased, have had the same, and the papers accompanying it, under consideration, and report thereon:

The petitioners state that they are the daughters and only surviving children of Hugh Hughes, late quartermaster general in the armies of the United States; that their said father served in that capacity during the whole of the revolutionary war, and gained the esteem and approbation of all the officers, and particularly of General Washington; that, at the time he entered into the service of the United States he had a large family, and owned a valuable real estate in Philadelphia, the whole of which, as they state, was spent in promoting the cause of independence; that, at the close of the war, he was poor, and applied for a settlement of his accounts; that after years of fruitless attendance on the public officers and on Congress, from the close of the revolutionary war until the year 1810, fatigued and discouraged by the delays and neglect he experienced, he died poor and broken-hearted; and the petitioners pray that the public accounts of the said Hugh Hughes may be settled, and that the accounts of the said Hugh Hughes for arrears of pay and for depreciation, and the emoluments incident to his rank and services, may be also settled and paid to his representatives, and that a grant may be made to them of the quantity of land to which the said Hugh Hughes was entitled.

The committee further report that, in the examination of this case, they have had reference to a memorial of Hugh Hughes to Congress, dated at Washington, December 31, 1801, in which he states that he had repeatedly applied to have his accounts settled, but which he could not obtain; that, on the night of the 22d January, 1789, his house took fire, and his papers were almost entirely consumed; that he prepared another statement of his claims, and applied for a settlement of his accounts, but was told that he must apply to Congress to authorize a special settlement of his claims; that on the 22d February, 1793, he did, by a respectful memorial, apply to Congress praying a settlement of his accounts and claims; that his said memorial was by the House of Representatives referred to the then Secretary of the Treasury, to examine the same, and report his opinion thereon. And he states that the Secretary of the Treasury never did attend to the business, and he prays that Congress will provide that relief for him which the necessity of his case, the merits of his services, and the justice of his claims demand.

The committee have also had reference to that memorial of the petitioner which he refers to in his memorial of the 31st December, 1801, viz: that one by him stated to have been presented on the 22d of February, 1793. In that memorial he states that, on the 16th of February, 1776, he was appointed by the convention of New York a commissary of military stores, &c., in the city of New York, in which capacity he acted until the arrival of the British army from Boston, when he became assistant to the quartermaster general, and afterwards deputy, and so continued under different appointments until General Green was placed at the head of the quartermaster's department, in the spring of the year 1778; and that, from his first appointment to the quartermaster's department, until very near the retreat of the American army from New York, he rendered a weekly account of his expenditures of public moneys to the commissioners at Hartford, or to his principal, Colonel Moylan; that he was afterwards employed in settling accounts of the quartermaster's department, and afterwards set out for the city of Philadelphia with his accounts; that he met an appointment from Colonel Timothy Pickering, then quartermaster general, with an earnest request to resume the charge of that branch of the quartermaster general's department that he had formerly resigned, which induced a compliance, and prevented a delivery of his accounts as intended; that, under that last appointment, he continued to act until some time in 1783, when that branch of the quartermaster general's department was abolished; that, at different times, he received from the 1st to the 14th of October, 1782, from the quartermaster general the sum of \$3,353³⁰/₁₀₀, for purchasing boards at Albany; that he paid \$2,353³/₄ thereof to his assistant, Nicholas Quackenboss, at Albany, for that purpose; that he carried the residue thereof, \$1,001, with him in quest of boards on the east side of Hudson river, where, after several days' search and purchase, he returned

late at night to the ferry opposite the city of Albany, and there, on a dark night and very cold, being on the 11th of November, he was robbed (as he states) of his saddle-bags, and the said last-mentioned sum of money; that all search was made for the money, but without success. He states that, in 1784, he endeavored to obtain a settlement of his accounts at the expense of a journey to Philadelphia, and that, not being able to accomplish a settlement of them, they were in the year 1788 removed within a few miles of the city of New York, and there (as he states) on the 22d January, 1789, they were, with those of his assistants and clerks who had rendered their accounts, almost entirely consumed by a disastrous accident by fire; that he afterwards, in the month of February, 1790, waited on the Secretary and Auditor of the Treasury of the United States, and informed them of the loss of his public papers, and requested their advice, which was to call on all concerned with him to exhibit their accounts and vouchers, properly stated, to the Auditor of the Treasury of the United States, in the city of New York; with which advice he immediately complied. But a number of vouchers (as he states) were lost, as above stated, and several of his assistants joined the enemy without accounting for their expenditures, and others had left their places of residence, and some died, and their papers lost or secreted, which, added to the loss of his own, as before stated, it is utterly impossible for him (as he states) to exhibit such accounts and vouchers for the expenditures of such public moneys with which he was intrusted as are commonly expected and produced; that it therefore seems, as he apprehends, to require the interference of Congress, authorizing a special settlement of his just claims, and those connected with him in the quartermaster general's department, or who have furnished supplies for the public service at his request, in such manner as may best accord with public and private justice; and he states that he hopes that such efficacious directions will be given as the necessity of his case, and that of all those concerned, may appear to merit. That memorial appears to be dated at Philadelphia, 18th February, 1793.

The committee further report that the late Colonel Hugh Hughes was appointed a commissary of military stores in the city of New York, by the convention of New York, about the 16th of February, 1776; that, some time previous to June, 1776, he was appointed principal assistant in the quartermaster general's department, by whom cannot be ascertained, but was recognised as such by Colonel Moylan, when he, being elected quartermaster general in June, 1776, entered the department; that Colonel Moylan resigned the office of quartermaster general in October, 1776, and General Mifflin was authorized and requested to resume said office, and the said Hugh Hughes is presumed to have acted under him in the quartermaster general's department, until the resignation of that office by General Mifflin in November, 1777; that, on the 2d of March, 1778, General Green was appointed quartermaster general, under whom the late Hugh Hughes does not appear to have acted; that General Green having, on the 26th July, 1780, refused to act as quartermaster general, Mr. Timothy Pickering was, on the 5th of August following, appointed quartermaster general; and it appears, by a printed copy of a letter filed with the petition, that, on the 31st August, 1780, the said Hugh Hughes was appointed deputy quartermaster general for the State of New York, by Mr. Timothy Pickering, then quartermaster general. He also acted as deputy quartermaster general for the northern army, (when commencing cannot be ascertained, but ending on the 6th December, 1781,) and is presumed to have acted as deputy quartermaster general for the State of New York until that office was abolished. Mr. Timothy Pickering is presumed to have continued quartermaster general until the department of quartermaster general was abolished by a resolution of Congress of July 25, 1785; that, on the 8th of May, 1786, Congress resolved that the powers and duties heretofore exercised by the commissioners for the quartermaster and commissary's departments be exercised by one commissioner, and Mr. Jonathan Burrell was elected for settling the accounts of the quartermaster and commissary's departments.

Congress, on the 2d of August, 1776, resolved that the quartermaster general and deputy quartermasters general, in their several departments, be directed to transmit weekly to Congress an account of the sums of money they may respectively receive from the paymasters. Congress, on the 14th May, 1777, passed resolutions relative to regulations in the quartermaster's department. On the 30th January, 1778, Congress resolved that the quartermaster general immediately prepare and render an account to Congress of all his public expenditures. On the 17th of September, 1778, Congress ordered "that one million of dollars be advanced to General Mifflin, late quartermaster general, for which he is to be accountable; and that he be directed to render an account of all such sums as are now due from the late quartermaster general, in order to their being paid." Congress, by a resolution of the 15th July, 1780, made new regulations relative to the quartermaster's department. On the 23d of October, 1782, Congress resolved "that the establishment of the quartermaster's department by the resolutions of Congress of the 15th of July, 1780, be, from and after the 1st day of January next, repealed, and the following regulations then adopted in its stead." It is not necessary to insert any of them, because it is presumed that Colonel Hugh Hughes was out of office on the last day of December, 1782.

The committee further report that the late Colonel Hugh Hughes may, from the nature of his office, be presumed to have been well acquainted with all the regulations and rules made by Congress for the direction of and carrying on the quartermaster's department, during the time he continued to act in that department, and also with the other provisions resolved by Congress for settling all the business of that department.

In his memorial of the 18th of February, 1793, he has stated that the public accounts, with those of his assistants and clerks who had rendered their accounts, were, on the 22d of January, 1789, almost entirely consumed by fire; that he informed the officers of the Treasury thereof, who advised him, as he has stated, to call upon all concerned to exhibit their accounts; that he did so: but as a number of vouchers (as he states) were lost as above stated, and several of his assistants joined the enemy in the course of the war without accounting for their expenditures, and others have since left their former places of residence, and some died, and their papers either lost or secreted, as he has stated, "which, added to the loss of his own, it is utterly impossible for your memorialist to exhibit such accounts and vouchers for the expenditures of such public moneys with which he has been intrusted as are commonly expected and produced."

The committee will here observe that it would seem that there was time sufficient for the memorialist to have had his public accounts settled and adjusted with the proper officer or officers, acting respectively under the authority of the resolutions of Congress passed for such purpose, previous to the time that his public papers were destroyed by fire. Your committee have had recourse to the Treasury Department for information on this case, and, although but little can be had, by reason of the conflagrations of public papers that have been, it appears by the documents accompanying this report that there still remains a considerable sum of money charged to the account of the late Colonel Hugh Hughes, and yet remaining unaccounted for. Taking all these matters into view, and considering also that Colonel Pickering, under whom the said Colonel Hughes acted, was several years a public officer of high standing in the Government, and was afterwards for several years a member of the Congress of these United States, and that, during all that time, this case was not attended to; and taking also into consideration the resolution of Congress of the 23d of July, 1787, which provided for the settlement of claims against the United States, this committee will not advise any provision by law to be made for this case of the petitioners; and that it is inexpedient to provide by law for this case of the petitioners, or for any other similar case; and therefore submit the following resolution:

Resolved. That the prayer of the petitioners be not granted.

[16th CONGRESS.]

No. 523.

[1st SESSION.]

DAMAGES FOR BREACH OF CONTRACT.

COMMUNICATED TO THE SENATE, FEBRUARY 25, 1820.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Ebenezer Stevens and others, submitted the following report:

The petitioners entered into a contract with Robert Morris, Superintendent of Finance, for the supply of rations to the garrison of West Point and its dependencies, for and during the year 1782; and during a part of the same year they, with others, contracted with the same officer for the supply of rations for the moving army.

On the 15th October, in the said year, they ceased to execute their contracts, on account, as they allege, of the failure on the part of the Superintendent of Finance to furnish to them the stipulated payments, and of his withdrawal of the contract. On claims for damages thence arising on the part of the petitioners and their associates, a decision was had, on the 25th of October, 1787, by a board of referees appointed by and acting under sundry resolves of Congress, hereto annexed. This award adjudged to the petitioners about \$40,000 damages. It was duly reported to Congress on the day of its date, and has never been confirmed. The petitioners have, with great industry, prosecuted the recovery of the amount of this award, both under the former and present Government. The question whether or not it was binding on the Government has been the point most contested. On all occasions the petitioners have insisted that the original merits of the claim were established, and the question thus superseded, by the award. The committee, however, can see no reason why the claim should not be decided on its original merits, regarding the award only in relation to the facts on which it rests. No appropriation has ever been made for its payment, nor has any promise been given that can in anywise be deemed to have vested any right to the receipt of its amount. The old Congress reserved to themselves a discretion to confirm the award, in whole or in part, or to reject it altogether. They came to no decision. The situation of the Government has not been changed by the new Congress. The committee, therefore, conceive it to be their duty to exhibit their view of the claim on its original merits.

Judging from the terms of the contracts, and the correspondence, arising out of their execution, between the commander-in-chief, the Superintendent of Finance, and the contractors, the committee are led to doubt whether the public have not more cause of complaint against the contractors than they have against the Government. At no time do they appear to have given satisfaction to the commander-in-chief, nor even to have disclosed a willingness to do so; *at least*, they appear to have failed to fulfil their engagements, and to have relinquished the contracts, because they could not obtain concessions of better terms from the Superintendent of Finance. The subsequent contract advanced the price of the ration three pence, and obtained a credit of three months for the Government. The petitioners intimate, in their correspondence, that they would have executed their contract for a less advance with equal accommodation of credit. If they were in a condition to have done this, their whole conduct under the contract was unjustifiable. It was not conceded by the Superintendent of Finance that he ever failed to make the stipulated payments; and he contended, further, that the petitioners and their associates had surrendered their contracts themselves. Indeed, the committee cannot otherwise construe the words of their letters of the 11th of September and 9th of October, 1782. If these facts be found to be true, no claim for damages can be justly made on the Government, in consequence of a failure on their part. The committee conceive they have such an appearance of truth as hardly to justify an award of damages at all, much less an award of the amount made by the referees. The items of allowance present, on their face, most objectionable features. Five thousand six hundred and ninety-eight dollars are allowed as a premium on the purchase of flour, including interest on the principal charged; \$13,219 are allowed as profit on rations which were to have been issued after the 16th of October, when the contract ceased to be executed; \$13,927 are allowed as damages and charges recovered in a suit by Phelps and Edwards, sub-contractors under them, for the supply of beef, with interest from 1st of August, 1784, until 15th October, 1787. These allowances were made in the award on the moving army contract, together with \$828 interest on an alleged balance due at the Treasury 1st November, 1782. Similar allowances were, in part, made on the West Point contract, amounting to \$6,621. The committee conceive the principles on which the allowances have been made are as extraordinary as the amount to which they have been swelled. Premiums on purchases, and profits on rations never purchased or issued, can only be admitted as proper charges of damage, where the proof is clear that it occurred in consequence of a failure of the Government to make payments, or that it arose from an arbitrary or wrongful withdrawal of the contracts by the Government. Neither of these conclusions can be admitted. The large item covering damages recovered from the contractors by Phelps and Edwards in an action at law is of an equally unsatisfactory character. Phelps and Edwards were parties to the original moving army contract, and withdrew by mutual arrangement, and became sub-contractors for the beef part of the ration. In this sub-contract the consideration for their withdrawal probably was merged, and part, at least, of the damages recovered went directly to reimburse them for their share of the profits of the original contract relinquished. If the United States are not liable for any failure in payment (as it is conceived they are not) to the contractors, still less are they liable for damages recovered in a suit at law on a covenant to which they had no privity. The committee having no doubt that the award is excessive in its amount, and of a nature justly exceptionable, and doubting even whether the petitioners have any just claim against the Government, cannot recommend its allowance. The petitioners, in the event that the award should be deemed to them unavailable, pray for a reference of their claim to arbitrators on its original merits, or to a judicial tribunal. Seeing the effect of the reference heretofore had, the committee have no disposition to recommend the former; nor does the latter alternative seem less exceptionable, as, after the lapse of thirty-eight years, a judicial investigation can hardly fail of being embarrassed by the disappearance of evidence. If any thing be allowed, the committee are decidedly of opinion the allowance ought to be made directly by act of Congress. Conceiving it to be impossible that this claim should be understood without a close examination of the documentary details connected with it, which appear never to have been printed, the committee annex such parts thereof to this report as they think calculated to elucidate it impartially.

Whatever wrong the petitioners may sustain by an entire rejection of their claim, it is conceived that a greater wrong would probably arise to the public out of an attempt to fix its just amount at this late period. For the long suspense in which it has been held, the present Congress are not accountable; that suspense has allowed the circumstances of the parties to conform to a disallowance of the claim. The committee are therefore of opinion that the prayer of the petition ought not to be granted, and submit the following resolution:

Resolved, That the petitioners have leave to withdraw their petition.

Extract from West Point contract of 6th December, 1781.

And the said Robert Morris, as Superintendent of Finance, doth hereby covenant, promise, and engage, in pursuance of the authority from the United States in Congress assembled, as before recited, to and with the said contractors, their heirs, executors, and administrators, that he, the said Robert Morris, will well and truly pay, or cause to be paid, out of the moneys of the United States, to the said contractors, their heirs, executors, administrators, or any persons authorized by them to receive the same, the sum of nine-ninetieth parts and one-half of a ninetieth part of a Spanish milled dollar, or either gold or silver coin equivalent, for each and every ration delivered agreeably to the terms of this contract, and at the same rate for any parts of rations delivered and issued as aforesaid; and that he will, (on account of the rations to be issued by virtue hereof,) on the signing and executing this agreement, advance and pay, or cause to be paid, to the said contractors, the sum of two thousand six hundred and sixty-six Spanish milled dollars and two-thirds of a dollar, or either gold or silver coin equivalent thereto, which said sum is to be deducted out of the amount of the moneys due the contractors for the first month's supply; and that he, the said Robert Morris, shall and will pay, or cause to be paid, the moneys become due to the said contractors, by regular monthly payments, until the 1st day of September next; the payments succeeding that on the said 1st day of September to be made on the 1st day of November, which will be made in the year of our Lord 1782; and the same is to be in discharge of all sums due for rations issued in the months of September and October preceding; and the last payment in discharge of the balance which shall then appear to be due on this contract to be made on the 1st day of January, which will be in the year of our Lord 1783.

Extracts from Moving Army contract of 6th April, 1782.

All issues made in the hospital department shall be to the steward of the hospital, upon the order of the director general, or senior officer. When issues are required to marching or other small parties, less in quantity than the number of twenty rations, vinegar, soap, and candles shall not be issued in such rations, the quantity being too small for division, and not more in value than will compensate for the extra waste and trouble in such issues. And the said contractors do hereby covenant, promise, and agree that the several articles of which the ration is as aforesaid composed shall be of good and wholesome quality; and in case any dispute shall arise respecting the quality of the provisions, the same shall be determined by such person as shall be appointed for that purpose by the Superintendent of Finances; and his determination shall be conclusive, as well upon the United States as the contractors; and all the articles of the rations declared by him to be of bad quality, and unfit to be issued as rations, shall be rejected by the United States; and the said contractors shall be obliged to replace the same with good and wholesome articles. And in case the said contractors do not immediately, on demand made by the person appointed by the Superintendent of Finance for that purpose, replace the articles so rejected with good, wholesome, and sufficient articles, then the person so appointed shall direct a quantity of good provisions, equal to the number of rations so rejected, to be purchased; and the prices given for such provisions, and all costs attending the same, shall be deducted by the Superintendent of Finance, or the person or persons authorized to settle and adjust the said contractors' accounts, out of the first moneys due from the United States, by virtue of this agreement, to the said contractors.

And the said Robert Morris, as Superintendent of Finance, doth hereby covenant, promise, and engage, in pursuance of the authority from the United States in Congress assembled, as before recited, to and with the said contractors, their heirs, executors, and administrators, that he, the said Robert Morris, will well and truly pay, or cause to be paid, out of the moneys of the United States, to the said contractors, their heirs, executors, administrators, or any person or persons authorized by them to receive the same, the sum of ten-ninetieths of a dollar per ration, either in silver or in gold coin equivalent, for each and every ration delivered agreeably to the terms of this contract, and at the same rates for any parts of the ration delivered and issued as aforesaid; and that he will, on account of this agreement, pay to the said contractors on the 20th instant \$16,000, and on the 15th day of May next \$14,000; which said sums are to be deducted out of the rations issued in the month of May; and the balance due for rations issued in that month shall be paid the 1st day of June next; and what may after become due for rations issued by virtue of this agreement, in regular monthly payments to the 1st day of January next.

SIR:

HEAD-QUARTERS, *May 17, 1782.*

I have been honored with your letter of the 23d April. The information it contained is in some respects pleasing and important. I thank you for the communication, and need not assure you that your confidence shall not be abused by me.

In a circular letter which I have lately written to the States, I have taken occasion to mention the failure you experience from them in their non-payment of the sum demanded by the resolution of Congress for the \$8,000,000. I have renewed, in the most pointed terms I could use, the ill effects this failure must have upon our military operations, and have urged them with the warmth of zeal and earnestness to a full and speedy compliance with your expectations. I wish this application may have its desired effect.

I am experiencing much trouble from complaints of the army against Mr. Sands's execution of the contract. By last post I transmitted to the Secretary of War copies of proceedings respecting the contract for West Point and its dependencies; and enclosed you will have those under the contract for the moving army. It appears pretty evident to me that the contractors for the latter have availed themselves of Mr. Sands's knowledge and experience to reject every thing in the new one that did not immediately tend to their ease and emolument in the old one, and which, like every thing else of the kind that is not attended with mutual convenience, must effect its own reformation or destruction; for it cannot be expected that an army which has suffered every species of hardship and distress that could arise from want of pay, deficiencies in their rations, and, till now, want of clothing, will submit contentedly to a measure which is not warranted by the usage and custom of any other army, merely because it is convenient and beneficial to the contractor. Every man must know, and Mr. Sands acknowledges it, that issuing to a regiment at one draft does not give to each man the ration which is prescribed for him by the contract; and to compel the officers (who may wish to corn a little beef, or by way of change to furnish the tables with poultry or the smaller kinds of meat, or who may sometimes be from camp or quarters, and at other times wish to entertain a friend) to take their allowance in the same draft and at the same time with the men, whether their necessities call for more or less, or forfeit it, is not only unusual, but extremely hard and disagreeable to them, and will, if continued, be productive of serious consequences, not only from their disquietudes, but the jealousy which will prevail among the men, who, with or without cause, will suspect that the officers not only take their full allowance, but will have it of the choicest pieces, leaving them to share the deficiencies in that which is more indifferent. Besides, as the contractors seem to think themselves under no legal obligation or control to fulfil their contract, and are determined to encounter no expense which they can possibly avoid, I may be thwarted by and by in my disposition of the troops, because, by increasing their clerks, it will add to their expense.

These considerations, and the incessant complaints which I am obliged to hear, and which engage a large portion of my time, induce me to urge again that the person who is to be the arbiter of them may come forward without delay.

I have not made these observations from a disinclination to support this contract, or any other system by which the public interest can be promoted; and I should do injustice to the officers of this army were I not to declare that, as far as my opportunities have gone, (and I have conversed freely on the subject, from the general to the ensign,) they seem equally well disposed to carry it into execution; but they can see no reason why the contractors should pocket the benefits which flow from their distresses, if the officers could receive their pay, or even their subsistence, regularly; more especially if they could, as I am told is the custom with the British service, have always a month of the latter in advance, it is possible they would renounce both Sands and his issues; but having none of the former, and with difficulty coming at the latter, it is both inconvenient and mortifying to them to be tied up as they are, when it does not appear that the public interest is advanced by it; but, admitting it is so in a small degree, we may spin the thread of economy until it breaks. Minds soured by distresses are easily rankled; as a specimen of it, the privates of the Connecticut line were the other day upon the eve of a general mutiny; the vigilance of the officers discovered it a few hours before they were to parade; all the ringleaders have been tried and executed. Besides this, desertions are more prevalent than ever; by the last return, a greater number went off than ever did in the same space before, and though I know how much you have labored for the means of paying the army, and how inapplicable the remark is to you until you are furnished with means, I cannot help adding that it is very difficult, if not impracticable, to convince military men, whose interest, feeling, and want are continually goading them, that people holding civil offices are better entitled to receive the pay of service punctually than they are. I mention these things, my dear sir, not so much because I think it in your power to afford redress, as because I think you should be acquainted with the temper that prevails.

I might have mentioned, too, in a more proper place, that while Mr. Sands was saving fifty or a hundred pounds in the establishment of his issues, the public have expended, from the information I receive, at least four thousand pairs of shoes, and one thousand blankets, extraordinary, in transporting two or three miles over rugged roads the provision from these places on men's shoulders; however, I do not blame Mr. Sands more for this than the officer who permitted it.

MAY 25.

I had written the foregoing part of this letter before I received the enclosed complaints, from which it appears that the officers do not agree in sentiment with me in being obliged to receive their subsistence in money, and purchasing their own provisions. Placing the matter as they do upon the footing of right, their observation shows that, without their concurrence, the difficulties cannot be compounded in that way.

Upon the whole, that the army may not appear to be forming complaints without pointing to a remedy, I have prepared the general outlines of a system for issuing, which, if adopted, would, in my opinion, be equitable and satisfactory: this I intended to have sent you by this conveyance, but, to save trouble and delay, have concluded it would be best to take the sentiments of Mr. Sands and some of the most sensible and judicious officers upon it, that all parties here may be agreed, previous to communicating it for your approbation. Though Mr. Sands has been repeatedly urged to furnish the stipulated deposits for West Point, yet that important post is now almost without a barrel of salted provisions, by which means it is in a most alarming situation, not being able, were the enemy to make a sudden attempt upon it, to hold a siege of three days; add to this his omission, the whole army have been without meat of any kind for three or four days past. I am at a loss to account for these neglects. I can only tell you this serious truth, and ask, what remedy is provided in such cases? how is Mr. Sands to be compelled to perform his duty? and where is the compulsory power lodged?

I fear you will think this letter very tedious; but the subject required much to be said.

I have mentioned to the Secretary of War this communication, and have desired him to assist you in its consideration. I hope that, upon consultation, you will afford a speedy relief, as I know not to what extremities the present uneasiness may push us.

With great regard, I am, dear sir, your very humble and obedient servant,

GEO. WASHINGTON.

The Hon. ROBERT MORRIS.

HEAD-QUARTERS, June 16, 1782.

MY DEAR SIR:

Your two favors of the 4th instant were delivered to me by General Lincoln. It is an easy matter to perceive, by the tenor of one of them, you have imbibed an opinion that the officers of this army are captious, and that, by attempting to remove one complaint, a door is opened to others. I am not much surprised at this. You have probably adopted it from the representation of Mr. Sands, of whom, without doing him injustice, it may be said he is extremely plausible, extremely narrow-minded, disingenuous, and little abounding in a temper to conciliate the good-will of the army, or to adopt any measure for the convenience and accommodation of the officers.

These traits of Mr. Sands's character are not drawn by a pen under the influence of prejudice, or of one improperly biassed in favor of the army; they are facts of which I have, and can produce, proofs; and till the happening of which, I, upon the spot, was deceived.

Mr. Sands, sir, if I have not formed a very erroneous opinion of him, is determined to make all the money he can by the contracts. Herein I do not blame him, provided he does it honestly, and with a reciprocal fulfilment of the agreement. Of a want of the first, I do not accuse him; but his thirst of gain leads him, in my opinion, into a mistaken principle of action. He is very tenacious of all those parts of the contracts which point to the convenience and emolument of the contractors, (and, till very lately, was determined to be his own judge of them,) but is regardless of other parts, which enjoin certain requisitions upon them.

To these causes, and these only, is to be ascribed, I conceive, the present deplorable state of the magazines, and the dangerous consequences which may flow from it, our frequent want of daily food, and the little prospect of better supplies, and the inconveniences which the army experience in the mode of issuing. He cannot, I presume, charge these neglects to a failure on your part, and sure I am he cannot do it to the scarcity of provision, (for the country is surcharged with all kinds of it,) but in expectation, it is said, of reducing the price of salt meat (which, unfortunately, it seems, has risen upon him.) He, notwithstanding the contract, and repeated calls, and the consequences of a failure, has neglected it to this moment; and, to avoid the expense, it is moreover added, of pasturage, (for how else is it to be accounted for?) and perhaps a little diminution in the weight, which all armies and all contractors in the world are obliged to submit to, this army is become the sport of, and sufferers by, every accident or delay which happens to the droves of beef cattle.

I should not, my dear sir, have given you, who I know have business and perplexities enough without, the trouble of reading these observations, after being told that the Secretary of War would inquire into and redress

grievances, but from a love of justice, and a desire that every man and description of men should be known, and rewarded or punished according to their deserts, and because it would seem that your opinion has been founded on the representations of Mr. Sands, who, yielding nothing himself, requiring every thing of others, and failing in the most essential parts of his contract, adopts, as is too commonly the case with little minds, the policy of endeavoring to place the adverse party in the wrong, that he may appear in a more favorable point of view himself.

The very thing which you and every body else point out as so easy to do is not done, and is the principal hardship complained of by the officers, who think it surprising that they cannot enjoy a benefit which is essential to themselves, and costs the public nothing, because it will give a little trouble to the contractors.

These officers, who claim the specific ration as a matter of right, could not in justice, and, I persuade myself, would not in decency, complain if they should be compelled to draw or forfeit them; but the question, in my opinion, is, whether they ought to be compelled to draw them daily, (whether they want them or not,) and whether, as it costs the public no more to give them the alternative of drawing the specific ration or its value, it is not reasonable, especially under the deprivation of pay, to gratify them in it, as it is all they have to live upon.

I shall beg your indulgence but a little while longer, till I subscribe fully to your observation that, without a civil list, neither civil nor military men can exist; but I must beg leave to add to it as my own, that, if the military should disband for want of pay while the war continues to rage, a period will very soon be put to the civil establishments under our present constitution. The civil and military, then, having a reciprocal dependance upon each other, taxation of the property of the one being equal to that of the other, and the wants of both the same, it is worthy of some consideration whether the first is to receive all, and the other no part of their pay.

These sentiments, my dear Mr. Morris, are between ourselves, and, though freely communicated to you, are concealed from the officers of this army, on whom I am constantly inculcating patience and forbearance, adding that their relief must flow from the taxes, and that it is incumbent upon all and every one of them to impress the necessity of taxation upon their several connexions and friends as the only source of redress; for you are totally unsupported, and cannot work miracles.

As I never say any thing of a man that I have the smallest scruples of saying to him, I would not be understood to mean by "this being between ourselves" that any part of it which respects Mr. Sands should be hidden from him. You are perfectly at liberty, if you think it necessary, to communicate these my sentiments to him.

I hope some good will result from the deputation of Congress to the several States.

Enclosed I send you a copy of my letter to them of the 4th of May, and should have done it sooner if I could have trusted the conveyance without putting the letter in cipher. I pray you to make a tender of my best respects, in which Mrs. Washington joins most cordially, to Mrs. Morris and Miss Livingston, and to believe that, with every sentiment of esteem and regard,

I am, dear sir, your most affectionate and obedient servant,

GEO. WASHINGTON.

The Hon. ROBERT MORRIS, Esq.

SIR:

FISHKILL, June 17, 1782.

Mr. Sands has returned, and informs us that the notes sent up to pay Mr. Phelps for the beef contract he has brought back at your request, to be sent to Rhode Island to be exchanged for specie; and, by an advertisement in their paper, find the money is already exchanged for notes, so that we shall be again disappointed in getting the money for the beef contractors, which they are much dissatisfied with. General Lincoln has written to Messrs. Phelps & Co. to make use of their utmost industry, credit, and influence to keep up the supply of beef, but we fear a disappointment, as very few cattle have come in since Mr. Edwards's journey to Philadelphia. The general has fixed this day on West Point as a magazine for flour for the moving army, and has informed us that the quantity that will probably be wanted will much exceed our calculations, which was for fourteen thousand rations per day in future. His excellency requires of us a competent supply. By our disappointment in not receiving the second payment at the time agreed upon, and then in notes which will not answer our purpose, this has embarrassed us much, and it is now wholly out of our power to lay up such magazines as the general requires. We cannot collect more flour than is necessary to supply the troops from time to time. We have made a calculation of the issues that we shall make in May and June, and there will be a balance due us on the 1st of July of \$16,000; if we were certain of receiving which in specie, we could purchase flour and other articles wanted. The greater part of the flour is in the hands of the State agent, who is now selling it, and it is going off to New England.

The bearer, Colonel Stewart, waits upon you to give you every necessary information respecting the supplies, and the uncertainty of obtaining them without punctual payments; and from the information we have had from the eastern and this State, we fear they will not give you any speedy relief, which we know will greatly disappoint you; and should it happen that the tardy States prevent you from aiding us, it will be impossible for us to proceed much further. Personal credit will go but little way; ours shall be extended as far as it will bear; but we deem it just to inform you in time that we cannot be answerable for the consequences of want in the army, and therefore apprise you of our perilous situation, that some other mode may be adopted before it be too late.

We have the honor to be, with the greatest respect, sir, your most obedient, humble servants,

COMFORT SANDS & Co.
WALTER LIVINGSTON.

Hon. ROBERT MORRIS, Esq.

SIR:

OFFICE OF FINANCE, June 22, 1782.

I do myself the honor to enclose to your excellency the copies of a letter of the 17th instant from some of the contractors of the moving army to me, and of my answer of this date. Your excellency will perceive in their letter a doubt whether I will perform my engagements, held up as an apology should they not perform theirs. They have no reason to entertain, and less right to express, any such doubt. When I entered into the contract, I promised payment by forming the agreement. I think that making new assurances is extremely unnecessary, and therefore I will not do it. This, together with the general style of their letter, will account for the brevity of mine.

I am, sir, with great respect, your excellency's most obedient and humble servant,

ROBERT MORRIS.

His Excellency Gen. WASHINGTON.

GENTLEMEN:

OFFICE OF FINANCE, June 22, 1782.

I have received your letter of the 18th instant. I presume that, when you see the publications of Mr. Olney for the current month, you will discover that you were mistaken in supposing all the specie there was exchanged. I know that on the 8th instant he had near three thousand dollars specie in hand. I beg you will send forward

your accounts and vouchers, and have a full settlement made up to the 1st of July. I want to know how much is due you. I early informed you that I should, in May and June, find difficulties which you must assist in obviating. I made you very considerable advances; and now, when I call upon you, agreeably to your own promises, not to press me, I find that you are all alive to suspicions. But it is unnecessary to say more on this subject. Get your accounts settled; and you shall be paid.

I am, gentlemen, your most obedient servant,

R. MORRIS.

Messrs. COMFORT SANDS & Co., *Contractors for West Point.*

SIR:

HEAD-QUARTERS, NEWBURG, *July 3, 1782.*

Upon my return from Albany and our upper posts, last evening, I found your two favors of the 21st and 22d of June. I have given directions to the commissary general of prisoners to have the amount of money due from our officers (who have been prisoners of war) to persons within the enemy's lines particularly ascertained, and to transmit an abstract thereof to you as soon as may be.

Confident that the partial failure of provisions could not be attributed to the want of performing the contract on your part, I am the more happy to find you now call on the contractors in so decided a tone to perform the stipulations on theirs, as they will not have any excuse to urge for their future deficiencies.

As the contractors have mentioned, in their letter of the 17th ultimo to you, that I had that day fixed on West Point as the magazine of flour for the moving army, I think it expedient to inform you that my principal reasons for assigning that place were, its safety, and the convenience for drawing the supplies by water from thence to the army, while stationed anywhere on the banks of the river, as well as to make ample provision for the post, if the army should remove to any other quarter. And as they were importunate to have the place appointed before the objects and the plans of the campaign could be fully disclosed, and as the expense of transportation from the deposite I should appoint must be borne by the public, I could not think of any other spot so eligible as that I have named, especially upon taking all the possible contingencies of the campaign into consideration, as far as I was able. From the account of the gentlemen themselves, I clearly foresaw there was no prospect of accumulating a large magazine in a short time at the place assigned them; and well knowing (as the flour is to come from Pennsylvania and Jersey) that as it would always be their interest to save the expense of transportation to West Point, there would be no difficulty, in case the army should move southwardly, to change the route of the surplusage for the garrisons on this river to the Delaware, I could not, as I have before observed, with a view to the public interest, name any place so properly as West Point, in my present state of suspense.

I have the honor to be, sir, with great respect, your most obedient servant,

GEO. WASHINGTON.

The Hon. ROBERT MORRIS, Esq.

SIR:

OFFICE OF FINANCE, *July 12, 1782.*

If you meet with any difficulty in settling your accounts with the public, as you have mentioned in your letter dated at Fishkill, the 30th of last month, I presume it must arise from inaccuracies in the mode of exhibiting them, and not from any wilful delay of those who inspect them. The public officers would be deficient in their duty if they did not make the strictest scrutiny into the propriety of all claims exhibited against the United States; their particular province as guardians of the public property calls for every attention of which they are capable in the settlement of public accounts; and when they make proper objections in the execution of their duty, they merit praise from all who wish well to the public interest.

I am, sir, your most obedient and humble servant,

R. MORRIS.

COMFORT SANDS, Esq. & Co.

DEAR SIR:

HEAD-QUARTERS, NEWBURG, *July 30, 1782.*

Since my arrival here, General Heath has put into my hands the letter from Messrs. Sands & Co. (of which the enclosed is a copy) in answer to one from the general to the contractors, on the subject of repeated deficiency in the supply of provisions during my absence, and the great distress of the troops consequent thereof.

As the representation contained in this letter differs materially from the *idea* of the state of facts which I had conceived from my conversation with you, I thought it essential to transmit it, in order that my mistake might be remedied, in case I had misunderstood your meaning.

I know, my dear sir, full well, the innumerable embarrassments with which you are surrounded on all sides; and therefore if there is, unavoidably, a deficiency in complying with the contract on the part of the public, I would wish not to push the contractors, but, on the other hand, to make every thing as easy with the army as possible; although it is *certain* the service is much impeded, desertion vastly increased, and the disposition of the troops extremely soured by their frequent want of provisions, and being sometimes two and three days together without, and some corps a whole month without a drop of spirits, either to officers or men. But if the failure has happened through the fault of the contractors, when they were actually furnished with the means of effecting the necessary purchases, their conduct is infamous beyond description or parallel, and deserves the severest reprehension and punishment.

Sincerely disposed to interpose all my influence in promoting your momentous plans, I entreat you will give me an answer by the bearer, and believe that

I am, with the most perfect esteem and regard, dear sir, your most obedient servant,

GEO. WASHINGTON.

Hon. ROBERT MORRIS, Esq.

SIR:

HEAD-QUARTERS, *August 5, 1782.*

On my return from Philadelphia, I found many complaints against Mr. Sands for frequent want of provisions, as well as for badness of quality in what he did furnish; both these grievances have existed till the present time, and the troops have been without their rations for several days at various times. In casting about for a remedy, I find that none is provided in the contract but what is to be applied by the superintendent, who is to be appointed by you.

I have therefore to request, most earnestly, that you will appoint this person without delay, and that he may repair to the army as soon as possible.

Mr. Sands's disposition is such that I have not the least hope of relief from him; so long as he can impose upon the army with impunity, and serve his own interests, I am persuaded he will continue to do it.

With very great regard and esteem, I have the honor to be, sir, your most obedient and humble servant,
GEO. WASHINGTON.

Hon. ROBERT MORRIS, Esq.

DEAR SIR:

OFFICE OF FINANCE, *August 5, 1782.*

I received your letter of the 30th of July late in the evening of Friday, the 2d instant. The ideas which in conversation with you I endeavored to impress were, that I should, at all events, fulfil my part of the contracts entered into for feeding your army; that I had constantly attended to the claims of the contractors; that I should continue to do so; and that I believed I had, in many instances, been in advance to them. On Saturday morning I desired the Comptroller to make out a statement of these accounts; which statement I have received this morning, and now enclose copies. Your excellency will perceive, from the statement No. 1 of the accounts of the contractors for West Point, that I have, for a considerable part of the time, been considerably in advance to them, instead of their being one month in advance to me. Besides which, it is to be observed that the amount stated for provisions they received out of the public stores is entirely as they themselves have stated it, and that the accounts not being as yet settled, I ought not to have paid, perhaps, so much as I have done, because certainly there is no way to secure the public interest but by withholding money until accounts be adjusted; and this, sir, leads me to an observation which applies fully to the whole of this business. When I contracted to pay monthly, it was well understood that I should pay what appeared to be due for the preceding month; now, until the account be settled at the Treasury, there is, in fact, nothing due which I can take notice of as such. Supposing the accounts and vouchers to be all kept and delivered with that accuracy and simplicity which they ought, it is probable that they would get settled in the course of a week. Supposing, then, the greatest despatch which can reasonably be expected in transmitting and settling the accounts, paying and remitting the money, &c., the contractors could not have expected any thing else than to have been two months in advance; and, if they do not keep and transmit their accounts and vouchers with due regularity, they ought to have expected a still longer detention, especially if I were disposed to comply only with the letter of my agreements. But, though I neither have done nor will do any thing which could be construed into taking an undue advantage, I think myself not only justifiable, but I think, and will contend, that it is my duty, to take care that there be always such an arrearage as will make the public perfectly safe. I do not examine accounts, and therefore, if I would take the mere assertion of any man, or set of men, the consequences might be most pernicious.

With respect to the contractors for the moving army, whose account is contained in the enclosure No. 2, I confess that I was deficient one hundred dollars in the payments for April and May; but when it is recollected that the advances stipulated for were under the idea then entertained that the whole army would be in the field on the 1st day of May, and expend (at the rate of only eighteen thousand rations per day) sixty thousand dollars monthly; and when it is further recollected that nothing like this has happened, it will then appear that I have more than complied with what they had any right to expect, and that if they had prepared, as they ought to have done, funds equal to the supply of between two and three months; nay, if they had prepared funds equal to the expected supply of only one month, they had never yet been in a situation when the deficiencies of the public (had the public been defective) could have injured the army. And now, sir, if you examine the account No. 2, you will see that they have received quite as much as they had any right to expect previous to a settlement of their accounts; and, indeed, you will see by the enclosed note from Mr. Swauwick that they have received even more than is stated in that account.

But, as these various contractors have, as I am informed, lately joined stocks and contracts, I have made a short statement in the paper No. 3 of the issues, according to their accounts, and of the payments made; from which it will appear that there are not four thousand dollars due for the month of June, and that, if a credit is given for provisions purchased of the State of Connecticut, the public are at least four thousand dollars in advance. They say that there are forty thousand dollars due for the issues in July, but the accounts are not yet *even presented*; notwithstanding which, I shall pay them a considerable sum this week.

I should not, however, do justice were I not to observe that the contractors for West Point have made considerable advances for the purpose of clothing the officers, which clothing they were paid for in notes of the paymaster general, due on the 1st of August. I owe them yet on these notes between nineteen and twenty thousand dollars.

If I had asked indulgence in the situation to which the demand for those notes and the delays of the States had reduced me, I might, I think, have expected it; but I have asked none, and I am thoroughly persuaded that the contractors were intimidated by the apprehension that those notes would break me, and thereby prevented from applying, as they ought to have done, their own money and credit.

I do myself the honor to enclose, sir, the copy of a letter to me from the Comptroller, to which I will pray that your excellency will enable me to make the proper answer.

With sincere friendship and esteem, I am, my dear sir, your most obedient and humble servant,

ROBERT MORRIS.

His Excellency Gen. WASHINGTON.

DEAR SIR:

HEAD-QUARTERS, *August 11, 1782.*

I have received by Colonel Tilghman your letter of the 5th instant, with a particular state of your accounts with the contractors for money advanced to them.

I am much obliged by this communication, as it will enable me to combat the constant assertions which are made by Mr. Sands, that the contract is not fulfilled on your part.

I am very glad to find that Mr. Edwards, one of the beef contractors, is gone on to Philadelphia for the purpose of investigating with certainty the true causes of the failure which they experience in the article of money. Your free conversation with that gentleman will, I hope, bring on explanations which may prove very useful in the future conducting the contracts.

With great regard and esteem, I am, dear sir, your most obedient and humble servant,

GEO. WASHINGTON.

Hon. ROBERT MORRIS.

DEAR SIR:

HEAD-QUARTERS, *September 4, 1782.*

I am under the necessity of enclosing you the copy of a letter I have this day received from Mr. Walter Livingston, with that of one from him to Mr. Richardson Sands. From these you will perceive to how precarious

a situation we are reduced in regard to the article of flour. The quantity for which Mr. Livingston calls upon Mr. Richardson Sands is so very trifling, that it is scarcely worth attention; and I clearly foresee that, if some of the gentlemen concerned in the contract besides Mr. Sands do not interfere, the army will be shortly out of bread. In my opinion, except you are convinced that some of the contractors, besides the Sandses, will undertake to procure the flour, you had best direct the purchase yourself.

The contractors seem long since to have dropped the idea of issuing rum or any kind of spirits. You will see by Mr. Livingston's letter that he had purchased fifty-three tierces of French rum, but that there were no other prospects. The army are now going upon a very heavy fatigue—that of cutting six thousand cords of wood for the winter firing of West Point. The soldiers already complain of the stoppage of their rum when only upon common duties; with how much more reason will they do it when it will become really essential to carry them through the hard service upon which they will be put?

It gives me pain to be so often under the necessity of applying to you upon matters upon which you ought, in reality, never to be troubled; but as I can scarcely ever lay my eyes upon any of the acting contractors, I am obliged to make our distresses known in time, that you, having the staff in your own hands, may apply the remedy, and make the stoppages accordingly.

I would beg your attention to the article of rum as well as flour.

Vinegar, an almost equally essential article, is hardly ever issued, or, if it be, it is of so vile a quality that it is not much better than sour water. In short, I must say that Mr. Sands's whole conduct too plainly indicates an intention to make every thing to himself at the expense of the army and the public.

I am, with every sentiment of regard, dear sir, your most obedient servant,

GEO. WASHINGTON.

Hon. ROBERT MORRIS, Esq.

SIR: OFFICE OF FINANCE, September 9, 1782.

I received your excellency's letter of the 4th last evening. I this morning sent for Mr. Francis, one of the contractors, and directed him to purchase five hundred barrels, for which I will pay the cash, and five hundred more on credit, and to forward it on as fast as procured.

I am, sir, with great respect, your excellency's most obedient and humble servant,
ROBT. MORRIS.

His Excellency Gen. WASHINGTON.

SIR: RHINEBECK, September 11, 1782.

The present critical situation of the army with respect to supplies, especially in the article of flour, is of too alarming a nature to justify, on our part, a longer silence. Were we reduced to this dilemma by our own negligence, we should not presume to write to you on the subject; but when we can make it evidently appear that the want of a seasonable and ample supply arises from a delay in the payment of the moneys due to us from the public, and from what we actually received falling short of what was due, we owe it to you and ourselves to open with candor the present state of supplies; to point out to what causes the army is reduced to the present crisis; and to unfold, explicitly, what are our prospects as to a future provision, and what our expectations from you as Superintendent of the Finances of the United States.

With respect to the present state of supply: although the army is at present in no want of beef, such is our contract with the gentlemen who furnish it, and their disposition, that, unless we can punctually pay them in specie for the supplies of August, at the time it becomes due from us, which is on the 15th September, (and of this, from your declaration, we have at present no expectation,) they have it in their power either to cease the supply, or, in case they consent to receive your notes, in order to continue their purchases, they will endeavor to make the contractors liable to all damages which may accrue from the difference in purchase betwixt specie and your notes. We have reason to believe they will not cease to purchase beef; but we have no doubt they will (if not prevented in season) make us liable to all damages which may arise from the circumstance last mentioned; of this we shall have occasion to speak more at large. With respect to the supply of flour: there is not at present more than ten days on hand; and, from the present scarcity of that article in this State, the high price to the eastward, the approach of the French army, whose purchasers are beginning to traverse the country, added to the exhausted state of the streams and the season of the year, which are obstacles to the thrashing and manufacture of wheat, little or no dependance can be placed on procuring any supply of flour in this State till the latter end of October. This want of flour is actually to be imputed to the want of seasonable payments, as will appear by the following state of facts:

On the 20th April, \$16,000, were due; this sum was paid on the 22d, with which we were satisfied.

On the 15th May, \$14,000 more were due.

On the 29th May, \$6,900 (being near the balance of that payment) were sent forward in bank notes; these we were obliged to return, in order to convert into specie, which was not effected till the 15th June. Had this money come on by the 20th May, at which time we had a right to expect it, we had it in our power to secure a quantity of flour at \$2, and even under that price.

| | | | | | |
|---|---|---|---|----------|----------|
| On the 1st July was due to the contractors a balance of | - | - | - | - | \$15,861 |
| On the 4th July received | - | - | - | - | \$1,000 |
| On the 18th July received | - | - | - | - | 5,000 |
| On the 27th July received | - | - | - | - | 700 |
| | | | | 6,700 | |
| | | | | Balance, | \$9,161 |

So that the sum of \$5,000, due on the 1st, was not paid till the 18th; and the balance of \$9,161 we did not receive during the course of that month. These two sums last mentioned, added to the sum due on the 14th of May, (had they been punctually paid,) would have effectually secured a sufficient magazine of flour for the dry season, at no higher price than \$2 per hundredweight. For the periods of money due and received, we refer to the contractors' account in the Register's office; and the other points we can support by the most incontestable evidence. This was the critical period of failure.

In the middle of June, the contractors, foreseeing the necessity of laying up an ample and seasonable supply of flour, wrote to you that, if they could depend on the balance due on the 1st July, viz. of \$15,861, it would be in their power to secure a large quantity of flour. Your answer on this occasion (a copy of which you transmitted to his excellency General Washington) was to require of the contractors to fulfil the stipulations which they had entered

into. Though the first perusal of this letter gave us pain lest we might unintentionally have given offence, we derived a consolation from this consideration, that the earnest manner in which you called upon us to perform our engagements proceeded from a full conviction of your own ability to fulfil those you had entered into on the part of the public; we were, therefore, in daily expectation of this money coming on, in order to strike for the purchase of flour we had in view. When the contractors for the fleet lately arrived at Boston, they purchased and exported out of this State two thousand seven hundred barrels at one time, and almost the whole of the remainder was bought up and sent out by individuals. Thus, the opportunity of laying a magazine of flour in this State was irretrievably lost.

We come now to the month of July; the issues in that month, West Point included, were \$47,000; on the 2d of August was received \$5,000, on the 9th, \$10,000: but it is to be observed that these two sums only overpaid the June issues \$6,000.

| | | | | | |
|--|---|---|---|---|----------|
| Paid on the July issues | - | - | - | - | \$6,000 |
| On or about the 14th August was received | - | - | - | - | 4,000 |
| On the 20th, paid Messrs. Francis & Whitesides | - | - | - | - | 9,000 |
| Received by Mr. Livingston, in Jersey, | - | - | - | - | 800 |
| On or about the 29th August, | - | - | - | - | 10,000 |
| | | | | | <hr/> |
| So that the whole receipt for July is | - | - | - | - | 29,800 |
| Which, deducted from amount of issues, | - | - | - | - | 47,000 |
| | | | | | <hr/> |
| Leaves a balance due this day of | - | - | - | - | \$17,200 |

\$12,000 of this sum we expected to have received from his excellency General Washington, but, to our great regret and disadvantage, were baffled in our expectations.

| | | | | | |
|---|---|---|---|---|----------|
| The amount of issues for the month of August, West Point included, will amount to | - | - | - | - | \$48,000 |
| Which, added to the balance due for July, being | - | - | - | - | 17,200 |
| | | | | | <hr/> |
| Makes the present advance, | - | - | - | - | \$65,200 |

We beg leave now to consider our future prospects with respect to supplies. Though we cannot but place full dependance on your forwarding instantly the \$12,000 that we were disappointed in receiving from General Washington, you have declared explicitly to Mr. Sands that we are to expect no payment in specie for the August issues. We are extremely alarmed at this declaration. The army has taken the field; a junction is formed by the French, whose credit and mode of pay are superior to our own; this will, of course, enhance prices and the difficulty of procuring credit. Should the operations of the troops be impeded for want of a supply, we shall be held up and considered as the persons responsible for all the consequences flowing from this disappointment.

Our real situation with respect to the payments we have received cannot be explained without wounding your credit and weakening still further our own operations, which we founded principally on *that basis*. It becomes, therefore, our duty to open our situation with candor to yourself and his excellency the general, to whom we have transmitted a copy of this letter.

It is true that you have advanced to us \$50,000 in your own drafts, no less than \$20,000 of which is not payable until the 15th of January and February next. However useful these bills, with proper caution, might be made to anticipate a future supply, they will not answer to discharge payments already due, and which were contracted to be paid for in specie. Amongst these engagements, the most capital is that for beef, which amounts to one-half the cost of the ration; to discharge this is our principal difficulty. The gentlemen who furnish that article constantly press for the whole payment in specie the moment it becomes due, whether we have received it from the public or not. We cannot place dependance on making an agreement with them to take drafts; and should we, contrary to our expectation, effect it, we have grounds to apprehend that they would expect an augmentation of the price; for they have declared that they expect a strict fulfilment of the contract, and compensation for the damage they allege that they have already sustained. Under such circumstances, it would be criminal in us to hold up the expectation of a supply which we do not foresee the means of executing.

It is true that the drafts we have received are receivable in taxes in the different States, and that the receivers are bound to exchange them for cash when they have it on hand; but the slow collection of taxes in this and most of the States, notwithstanding your efforts to stimulate them, affords too much reason to apprehend that moneys will not flow into the different treasuries in proportion to the demands made on them. Were these drafts confined to the contractors, and the taxes appropriated in the first instance to the payment of the provision contracts, some dependance might be placed on them as a future resource; but the fact is, that not only a number of them have been placed in the hands of the quartermaster and clothier general, but a considerable sum has been remitted to Mr. Russell, Mr. Langdon, and Mr. Mumford. Those placed in the hands of the officers in the public departments will, of course, be distributed to their respective assistants, who, from the great demands made on them, and the want of proper management, will pass them for services and articles of supply at a higher rate than if they paid for them in specie. This begets a depreciation injurious to your credit and ruinous to us. The other gentlemen, from their profession as merchants, will of course manage them with more prudence if they do negotiate them; but we know that Mr. Russell and Mr. Langdon have made demands upon Mr. Lovell for the amount of their drafts, and have actually prevented our obtaining those sums which might otherwise have been secured. When we made this contract, we can, with truth, assure you that we placed more dependance on your personal than on your official character; we were anxious to second the views of your administration, and we had every reason to suppose, from your own declaration, that you had resources adequate, at least, to the subsistence of the army, without placing so great a dependance on the exertions of the different States. We are far from supposing that you had the most distant intention of leading us into an error; at the time you supposed yourself adequate to these demands, you certainly had grounds for the opinion; we presume you have been deceived. We have still the utmost confidence in your determination to support us by every means in your power, and are anxious to make every exertion to afford an ample supply to the army; but we are constrained to declare, explicitly, that we can no longer be answerable for the supply of the troops on the terms agreed upon in the contract. If, sir, it is not in your power to pay us in future in specie, and at regular monthly payments, agreeably to the terms of our contract, we trust to your candor and justice that you will give us assurances of indemnification at the close of the contract for all damages sustained from the public inability to perform their engagements; and that you will (if you can go no further) advance, on producing our monthly account current, at least one-half of the amount of the ration in specie, and supply us, from time to time, with such a number of your drafts as shall be found adequate to the object of supplying. This must, of course, be very considerable—not less than a whole month's advance supply; that is to

say, if the monthly amount of rations is \$45,000, we shall at all events receive, on producing our accounts and vouchers, \$22,500 in specie, and \$67,000 in your own drafts. These must necessarily be deposited in the hands of different commissioners of taxes, in order to redeem the money that may come into their hands; and, in cases of emergency, we may be obliged to lodge them as a deposit for moneys borrowed till such time as we shall be able to repay it; for it will be better, both for your and our own credit, to pay, in critical situations, a premium for money, than, by a general circulation of the bills, to beget a depreciation, the bounds of which it is impossible to ascertain. We flatter ourselves, sir, that the peculiarity of our situation, in which it is impossible for us to express ourselves without giving you pain, and not subject us hereafter to the charge of deception, will hold us excused for troubling you with this letter. We share fully in all your feelings; we do not wish to shrink from the support of the army, and of your administration, in which we consider the welfare of our country to depend; but we owe it to you and ourselves to open our real situation. We shall continue our exertions to supply the army till the 1st day of October, and make every possible provision for a future support; but if we do not receive your assurances on the points we have mentioned before that period, we shall on that day be reduced to the painful necessity of surrendering a trust too hazardous for us to continue in with the limited prospects which we have in view.

We have the honor to be, with great respect and esteem, your most obedient and most humble servants,

COMFORT SANDS,
WALTER LIVINGSTON,
WILLIAM DUER,
DANIEL PARKER.

Hon. ROBERT MORRIS, Esq., *Superintendent of Finance.*

SIR:

FISHKILL, *September 25, 1782.*

We wrote you the 11th, from Rhinebeck, by Mr. R. Sands. We then informed you of our situation with respect to flour, and gave him positive directions to forward on all he could get, and, by advice from him last post, find that article as scarce there as it is here, which alarms us much. We have not three days' supply on hand, and what little scattering flour there was left in this State the French purchasers have bought, and have advanced the price one dollar per hundred; they, having the ready cash, and giving any price, will command any article from us. We are at present without cash, and have, for this some time past, expected the \$12,000 you promised us; but, as yet, it has not come to hand. We requested Mr. R. Sands to call on you for it, and also for \$20,000 in bank notes; they begin to answer; the greater part of those we received before we have sent to the eastward to get exchanged. The mills are so dry here that we can get no wheat ground; our whole dependance must be on Philadelphia; if that fails, the army must suffer for want. We depend that you furnish the cash to purchase and transport the flour, for without money the teamsters will not cart a load.

We have the honor to be, with great respect, your obedient, humble servants,

SANDS, LIVINGSTON, & Co.

Hon. ROBERT MORRIS.

SIR:

CAMP, VERPLANCK'S POINT, *September 29, 1782.*

Messrs. Sands & Co. have, for a long time past, refused to issue country rum or whiskey that is due to the Connecticut line as part of their rations, and have compelled the quartermasters of regiments to receipt said rum or whiskey as though they actually received it, by refusing any provisions to the troops unless they would sign such receipt; that the issuing commissaries give due bills to the quartermasters for said rum or whiskey; that, when they applied to said Messrs. Sands & Co., said Mr. Sands refused to pay them more than six-sevenths of the price said rum or whiskey was set at in the contract, and that in goods only, and actually refused to pay them in money: all which is very injurious to the troops, and contrary to the contract.

I therefore request, in behalf of the Connecticut line, that Messrs. Comfort Sands & Co. may be obliged to issue country rum or whiskey as it becomes due to the troops; or, in case that cannot be procured, that they may be obliged to pay the money therefor as it becomes due, at the price set at in the contract, and that Messrs. Sands & Co. be obliged to pay the full price that is set in the contract for the rum or whiskey that they have so retained and given due bills for.

I have the honor to be, sir, your obedient, humble servant,

HEMAN SWIFT,

Col. 2d Connecticut regt.; at present com'g officer of the Conn. line.

General CORNELL.

GENTLEMEN:

OFFICE OF FINANCE, *October 6, 1782.*

Mr. Cornell, in a letter of the 5th instant, which I received last evening, informs me that he has agreed for the supply both of West Point and the moving army after the 15th instant, until which time you had agreed to continue your supplies under your contracts. He has also enclosed me the copy of your letter of the 1st instant upon that subject. I confess to you, gentlemen, that these events give me pain. In forming the contracts, I did expect that money would have been saved to the public, contentment produced to the army, ease to me, and honor to yourselves; I did hope, too, that you would have found a pecuniary advantage adequate to your labors. It is unnecessary to investigate the causes which have led to the present disagreeable situation, because they will come more properly into contemplation at a future period.

In your letter of the 11th of September you asked of me certain stipulations, which I could not consent to. The object of a contract is to substitute a certain for an uncertain expense. Had I agreed to your propositions, this object would have been lost. No distress, therefore, should have induced my consent—nothing but absolute necessity. I again repeat, gentlemen, that I am sorry things have taken the turn which they have done; but I will not vent a reproach. On the contrary, I will (from regard to justice) do that now which the duty of my situation prohibited then; I will join you in every proper measure to obtain ample compensation for any damages you may have sustained by a failure in performance of that part of the contract which imposes obligations upon the public. To entitle yourselves to such compensation, it will be incumbent on you to show the failure, and the damage which necessarily followed from it. A complete settlement of accounts will be a step previously necessary, and the amount of the balance will be a point of important evidence. You will observe that you stand charged with the sum total of paper received; you will, therefore, I suppose, find it prudent to return all which you have not disposed of. I mention this circumstance that I may, at the same time, assure you of my readiness to receive the whole or any

part, and to deduct it from the payments made, so that (whatever may be the mode of ascertaining whether the public should compensate any damages sustained, and what should be that compensation) you may be in a capacity to show clearly your claims, and have the fairer chance of obtaining justice. It is, however, my duty to observe that no notice can be taken of your private and subordinate agreements with each other.

I have the honor to be, with perfect respect, gentlemen, your most obedient and humble servant,
ROBERT MORRIS.

The CONTRACTORS for *West Point and Moving Army.*

SIR:

FISHKILL, *October 8, 1782.*

Mr. R. Sands informs us that you have advanced him \$1,000 in specie, and of the \$20,000 in your notes, requested in ours of the 25th ultimo, you have given him \$5,000, and that you did not choose to make any greater advances till you heard from General Cornell. By this time we presume you have, and that he has informed you, in consequence of your instructions to him, that he refused giving us any assurances of indemnification at the close of the contract, or making any advances of money under three months. This is so directly contrary to all your former promises, that we are at a loss to account for it. As honest men, we have performed our part of the contract, and had we been punctually paid, we could have gone through it with ease, and made a very great saving both to ourselves and the public. You have refused to give that assurance of indemnification we were justly entitled to, and have given the contract to others at 3*d.* per ration more than you gave us; had you offered us the one-half of what you give them more, we would have continued through the year. When we found your inability to pay us specie, we calculated to take as many of your notes as we could put off. This relieved us some; and when we requested the last \$20,000, it was not a third of the sum due us in specie, and we did not expect to be disappointed in it.

We some time past drew a bill on Mr. R. Sands for \$1,500, in favor of Mr. Duer, which is discounted at the bank, and will be due in a few days, which we request you will advance him in specie to that amount in season to prevent its being protested.

Our accounts are now making out, and you shall in a few days have a state of the whole, when the contractors will all personally wait on you, and they expect that justice done them they are so justly entitled to.

We are, with great respect, sir, your most obedient servants,

SANDS, LIVINGSTON, & Co.

Hon. ROBERT MORRIS, Esq.

SIR:

MANOR LIVINGSTON, *October 9, 1782.*

We do ourselves the honor of transmitting copies of the correspondence which has passed between the contractors of the moving army and General Cornell, relative to the objects mentioned in our company letter of the 11th of September.

We observe with astonishment and regret that General Cornell is prohibited from giving any assurance of an indemnification for the loss we have and may sustain from a non-performance of your engagements, or any hopes of a considerable payment in money for the prosecution of the contract. Your instructions to General Cornell as to the first point are so contrary to what we conceived we had a right to expect, not only from our contract, but from the declarations which Mr. Richardson Sands informed us you were pleased to make in a late personal conference with him on the subject of the company letter of the 11th ultimo, that we should have supposed General Cornell conceived his powers of a more limited nature than they really were, if he had not favored us with a perusal of your instructions.

We shall not take upon us, sir, to determine how far it is for the public interest or honor to avoid giving us the assurance we have requested. Our claim to indemnification, in case of failure, stands upon the broad basis of equity, and cannot be shaken by the communication which General Cornell has made, though we should continue to execute our part of the contract so far as the means put in our power will admit of.

We lament, with General Cornell, that events which no human prudence could foresee should have prevented you from executing your engagements with that punctuality we expected, and we are fully convinced of the goodness of your intention; but as those circumstances could not have justified a non-performance of the covenants on our part, we can never admit them to operate so far as to preclude any indemnification for the losses we may prove we have sustained by the failure on yours.

You will observe, by the letter from the beef contractors, that, whatever may be your determination with respect to ourselves, they conceive us personally liable to them for every failure we shall make in performing our engagements, and that they will continue, whether we pay them or not, to furnish beef so long as we will receive it.

When our letter was written to General Cornell, in answer to his of the 30th September, the contractors indulged some expectations that Messrs. Phelps & Co. might be induced to recede in some degree from the engagements we had entered into. But as this is not the case, it has become essential for our own security to take every measure which the contract will authorize to prevent our becoming victims to the confidence we have placed in the engagements we have entered into.

We therefore embrace the earliest opportunity of informing you that, whatever may be the determination of Messrs. Sands, or the other gentlemen concerned in the contract, we, on our part, will continue to supply by contract the moving army in as adequate a manner as the means placed in our power will admit of, during the term of contract.

With respect to the article of beef, it shall be regularly furnished, whether we are paid regularly agreeably to contract or not.

The articles of flour and liquor can hardly at this time be commanded at a credit, even at any price; but we will make every exertion in our power to procure all we can on the most reasonable terms possible, on credit, in case we are not furnished in season with the moneys due the contract to purchase at a cash price.

It becomes our duty, however, to inform you that very little dependance can be placed in procuring a supply of liquor and flour at this period, in any degree adequate to the consumption of the army.

We have therefore to request that you will immediately give directions to the person who, agreeably to the terms of our contract, is to purchase in case of failure of supply from the contractors, to procure, and deliver to our commissary at King's ferry, four thousand barrels of good common flour, and fifteen thousand gallons of whiskey, for which he is directed to give the proper receipts. No time must be lost in sending in this supply, as it will be impossible to transport it to Philadelphia after the 20th November.

We have not received any official information whether General Cornell is the person vested with this power; but, from a presumption that he is, we have transmitted him this letter for his perusal, and requested him to for-

ward it by express, and have given him timely notice of the failure likely to happen, that measures may be taken in season for preventing the want of the articles we have mentioned.

We think it necessary that we propose this supply of flour and whiskey to be sent on upon this condition only: that the whole amount due on our accounts is not immediately paid in specie agreeably to our contract; if it should be, there will be only occasion for half the quantity of flour and liquor we have mentioned; for though the delay in former payments renders it necessary that measures should be immediately taken by the public for supplying the quantity of flour and whiskey we have last mentioned, even the whole balance due should be now paid in specie. We are ready to perform in future every covenant we have entered into in the contract, provided the stipulations you have entered into are complied with on your part.

In the company letter of the 11th September, it was proposed; in order to render the payments as easy as possible, that only one-half of the monthly payments should be made in specie, provided the other stipulations proposed in that letter were acceded to. But as it has not been judged advisable to give the assurance we requested, this proposition (which was conditional on the part of the contractors) we shall conceive ourselves totally freed from, in case we take upon us the future execution of the contract. Whatever covenants we have entered into shall be as strictly performed as the means put in our power will admit of; and we shall expect, in future, regular monthly payments for the whole rations issued, in gold and silver coin, agreeably to our contract.

We are reduced to the painful and disagreeable necessity of coming to this resolution, from the extraordinary communication made to us by General Cornell.

We, on our parts, have never entertained the most distant idea of deriving a greater profit in consequence of your embarrassments than that we originally had a right to expect: all our aim was to be placed on an equal footing.

But as General Cornell's letter (whatever may be the intention) has a tendency to bring about a surrender of the contract in a manner ruinous to our interests and prejudicial to our characters, we must build our hopes of indemnification upon the contract itself, and trust for the justification of our conduct to the claims we have, and to the equitable proposition we have made. If any set of gentlemen are willing to take the contract for the moving army on the terms first agreed upon, (namely, ten pence per ration,) under the circumstances mentioned in General Cornell's letter, we, on our part, shall have no objection to their doing it, and will give up every farthing which may have been made by it from the beginning to this day, provided they will place themselves in the predicament we stand in with the beef contractors; but we have still that confidence in your and the public honor as not to entertain an idea that it is your wish we should be made a sacrifice in this business in order to pave the way for a contract with others on terms which it has not been thought advisable to accede to with us.

It is far, sir, from our wish, by continuing this contract, to throw any obstacles in the way of other arrangements which may be in contemplation for the supply of the army; we aim only at securing ourselves from ruin, and this it is our duty to prevent.

Should it be your wish that the contract should be given up, declare it as such, and give us an explicit assurance that we shall be placed on the same footing, in point of interest, as we were before the contract commenced, and we will cheerfully renounce it.

Any prospects of profit we may have entertained, or compensation for the trouble we have taken in supporting your measures, we are willing to give up; and we trust no more, in reason, can be expected.

If the ruin of a few individuals could restore vigor to the operations of our Governments, or contribute to the subsistence of the army, a spirit of patriotism might induce us to make a greater sacrifice than what we propose; but since this is not the case, we flatter ourselves the public opinion will be satisfied with the offer.

We are, with great respect and esteem, your most obedient and humble servants,

WALTER LIVINGSTON,
WILLIAM DUER,
DANIEL PARKER,

By their attorney, WALTER LIVINGSTON.

The Hon. ROBERT MORRIS, Esq., *Superintendent of Finance.*

SIR:

MANOR LIVINGSTON, *October 9, 1782.*

We do ourselves the honor of transmitting for your perusal our letter of the 9th instant to Mr. Morris, which, after mature deliberation, we have thought it advisable to write since our last parting, and request you to forward it by express. The letter from the beef contractors, a copy of which you have enclosed, has induced us to come to the determination mentioned in this letter. As we presume you are authorized by the Superintendent of Finance to purchase, in case of failure on the part of the contractors, such articles as may be deficient, we think it incumbent upon us to inform you, without delay, that it will be impossible for us to supply the flour and whiskey necessary for the months of November and December, unless Mr. Morris make an immediate payment, in specie, of the moneys due the contract, as we have determined not to surrender the contract without an indemnification, though the other gentlemen of the concern should consent to it. We have to request that you will immediately take measures to procure and deliver to Mr. Knox, at King's ferry, the quantity of flour and whiskey mentioned in our letter to Mr. Morris, whilst the roads are practicable, that the army may not suffer for want of a timely supply of these articles. Mr. Knox will have directions to give the necessary receipts for what is delivered. We request an answer to this letter may be transmitted as soon as possible. Seal the letters before you.

We remain, with much respect, your most humble servants,

WALTER LIVINGSTON,
WILLIAM DUER,
DANIEL PARKER,

By their attorney, WALTER LIVINGSTON.

HON. EZEKIEL CORNELL, Esq.,

Intendant of the Main Army and its dependencies.

SIR:

CONTRACTORS' OFFICE, *October 10, 1782.*

The enclosed letters we have sent were received by express; as they contain our sentiments fully, we forward them on immediately to you, and we request that you lose no time in procuring the articles therein required, and that you send on the letters to the Superintendent of Finance by express, with a copy of this.

We are, with great respect, sir, your most obedient servants,

COMFORT SANDS & Co.

The Hon. General CORNELL, *Intendant to the Army.*

GENTLEMEN:

CAMP, VERPLANCK'S POINT, *October 12, 1782.*

In consequence of your letters of the 11th ultimo to the Superintendent of Finance, and the 1st instant to me, I have agreed with Messrs. Wadsworth & Carter to furnish the moving army and garrison at West Point with provisions. They will begin their issues on the morning of the 16th instant.

Your letters of the 9th and 10th instant have come to hand; they will be forwarded to Mr. Morris.

I am, gentlemen, your most obedient, humble servant,

EZEKIEL CORNELL.

The CONTRACTORS for the *Moving Army, West Point.*

SIR:

MANOR LIVINGSTON, *October 21, 1782.*

We had the honor of receiving your letter of the 10th of October, in which you acquaint us that you had received information from General Cornell, on the 5th instant, that he had agreed for the supply both of West Point and the moving army after the 15th instant. Our feelings, sir, as well as our interest, are deeply affected by the manner in which the contract for the moving army has been precipitately wrested out of our hands by the contract which General Cornell has entered into with Messrs. Wadsworth & Carter.

We never can consider an answer to the question put to us by General Cornell as a voluntary surrender of the contract on our part; on the contrary, we protest against General Cornell's act in the most explicit manner, and hold ourselves entitled to a reparation of all damages which we may sustain in consequence of it.

You will observe, sir, by our letter of the 9th, which General Cornell has no doubt transmitted to you, that we were far from wishing, by a continuance of the contract, to impede any arrangements which might be in contemplation for the supply of the army, and which the exigency of affairs might render necessary. Our only aim and wish was to secure ourselves from ruin, and to be treated with that candor and delicacy which we conceive ourselves entitled to, not only from our private characters, but from the nature of our public department.

If a sacrifice of our interest was to be made on public considerations, we wished to have the merit of it; but as General Cornell's conduct has put this out of our power, we consider the overtures made to you in our letter of the 9th October as altogether void, and shall therefore lose no time in making a final settlement of our accounts. When this is effected, we are ready to join in a submission of our claims to three arbitrators: the one to be chosen by yourself and the parties interested in the contract, and, after this choice is made, the other two to be appointed by the parties, respectively.

We are extremely concerned that you should have conceived yourself restrained by the duty of your office from giving us that assurance of indemnification which we requested in our letter of the 11th September; and you will forgive us in observing that the reason assigned has not that weight with us which, at first view, it may appear entitled to.

It is true the object of a contract is to substitute a certain for an uncertain expense, and that the object would have been lost by an indemnification to be ascertained at a future period.

But we submit it to your consideration whether it was not in your power to obviate these objections, by proposing an addition of price, in consideration of a greater extent of credit than was fixed in the contract, in the same manner as has been offered to Messrs. Wadsworth & Carter; the latter mode would have been more agreeable to us, and we are persuaded a very considerable saving would have been made to the public. As we could not know the motives you could have for not giving these assurances, which we conceived ourselves equitably entitled to, or that General Cornell was vested with a power of increasing the price of the ration in consideration of a longer credit, it was not possible that this proposition could come from us.

If General Cornell had informed us what he could do, as well as what he could not do, this turn of affairs, which gives so much pain, would never have happened.

You will permit us to observe that some other reasons, not assigned, but which may be the subject of future consideration, might have led to the measure of depriving us of our contract.

It is not our province to decide, under present circumstances, whether a misunderstanding which unhappily prevailed between the army and the acting contractor was well or ill founded. We always understood that this gentleman enjoyed your highest confidence; but we can assure you that, on the least intimation from you, the parties concerned would have made such an arrangement in the executive part as the good of the service and the circumstances of affairs might render requisite.

You observe in your letter that you will not vent reproach. Though we are not conscious of having merited it, and therefore cannot apply this term to ourselves, there is an ambiguity in the expression which, in an official letter, under present circumstances, may lead those under whose perusal it may come to apply it to ourselves. We therefore wish, if you mean it in this sense, that you would be candid enough to inform us, and that you would mention the points at which your reproach is levelled. We shall be ready to submit every part of our conduct to a candid and dispassionate discussion. We confess ourselves anxious for an explanation of this expression, because unwearied pains are taken to vent the grossest falsehoods against the former concern; with what view we shall not pretend to say. Certain we are that such base attempts to prejudice the public opinion can never meet with your approbation, because they are inconsistent with your personal character and conduct. It is necessary, however, that these rumors should be discountenanced, or we shall be reduced to the necessity of entering into a public discussion of matters; and, from the present state of politics and of the disposition of the people, we are sensible that this would not promote the common interest.

So far we have been obliged to observe in our own justification, though the respect we have for your personal and official character restrains us from placing General Cornell's transaction in the point of view it must appear to well-informed and dispassionate judges.

We would not wish to add to that distress which you declare you feel from the late events which have taken place; and, if we have made use of any expressions which give you uneasiness, we entreat you not to impute it to a want of sensibility for the embarrassments of your department, or of personal respect, but to the peculiarity of our situation, which has rendered it hardly possible to say less than we have, without sacrificing what we owe to our own reputations. Notwithstanding the mode of conducting the late transaction appears to us at present somewhat mysterious, we have much confidence in your sense of justice and personal honor, and will do every thing in our power to bring our claims to a speedy and amicable issue.

We are, with great respect, your most obedient, humble servants,

SANDS, LIVINGSTON, & Co.

The Hon. ROBERT MORRIS, Esq.

SIR:

OFFICE OF FINANCE, *October 21, 1782.*

The negligence of the several States in supplying the Treasury has at length brought on one evil which I had long apprehended, and attempted in vain to guard against.

Congress will recollect that I had contracted for the supply of the garrison at West Point at nine pence half-penny, and to the moving army at ten pence, Pennsylvania currency, per ration. The vicinity of the army to West Point induced the two companies of contractors to join themselves together, and thus they presented for payment a monthly account of from forty-five to sixty thousand dollars. I found myself incapable to supply the moneys required. The expectations I formed from the taxes proved extremely fallacious; and the reliance I made on a sale of bills failed with the failure of a demand for them, which was utterly unexpected, and arose from the appearances of peace. It is unnecessary to go into a detail of the expedients which I have been driven to; it is sufficient to say that they proved unequal to the object. Among other things, I drew bills in anticipation of the taxes; but those taxes came in so slowly that they were of little use. The bills were drawn by me on Mr. Swanwick. The receivers were directed to receive them as cash in payment of taxes, and remit them to the Treasury. When they came to the Treasury, Mr. Swanwick took them up, with the receipts given to him, for so much money by those who originally received the bills; and thus time was gained for about six weeks or two months, and sometimes longer. It is not necessary to observe, what is known to every body, that, although contrivances may be used to procrastinate a payment, it must at length come from some quarter or other. I exhausted all the expedients I could devise, but at last I became in arrears.

In consequence of this, four of the contractors joined in a letter to me of the 11th of September, of which the enclosed paper, No. 1, is a copy. In this letter, those parts which commanded my particular attention were, first, the demand of two promises—one, that they should be indemnified for all damages sustained from the public inability to perform their engagements; and the other, that I should, on producing the monthly accounts, immediately pay one-half in specie, and three times as much more in the notes above described: and, secondly, the declaration that, unless these assurances were given by the 1st day of October, the supplies must cease. I had no prospect of being able to make this payment, and therefore that matter was out of the question; but even if I could have complied, the previous assurance of indemnification was what I could not give.

I had, on the 10th day of September, appointed Ezekiel Cornell, Esq., in pursuance of the act of the 7th of May last, to be inspector for the main army, and therefore, on the 20th of September, I enclosed a copy of the letter above mentioned in that of which the paper No. 2 is a copy. Although the letter of the 11th of September was the first express declaration of the kind made by the contractors, yet I had long had reason to be convinced that if the supplies of cash from the Treasury should be for any considerable time suspended, they would be unable to perform their stipulations; and it was very clear that the public could have no right, under such circumstances, to exact them. When I found, therefore, that I might be obliged to suspend the payments, it became necessary to look at and provide for the consequences. I enclose in the paper No. 3 my communications on that subject to the general.

It happened that Messrs. Wadsworth & Carter, during their passage through this city from Virginia, mentioned their intention of bidding at the contracts I should offer for the year 1783, if they could accomplish certain previous arrangements. In the course of the conversation, the several disputes which had arisen in the execution of the existing contracts were mentioned, and the inconveniences of a stipulation for monthly payments were naturally connected with some of these disputes. In discussing the advantages of a longer credit, these gentlemen informed me that they intended to offer a credit of three months. I then took occasion to suggest the possibility that the animosities between the army and some of the contractors might lead to a dissolution of the contract, and asked if they would take it up. They declared that, in the last necessity, they would, but that as it would materially interfere with other views, and come too suddenly for the state of their funds, they wished to avoid it.

It was partly in consequence of this conversation that I wrote to Mr. Cornell the letter of which No. 4 is a copy. I was influenced in some degree by the desire to obviate complaints which existed in the army, and which, however trivial in themselves, yet, when combined with the want of pay and other circumstances, were not to be neglected. The general's want of confidence in Mr. Sands, one of the contractors, was an additional reason; but the letter itself contains that which decided my conduct; and it was with very great regret that I found myself impelled to such a decision. With the means of payment, I could and would have compelled and facilitated such performance of the contract as to remove the uneasiness of the army from that quarter; but without those means it was impossible. Besides, to have vacated the contract from the default or misconduct of the contractors, would have involved no loss of credit. I saw, too, that any new contract must be more expensive, and yet not to have made any would have increased the mischief. These evil consequences were not the less sensible from a consideration that the moment had arrived when it was necessary to advertise for the new contracts; and they affected me still more when I reflected that the loss of our credit (slender as it is) might have some influence on the negotiations for peace. In a word, sir, I felt the situation I was in, and the determination I was driven to, as the most distressing of an administration which, from the first moment of my acceptance, has not been without care and anxiety. I was reduced to a choice of difficulties, and I had no time to look for the means of extricating myself. I should indeed have directed Mr. Cornell to apply to the contractors for a longer credit; but to this there were many objections. I shall mention, however, only this one: that they had on various occasions taken pains to convince me, and did convince me, that they had not funds by any means sufficient for the purpose.

No. 5 contains the copy of Mr. Cornell's letter to me of the 5th of October, with its enclosures; and No. 6 is an extract from Colonel Tilghman's letter of the same date, which is referred to in that of Mr. Cornell. My answer to the former (of the 10th) is contained in No. 7. On the same day I wrote to the contractors a letter, of which No. 8 is a copy; and this morning I received the contract executed by Mr. Carter, for himself and Mr. Wadsworth, of which the paper No. 9 is a copy. From this it will appear that the principal differences between the former and the present agreements are, that the price of a ration is advanced to thirteen pence, and credit given to the public for three months. If it be asked whether this be a good bargain, I answer, at once, it is not, but I believe it to be the best which could be made. In a situation where only bad things can be done, to adopt the least pernicious is all that can be expected. I have, however, made use of this occasion to write a very pointed letter to the several States. I enclose a copy in the paper No. 10 for the perusal of Congress, as it contains some observations on the business which are not repeated in this letter.

I have taken the liberty to trouble your excellency with this detail, that the United States (being fully informed) may give any directions they shall think proper.

I am, sir, with perfect respect and esteem, your excellency's most obedient and humble servant,

R. MORRIS.

His Excellency the *PRESIDENT of Congress.*

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| The first accounts brought to the Treasury by the contractors for the moving army, viz: Sands, Livingston, & Co., were those for May, 1782, and delivered 4th July, amounting, as finally passed to their credit, to | \$45,915 58 |
| NOTE.—These accounts were delivered in so irregular a manner that they could not pass through the offices, nor were they ever reported on by the clerks of accounts until the 30th of January, 1783. See their letter of 16th August, and report 30th and 31st January, 1783. If these accounts had been rendered regularly, so that they could have been passed in ten days, the claim of payment would have arisen on the 15th of July. The payments to the 4th of July were | 32,888 30 |
| | <u>13,027 28</u> |
| On the 18th of July they were paid | 5,000 00 |
| | <u>8,027 28</u> |
| Balance due them the 18th July | 8,027 28 |
| REMARK.—The contractors had a right, on the exhibition of their accounts, to claim some money, but they had no pretence to demand the whole; for, if that were the case, they might have as well stated an account for \$100,000, and brought improper vouchers to support it. Surely it would not have been justifiable to have paid such a demand. | |
| On this balance they received further, on the 25th July, | 200 00 |
| | <u>7,827 28</u> |
| They received an advance in sixty day notes, on the 19th of July, of \$20,000. The accounts for the month of July were not brought in until the 9th of August, nor could they be reported (by reason of their irregularity) until the 3d of February, 1783. Vide report. They were for | 47,540 86 |
| | <u>55,368 14</u> |
| On the 2d of August they received | 8,177 36 |
| | <u>47,190 78</u> |
| Thus, before they brought in their accounts for July, they had received a small advance on the 2d August, and, on the 8th, they received further | 10,000 00 |
| | <u>37,190 78</u> |
| We may here also deduct the advance made in July of | 20,000 00 |
| | <u>17,190 78</u> |

This, then, was the extent of their claim, when the accounts were delivered in, on the 9th of August.

They received at different times in August, after the 10th, as follows:

On the 14th, \$4,000; 15th, \$2,420 76; 17th, \$1,675; 24th, \$2,708 82; 29th, \$10,000; = \$20,804⁸²/₁₀₀.

Overpaid by the public, \$3,613 80.

| | |
|---------------------------------------|-------------|
| Advanced in notes on the 8th August, | \$10,000 00 |
| Advanced in notes on the 19th August, | 20,000 00 |

30,000 00

NOTE.—The foregoing is a copy of a paper on file in the Treasury, endorsed "Gouverneur Morris's remarks respecting the contractors' accounts," who, it is understood, acted in the capacity of assistant to the Superintendent of Finance.

SIR:

OFFICE OF FINANCE, *March 11, 1783.*

In answer to your letter of this date, I am to observe that I am still, as I ever was, ready to join in every proper measure to obtain ample compensation for any damages which the contractors may have sustained by a failure in performance of that part of the contract which imposed obligations upon the public. No person has ever yet delivered to me any account of what these damages were; neither do I know that any were sustained; on the contrary, I have been informed that the contractors were gainers by the dissolution of the contract. Surely you cannot expect that I shall go rashly into the naming of arbitrators between I know not whom, and for I know not what. State your claims clearly, and perhaps no arbitrators may be necessary; but, if they should be necessary, it is at least proper to know what is committed to their decision.

I am, sir, your obedient and humble servant,

ROBERT MORRIS.

COMFORT SANDS, Esq.

SIR:

NEW YORK, *October 4, 1783.*

Mr. Walter Livingston and Mr. Daniel Parker having communicated to us your wish that we should lay before you an estimate of the damages claimed by the contractors for West Point and the moving army for the year 1782, we now do ourselves the honor of transmitting it. In making this estimate, we have been studious not to aggravate the damages beyond what have been actually sustained.

The contractors for beef have, by legal process, recovered from us the sum of \$10,300, which must be shortly paid. We cannot, therefore, but be extremely urgent to bring our claims to a speedy decision. It would give us great pleasure if they can be adjusted without a reference or legal process. But, if you think it expedient to agree to a reference, we trust you will appoint as early a day as possible. We have empowered Colonel William Duer to nominate the referees on our part, and to agree on the time and place of meeting.

We are, with respect, sir, your most obedient, humble servants,

SANDS, LIVINGSTON, & Co.

The Hon. ROBERT MORRIS.

GENTLEMEN:

OFFICE OF FINANCE, *October 15, 1783.*

I received yesterday afternoon your letter of the 4th instant. Both Mr. Livingston and Mr. Parker were mistaken if they supposed that I was solicitous to bring forward your claims. I wished you to receive whatever was justly due to you, because I always wish that what is just may take place. For every thing else, gentlemen, you will, I hope, be governed in your applications by your own discretion.

Your estimate of damages shall be immediately transmitted for examination to the Comptroller of the Treasury, and on his report I shall be enabled to judge what further steps it may be proper to take.

I am, gentlemen, your most obedient and humble servant,

ROBERT MORRIS.

Messrs. SANDS, LIVINGSTON, & Co.

The Superintendent of Finance, to whom was referred the memorial of William Duer, begs leave to report:

That, although he cannot assent to all the matters stated in said memorial, he believes there is sufficient ground for the complaint of the memorialist;

That a similar complaint is made by the contractors for supplying the moving army during said period;

That the officers of the Treasury neither are, nor ought to be, vested with authority in such cases;

That redress can only be given by the United States in Congress assembled;

That, when contracts entered into with individuals have not been fulfilled on the part of the public, justice undoubtedly requires that compensation be made;

And that inquiries of this sort by Congress, or by committees of Congress, would be attended with trouble, expense, and delay, besides that Congress would be, in some respects, judges in their own cause; wherefore, the following resolution is submitted:

Whereas it hath been alleged that certain contracts entered into for supplying the army with rations have not been punctually complied with on the part of the United States: and whereas it is just that adequate compensation be made to the parties for any injuries or damages by them sustained in consequence of such non-compliance:

Resolved, That the Superintendent of Finance of the United States be, and he is hereby, authorized and empowered to agree with the parties making complaint of such injury to submit the same to the arbitration of persons indifferently chosen by the said superintendent and by such parties so complaining, as aforesaid.

All which is humbly submitted.

ROBERT MORRIS.

OFFICE OF FINANCE, *April 8, 1774.*

GENTLEMEN:

OFFICE OF FINANCE, *August 9, 1784.*

Agreeably to the letters which have passed between us on that subject, I have appointed Mr. John D. Mercier to be the arbitrator, on the part of the United States, in the claim of damages which you make for a non-performance of the contract alleged to have been committed by the public. This gentleman will proceed from hence for New York in to-morrow's stage, and will not probably arrive until the morning of the 11th. I should be glad to know whom you have appointed to meet him, and I think it would be well to sketch out some agreement between us.

I am, gentlemen, your most obedient and humble servant,

ROBERT MORRIS.

Messrs. SANDS, LIVINGSTON, & Co., *late Contractors, &c.*

SIR:

OFFICE OF FINANCE, *September 30, 1784.*

I have received your letter of the 27th. It was not practicable for me to answer it by the return of post. On the 1st of November I shall not be in office. Indeed, I only wait the arrival of my successors to resign my authority, and have this day written to them to come forward for the purpose. Under these circumstances, I can go no further, and you must apply for redress to those successors. Two years have elapsed since the causes of your complaint took place. As I have always said, so I again repeat, that I was always ready and desirous to assist you in obtaining justice. I have even gone further (by agreeing to an arbitration) than perhaps was strictly justifiable. I lament the delay, but I cannot prevent the consequences.

I am, sir, your most obedient and humble servant,

ROBERT MORRIS.

COMFORT SANDS, Esq., *New York.*

Memorandum of an agreement made this 1st day of September, 1784, between Robert Morris, Esq., Superintendent of the Finances of the United States, on the part of the said States, and Sands, Livingston, & Co., late contractors for supplying the moving army; which company consisted of the following persons, to wit: Tench Francis, Comfort Sands & Co., Thomas Lowrey, Oliver Phelps, Timothy Edwards, and Walter Livingston; and also Comfort Sands & Co., late contractors for supplying the garrison of West Point and its dependencies, which said company consisted of Comfort Sands, Richardson Sands, (deceased,) and Joshua Sands.

Whereas it hath been suggested, on the part of the said companies, that they have sustained grievous loss and damage by reason of the detention of various sums of money justly due and owing unto them, according to the form and effect and to the true spirit and meaning of the aforesaid contracts now on record in the Treasury office of the United States: and whereas the said superintendent hath heretofore promised, by a letter of the 10th of October, 1782, to join the said companies in every proper measure to obtain ample compensation for any damages they might have sustained by a failure in performance of that part of the contract which imposed obligation upon the public, as, by the said letter, reference being thereunto had, will more fully appear: and whereas John D. Mercier hath been appointed by the said superintendent, on the part of the United States, and William Malcom, by and on the part of the said companies, as arbitrators in the premises; and the said arbitrators have chosen Isaac Roosevelt as a third arbitrator, which the said parties have agreed to: Now, therefore, it is agreed that the said John D. Mercier, William Malcom, and Isaac Roosevelt, shall fully inquire into the premises, and whether the said contract hath been broken on either part, and in what manner, and whether any and what compensation be due on either part for such breaches; all which they shall certify by award, under their hands and seals, or the hands and seals of any

two of them. And the parties above named do hereby promise that they will faithfully abide by, perform, fulfil, and keep such award, provided the same be executed ready to be delivered to either of the said parties on or before the 1st day of October next.

In witness whereof, the parties have hereunto set their hands and seals, the day and year above written.

ROBERT MORRIS, [L. s.]
WALTER LIVINGSTON, [L. s.]
COMFORT SANDS, [L. s.]
JOSHUA SANDS, [L. s.]

Sealed and delivered in the presence of

WM. MERCIER,
THEO. VAN WYCK, JUN.

Sealed and delivered by Robert Morris, in the presence of

J. REES,
THEO. VAN WYCK, JUN.

Extract of a letter from Robert Morris, Esq. to Messrs. Sands, Livingston, & Co., dated

OCTOBER 9, 1784.

I am much obliged, gentlemen, by your expression of the opinion you had formed of my candor and disposition to do justice. If a compliance with my duty should induce a change of that opinion, it will be my misfortune. It was always very questionable whether I had a right to refer your claim to the decision of arbitrators. No such power was expressly delegated by Congress. I had even reported that such power should be granted, and this report was not agreed to, which forms a strong presumption against it. At this hour, therefore, I cannot do an act which it may, perhaps, be contended that I ought never to have done; and which, if now done, would argue in me a doubt of the justice both of the Congress and of my successors. I have no such doubts, and a conduct expressive of it would be totally improper. I shall always be willing to certify such matters of conversation as may have passed on this subject, should it be useful or necessary for you; but, as a public officer, I cannot interfere. The earnestness of Mr. Livingston's solicitations would have induced me to do it, if my judgment did not strongly prohibit me, and I should err against the dictates of my own mind if I consented. Let me add, gentlemen, that I feel very sincere concern at being obliged to decline a compliance with your request, and the more so as I did hope that every concern of my administration would have been closed before I left the office of finance.

The committee, consisting of Messrs. Williamson, Smith, Grayson, Wilson, and Howel, to whom was referred the memorial of the late contractors of the moving army, report:

That, on the 6th April, 1782, the memorialists entered into a contract with the Superintendent of Finance for supplying the moving army with rations at a certain price, on condition of having payments made them in solid coin at fixed periods.

That, from the failure of the several States to pay sufficient sums into the treasury, the financier had it not in his power to make the stipulated payments. The contractors, in that situation, were unable to continue to furnish the army with provisions, and the financier made a new contract with other persons, on other terms, before their contract had expired.

The memorialists allege that they have sustained considerable damages by the failure on the part of the financier to make his payments according to agreement, and by his depriving them of their contract after they had sustained it during the most expensive period; and pray that the same may be considered, and that they may be indemnified for the losses they have suffered.

On which your committee submit,

That J. D. Mercier, W. Malcom, and I. Roosevelt, esquires, having made oath that they will faithfully discharge this trust, be authorized to inquire into the particulars, and to determine what damages, if any, have been sustained by Tench Francis, Comfort Sands, and others, late contractors for the moving army, from the financier having failed to make good the stipulated payments, or from his withdrawing the contract; and make report to Congress.

To the honorable the Congress of the United States: The memorial of the subscribers, late contractors for supplying with provisions the garrison of West Point and its dependencies, most respectfully sheweth:

That your memorialists, having, in their opinion, reasonable claims for damages which they sustained by reason of the failure of the late Superintendent of Finance in the performance of his engagements as contracting party on the behalf of the United States, did, in the month of September last, enter into bonds of arbitration with the said superintendent, together with the contractors for the moving army, in order to ascertain the equity of their respective claims.

That, as the arbitrators then chosen were not able to complete their investigation so as to award in the time limited by the bonds, your honorable body have been pleased, by your resolution dated the 27th of May, to appoint the same persons to examine and report upon the claims of the contractors for the moving army, without extending their authority so as to comprehend the claims of your memorialists.

That, by a certified copy of the bond referred to, (herewith presented,) it will appear to your honorable body to have been the desire of both parties to proceed to the examination and settlement of the claims of both companies under one reference; and, as your memorialists are persuaded it will appear to your honorable body to be most convenient and eligible that the same mode of settlement be now pursued as was intended by the late Superintendent of Finance, your memorialists most humbly request that the gentlemen who are directed to report upon the claims of the contractors for the moving army be also authorized to comprehend in their inquiry, and report concerning, the claims of your memorialists, as contractors for the garrison of West Point and its dependencies.

COMFORT SANDS,
JOSHUA SANDS.

NEW YORK, June 13, 1785.

The committee, consisting of Mr. Smith, Mr. Cook, and Mr. Howel, to whom was referred the memorial of Comfort Sands and Joshua Sands, late contractors for supplying with provisions the garrison of West Point and its dependencies, report:

That it appears to your committee a claim was made by the memorialists on the late Superintendent of Finance for damages they allege they have sustained by the failure on the part of the financier to make his payments according to his agreement, and by his depriving them of their contract.

That the settlement of the claims was, together with the demands of the contractors for the moving army, by the mutual agreement of the late Superintendent of Finance and the memorialists, referred to the decision of John D. Mercier, William Malcom, and Isaac Roosevelt; but that their report was not made by the time limited in the bonds, and the Superintendent of Finance being about leaving his office the claims were not adjusted. Your committee therefore submit the following resolve:

That John D. Mercier, William Malcom, and Isaac Roosevelt, esquires, having made oath that they will faithfully discharge this trust, be authorized to inquire into the particulars, and to determine what damage, if any, has been sustained by Comfort Sands, Richardson Sands, (deceased,) and Joshua Sands, late contractors for supplying the garrison of West Point and its dependencies, from the late Superintendent of Finance having failed to make good the stipulated payments, or from his withdrawing the contract; and make report to Congress.

SIR:

NEW YORK, August 9, 1785.

Congress, by their act dated 27th of May last, having been pleased to authorize us to "inquire into the particulars, and determine what damages, if any, have been sustained by Tench Francis and others, late contractors of the moving army, from the late Superintendent of Finance having failed to make good the stipulated payments, or from his withdrawing the contract," and, by their subsequent act of the 27th June, to make the same inquiry and determination respecting the claims of Messrs. Sands, as contractors for the garrison of West Point; we have, in obedience to those acts, had several meetings upon the subject; but, viewing the transaction not only as of importance, but particularly as the settlement thereof has become a matter of public expectation, it is our opinion that, if two other gentlemen were appointed with us upon the business, it would be a means of affording more satisfaction to all concerned, and be peculiarly acceptable to us.

We therefore most respectfully request that Congress will be pleased to take this matter under their consideration.

We have the honor to be, with the most profound respect, sir, your most obedient, humble servants,

ISAAC ROOSEVELT,
JOHN D. MERCIER,
WILLIAM MALCOM.

His Excellency the PRESIDENT of Congress.

SIR:

NEW YORK, August 2, 1785.

The gentlemen to whom our claims upon the public are referred have intimated to us their wish to have the assistance of two other persons in the settlement thereof, and have furnished us with a copy of their representation to Congress upon the subject.

Concurring with them in opinion, and being anxious to bring this tedious business to an end, we take leave to inform Congress that it is perfectly agreeable to us that two other gentlemen be chosen, and we request that a committee of Congress may be appointed, with whom we may be permitted to confer upon the subject.

We are, with great respect, your excellency's most obedient servants,

WALTER LIVINGSTON,
For himself and associates.
COMFORT SANDS & Co.

His Excellency the PRESIDENT of Congress.

The committee on a letter of the 9th of August last from Messrs. Isaac Roosevelt, John D. Mercier, and W. Malcom, and also a letter of the 2d August last from Walter Livingston, in behalf of himself and associates, and Comfort Sands & Co., report:

That they have agreed to nominate Messrs. Abram Lott and Gerard Bancker as two additional referees, to be appointed between the United States and W. Livingston & Co., Sands & Co., and their associates.

Resolved, That the Secretary of Congress be, and hereby is, authorized, in conjunction with W. Livingston and Comfort Sands and their associates, to agree upon and appoint two disinterested referees, to be added to those heretofore appointed, to decide certain controversies between the United States and the said W. Livingston and C. Sands and their associates, who, or a majority of whom, shall be competent to report their opinion to Congress.

DEPARTMENT OF STATE, February 13, 1818.

The foregoing writings have been duly compared with original papers belonging to and filed in this office, with the proceedings of the Congress of the United States during the existence of the old articles of confederation, and found correct.

DANIEL BRENT, *Chief Clerk.*

Mr. Gerry to Mr. Thompson.

SIR:

CAMBRIDGE, August 11, 1786.

By the last post I received your letter of the 2d, informing me of an appointment made by yourself in behalf of the United States, and by Messrs. Sands & Co. on their part, of additional referees to determine on the claims of the said company for damages which they suppose they have sustained by a failure of payments which were to have been made agreeably to contract by the United States; but such are my engagements at this time, that, however disposed I may be to comply with the wishes of the parties, it is utterly out of my power to attend to the business, even if they were present with the referees at this place.

I have the honor to be, sir, your very humble servant,

E. GERRY.

CHARLES THOMPSON, Esq.

SIR:

NEW YORK, *October 25, 1787.*

I have the honor to enclose to your excellency the award of the referees appointed to inquire into and determine upon the claims of the late contractors for supplying the moving army and the garrison of West Point and its dependencies, which I flatter myself will receive the approbation of Congress.

I have the honor to be, with great respect, your excellency's most obedient and humble servant,
ISAAC ROOSEVELT, *Chairman.*

His Excellency the PRESIDENT of Congress.

GENTLEMEN:

NEW YORK, *October 25, 1787.*

The referees have adjusted your claims upon the United States, and their award, which I hope will be satisfactory, is herein enclosed.

I am, gentlemen, your most obedient, humble servant,

ISAAC ROOSEVELT.

To Messrs. SANDS, LIVINGSTON, & Co., and to
Messrs. COMFORT SANDS & Co., *Contractors, &c.*

NEW YORK, *October 25, 1787.*

Whereas the United States in Congress assembled did, on the 27th May, 1785, resolve "That John D. Mercier, William Malcom, and Isaac Roosevelt, Esqs., having made oath that they will faithfully discharge this trust, be authorized to inquire into the particulars, and to determine what damages, if any, have been sustained by Tench Francis, Comfort Sands, and others, late contractors for the moving army, from the late Superintendent of Finance having failed to make good the stipulated payments, or from his withdrawing the contract, and make report to Congress;" and afterwards, on the 27th of June, 1785, "*Resolved*, That James Milligan, Comptroller of the Treasury, be, and he is hereby, directed, on behalf of the United States, to attend the gentlemen appointed to inquire what damages, if any, have been sustained, as well by the late contractors for supplying the moving army, as the late contractors for supplying the garrison of West Point and its dependencies, and that he be empowered to employ counsel if necessary;" and, on the 4th day of November, 1785, further "*Resolved*, That the Secretary of Congress be, and hereby is, authorized, in conjunction with Walter Livingston and Comfort Sands and their associates, to agree upon and appoint two disinterested referees, to be added to those heretofore appointed, to decide certain controversies between the United States and the said Walter Livingston and Comfort Sands and their associates, who, or a majority of whom, shall be competent to report their opinion to Congress;" and whereas the said Secretary of Congress and the said contractors did agree upon and appoint the honorable Elbridge Gerry and Henry Remsen, esquires, to be added to those heretofore appointed for the purposes mentioned in the acts of Congress herein recited: we, the said referees, having convened for the purposes mentioned in the said acts on Monday, the 8th day of October, 1787, and continued sitting, from day to day, until Saturday then next following, in order to afford the said James Milligan, Esq., Comptroller of the Treasury, on the part of the United States, and the said contractors, competent time and opportunity to produce their proofs, and having likewise heard the parties, and attentively examined the contracts, accounts, and papers relating to the transaction, do determine and award that Tench Francis, Comfort Sands, and others, late contractors for the moving army, under the firm of Sands, Livingston, & Co., have, "from the late Superintendent of Finance having failed to make good the stipulated payments, and from his withdrawing the said contract, sustained damages to the amount of \$33,675⁵/₁₀ in specie;" and that Comfort Sands, Richardson Sands, and Joshua Sands, under the firm of Comfort Sands & Co., late contractors for the garrison of West Point and its dependencies, have, "from the late Superintendent of Finance having failed to make good the stipulated payments, and from his withdrawing the said contract, sustained damages to the amount of \$6,621⁸⁸/₁₀₀." And we accordingly do award that the sum of \$33,675⁵/₁₀, in specie, be paid by the United States to the said Sands, Livingston, & Co.; and also that the sum of \$6,621⁸⁸/₁₀₀, in specie, be paid by the United States to Comfort Sands & Co., respectively, contractors as aforesaid.

ISAAC ROOSEVELT,
WILLIAM MALCOM,
ELBRIDGE GERRY,
HENRY REMSEN.

The committee to whom was referred the report of a former committee, together with a letter from John D. Mercier, report:

That, on the 27th of May, 1785, J. D. Mercier, William Malcom, and Isaac Roosevelt were authorized by Congress, nine States being present, "*to inquire into the particulars, and to determine what damages, if any, have been sustained by Tench Francis, Comfort Sands, and others, late contractors for the moving army, from the late Superintendent of Finance having failed to make good the stipulated payments, or from his withdrawing the contract.*"

That, on the 27th of June, the same persons were further authorized by Congress, nine States being present, to inquire and determine what damages had been sustained by the contractors for supplying the garrison of West Point and its dependencies. It was also resolved "that James Milligan, Comptroller of the Treasury, be directed to attend the inquiry in behalf of the United States, and to employ counsel, if necessary."

That, on the 4th of November following, it was resolved in Congress, seven States only being present, "that the Secretary of Congress be, and hereby is, authorized, in conjunction with Walter Livingston and Comfort Sands and their associates, to agree upon and appoint two disinterested referees, to be added to those heretofore appointed, to decide certain controversies between the United States and the said Walter Livingston and Comfort Sands and their associates, *who, or a majority of whom, shall be competent to report their opinion to Congress.*"

Your committee are informed that James Milligan, late Comptroller, attended at a subsequent meeting of the referees, but they do not learn for what purpose, as he did not employ counsel, though he declared himself unacquainted with the subject. This circumstance, however, appears to be of little importance, because the persons called referees, to whom the question was last submitted, were simply authorized *to report their opinion to Congress.* They had no authority, such as was formerly granted, to inquire and *determine*, nor was it in the power of seven States to vest them with such authority, or to appoint referees properly so called.

With this view of the subject, and considering that the persons who have reported their opinion to Congress have not stated any facts from which Congress can be enabled to judge of the propriety of such opinion, it appears

to your committee that referees should be duly appointed, by whom the account may be finally settled; on which they submit the following resolve:

That five referees be appointed by the joint concurrence of the Secretary for Foreign Affairs, the Secretary of War, and the Secretary of Congress, and of Walter Livingston, Comfort Sands, and their associates, who shall hear and finally determine what damages, if any, have been sustained by the contractors for supplying the moving army, as also the garrison of West Point, by the late Superintendent of Finance having failed to make good the stipulated payment, or withdrawing the contract; and that the said Secretaries, in behalf of the United States, be authorized to employ counsel, if they shall judge it necessary.

Mr. Wadsworth, Mr. Otis, Mr. Dane, Mr. Hamilton, and Mr. Kearney, the committee to whom was referred the award of referees upon claims of the contractors for supplying the army and garrison at West Point, beg leave to report that it is the opinion of your committee the award of the said referees ought to be confirmed by the United States in Congress.

SIR:

NEW YORK, June 10, 1788.

Congress, on the 27th May, 1785, authorized "John D. Mercier, William Malcom, and Isaac Roosevelt to inquire into the particulars, and to determine what damages, if any, have been sustained by Tench Francis, Comfort Sands, and others, late contractors for the moving army, from the late Superintendent of Finance having failed to make good the stipulated payments, or from his withdrawing the contract, and make report to Congress."

Congress, by their resolve of 27th June following, directed a similar inquiry to be made with respect to the West Point contract.

In consequence of their resolve of 4th November following, Elbridge Gerry and Henry Remsen, esquires, were added as referees.

The referees proceeded to business in the month of October last, and, on the 25th, Messrs. Roosevelt, Gerry, Malcom, and Remsen signed a report to Congress.

Differing in opinion with them, I have thought it my duty, in this manner, to lay before Congress the reasons of my dissent:

1st. By contract, the issues in the month of June became due on the 1st of July, and thus on the 1st of every succeeding month.

The contractors, construing the words of the contract literally, insisted that, if the money was not paid on that day, whether the accounts were delivered in or not, there was a failure in the contract on the part of the superintendent; to which the other referees assented.

I contended that it was not the intention of the parties at the time of forming the contract; that it was contrary to the customary mode of business; that it was impossible the contract could be complied with on those terms, as the sums due the contractors could not be known on that day, the army being at a distance; and that, in mercantile affairs, a man could not be said to have failed in his contract if he paid when the accounts were presented; it was, therefore, my opinion that we should fix the payments as becoming due on the day the accounts were presented.

To prove the intentions of the parties at the time, I produced R. Morris's letter of 22d June, 1782, wherein he requests the contractors to forward their accounts to the 1st July, that a settlement might be made, and promises payment. R. Morris's letter of 12th July, 1782: "Send in your accounts, and you shall be paid." C. Sands & Co.'s letter of 30th June, 1782: "We are fully sensible of your goodness in advancing us money when we ask for it, *before our accounts were settled.*" Sands, Livingston, & Co.'s letter of 11th September, 1782: "When our accounts for August are sent in." Ibid: "And the same sum on presenting every monthly account."

2dly. Mr. Morris advanced to the contractors his notes, payable in two, three, and six months, directing them to apply to the receivers of taxes, to whom (he informed the contractors) he had written, directing them to take up said notes as soon as presented, (if in cash,) without considering the time they had to run. On the receipt of the first sum in notes, on the 19th July, 1782, for twenty thousand dollars, the contractors gave a conditional receipt, promising to be accountable when passed away; another receipt for twenty thousand dollars in said notes is without condition, and receipted for as cash.

It does not appear that any other conditions were made, and Mr. Morris, in his letter to me of the 16th September, 1784, says: "If the contractors paid a discount on the paper which they received from me, they ought to have mentioned it at the time."

I was, therefore, of opinion that the contractors ought to be charged with the notes according to the condition of the receipt, viz: at the time they passed them away.

On these two principles I stated an account, copy of which I gave in to the committee on the 8th March last, by which it will appear that, on the 11th September, 1782, when the contractors complain of the superintendent's failure, and insist on new terms, they had been paid in full for the months of May, June, and July, and that there had been advanced to them for the issues in August, which accounts had not then been sent in, as appears by said letter, the sum of fifteen thousand five hundred and thirteen dollars and eighty-ninetieths, and that they had also in hand thirty-one thousand and three dollars, in notes, to be accounted for.

Upon this statement it does not appear that there was any failure in making good the stipulated payments on the part of the Superintendent of Finance, and therefore the contractors could not have sustained any damages.

On considering the contractors' letter to the Superintendent of Finance, of the 11th September, 1782, it did not appear to me that *he had withdrawn the contract*, but that the contractors had refused continuing their issues after the 1st October, 1782, unless the superintendent would come to a new agreement; that is, unless he would, "on presenting their accounts for August, pay them twenty-two thousand five hundred dollars in specie, and sixty-seven thousand dollars in notes, and the same on presenting every monthly account," which was nearly double the amount of their monthly issues. The superintendent informed them that he could not agree to those terms, and the contractors discontinued their supplies.

As the contractors, then, had, of their own accord, given up the contract, I was of opinion that they were not entitled to the profits they might have made had they continued the contract, and the damages they sustained in consequence of giving it up; all which the other referees have allowed the contractors in their report.

I have also to observe that, at this reference, the Superintendent of Finance was not represented. It is true that the Comptroller was directed by Congress "to attend in behalf of the United States," and was "empowered to employ counsel, if necessary;" but, when he did attend, he declared himself unacquainted with the subject, and did not employ counsel.

I have the honor to be, with the greatest respect, your excellency's most obedient and very humble servant,
JOHN D. MERCIER.

His Excellency CYRUS GRIFFIN, Esq., *President of Congress.*

| Dr. | <i>Sands, Livingston, & Co., contractors for the moving army.</i> | | Cr. |
|----------|---|--------------------|---|
| 1782. | | Dolls. 90ths. | |
| April 22 | To cash, - - - - - | 16,000 00 | |
| May 16 | To cash paid their order, favor of Wil- son, - - - - - | 5,000 00 | By issues in May, account delivered July 4th, - - - - - 21,909 76 |
| 16 | To cash paid their order, favor of Wil- son, - - - - - | 2,000 00 | By balance due from contractors in June, - - - - - 9,978 44 |
| 16 | To cash paid their order, favor of Levi Hollingsworth, - - - - - | 236 00 | |
| 29 | To cash, - - - - - | 6,900 00 | |
| June 12 | To cash, - - - - - | 1,000 00 | |
| 14 | To cash paid their order, favor of Thomas Kinney, - - - - - | 752 30 | |
| | | <u>\$31,888 30</u> | |
| July 4 | To balance due in June, - - - - - | \$9,978 44 | By issues in June, account delivered about 25th of July, - - - - - \$24,005 72 |
| 18 | To cash, - - - - - | 1,000 00 | |
| 25 | To cash, - - - - - | 5,000 00 | |
| | To cash, - - - - - | 760 00 | |
| | To balance due the contractors, - - - - - | 7,327 28 | |
| | | <u>\$24,005 72</u> | |
| Aug. 2 | To cash, - - - - - | \$8,177 36 | By balance due in July, - - - - - \$7,327 28 |
| 8 | To cash, - - - - - | 10,000 00 | By issues in July, account delivered |
| 14 | To cash, - - - - - | 4,000 00 | 9th of August, - - - - - 47,540 86 |
| 15 | To cash, - - - - - | 2,420 76 | By balance overpaid on accounts pre- sented, - - - - - 15,513 80 |
| 17 | To cash, - - - - - | 1,675 00 | |
| 24 | To cash, - - - - - | 2,708 82 | |
| 29 | To cash, - - - - - | 10,000 00 | |
| 29 | To cash paid Eddy, - - - - - | 800 00 | |
| | To notes due on the 14th, - - - - - | 1,500 00 | |
| Sept. 3 | To cash, - - - - - | 1,000 00 | |
| 11 | To cash, - - - - - | 3,400 00 | |
| 11 | To cash, - - - - - | 2,000 00 | |
| | | 47,682 14 | |
| | Notes passed to the 11th of Sept. - - - - - | 22,700 00 | |
| | | <u>\$70,382 14</u> | |
| | Notes remaining advanced, \$31,300. | | <u>\$70,382 14</u> |

Distribution of the sum allowed under both contracts, as stated in the general account.

| | | | |
|--|--|---------------------------|---------------------------|
| The amount of the balance of \$40,297 04 is divided between the contracts as follows: | | | |
| WEST POINT. | | | |
| Extra price of 12,936 cwt. 2 qrs. 5 lbs. of flour, the proportion being settled by the ratio of issues between the 1st of July and the 15th Oct., being 4,106 cwt. 2 qrs. 13 lbs. at 3s. 11½d. | | Dolls. 90ths. 2,042 56 | |
| Interest upon this sum from November 1, 1782, to the 15th of October, 1787, - - - - - | | 607 40 | Dolls. 90ths. 2,650 06 |
| Profits on 353,680 full rations, the proportion of issues as under that contract, from the 16th of October to the 31st December next, inclusive, at 1d. - - - - - | | 3,929 73 | |
| Profits on 15,160 rations, issued without rum, in the same period as under this contract, at ¾d. - - - - - | | 42 10 | 3,971 83 |
| MOVING ARMY. | | | |
| Interest upon the balance stated by the Treasury accounts to be due the 1st of November, 1782, - - - - - | | 828 83 | 6,621 89 |
| Extra price of 8,829 cwt. 3 qrs. 20 lbs. of flour, at 3s. 11½d., being the proportion of 12,936 cwt. 2 qrs. 5 lbs. - - - - - \$4,392 00 | | | |
| Interest on \$4,392, from November 1, 1782, to October 15, 1787, is 4 years 11½ months, at 6 per cent. - - - - - | | 1,306 50 | |
| Profits allowed upon 760,600 full rations, the proportion of issues as aforesaid, issued from the 16th of October, 1782, to 31st of December following, at 1½d. - - - - - | | 5,698 50 | |
| Profits upon 32,600 rations, without rum, proportioned as aforesaid, and credited under this contract, at 1½d. - - - - - | | 12,676 60 | |
| Damages and charges recovered by Phelps & Edwards, - - - - - \$11,679 30 | | 543 30 | |
| Interest upon this sum from the 1st of August, 1784, to the 15th of October, 1787, is 3 years 2 months and 15 days, at 6 per cent. - - - - - | | 2,248 22 | |
| | | <u>13,927 52</u> | 33,675 05 |
| | | | <u>\$40,297 04</u> |

| DR. | | <i>The Contractors' interest account with the United States.</i> | | CR. | |
|--|---------------------------|--|----------|----------------------------|-------------|
| To interest on Treasury warrants, per account, | Dolls. 90ths. 2,714 77 | By interest allowed, as per account, | | Dolls. 90ths. 12,093 18 | |
| To interest on \$550, as per account, - | 161 70 | Deduct the West Point proportion | | | |
| To interest on \$14,498 18, as per account, - | 3,890 28 | on flour, - | \$607 40 | | |
| To interest on \$10,000, as per account, - | 2,583 30 | Deduct moving army | | | |
| To balance in their favor, - - - | 828 83 | do. on do. - | 1,306 50 | | 1,914 00 |
| | \$10,179 18 | | | | \$10,179 18 |
| | | By balance, as per contra, - - | | | \$828 83 |

SIR:

OFFICE OF FINANCE, *September 16, 1784.*

I am to acknowledge the receipt of your favor of the 13th instant. Enclosed you have the copy of a report requested. The other point cannot be ascertained here, nor can full information be obtained from the receiver in season.

If the contractors paid a discount on the paper which they received from me, they ought to have mentioned it at the time. I would never have consented to put their hands into the treasury, by letting them allow what discount they might think proper. Their silence, therefore, at the time, ought to preclude their present claim; and, since they refuse to produce their books, the presumption is, that *their books*, if produced, would militate against their claim. I am sincerely desirous that they should have justice; but it will doubtless be admitted that the public are also entitled to justice. Perhaps it may appear, upon a full investigation, that the contractors ought rather to pay than to receive money; perhaps it may appear that some of them have profited by investing the moneys differently from what was intended and supposed by the others. At any rate, the concealment of their books in the very moment when they are making demands which, if just, must be grounded on such evidence as those books would strongly corroborate, bears a disagreeable aspect, and must render a prudent man suspicious of every *other* evidence which they may produce. If the public made a claim on *them* for any thing, and called on them to produce their books in support of *that claim*, some plausible objection might, perhaps, be made. But that they (while they loudly complain of injury, hardship, and wrong) should refuse to lay before arbitrators (named at their own instance) the books which *they themselves have kept*, and which, if the whole transaction be fair, must bear an honorable testimony of it, this surely is unprecedented.

I am far from wishing that any thing I say on this subject should have a silent effect, while the gentlemen are deprived of the means of obviating it; I have, therefore, no objection to the communicating of this letter to them as well as to the other arbitrators.

I am, sir, with esteem and respect, your most obedient and humble servant,

R. MORRIS.

JOHN D. MERCIER, Esq.

The Register, agreeably to the intimation of the Comptroller of the Treasury, has selected (and which he now encloses) the two last warrants under the West Point and the moving army contracts.

The credits for supplies, given in the Treasury books upon the former, were only to the 30th June, 1782; from that time the supplies at West Point and its dependencies were blended, and carried with the supplies to the moving army to one account, to wit:

The account of Tench Francis, Comfort Sands & Co., Thomas Lowrey, Oliver Phelps, Timothy Edwards, and Walter Livingston, contractors for supplying the moving army east of the river Delaware.

The accounts under each contract, viz: The former to 30th June, 1782; the latter, including West Point supplies, from 1st July, 1782, to 15th October following, were finally settled by the Comptroller of the Treasury on the 15th April, 1783; and a warrant (of which the annexed is a copy) was issued for the balance thereupon found due on the following day; they were registered the 23d following. Vide Blotter, pages 1267 to 1275, also 1259.

From a correct information of the state of the old Treasury records, and from a recollection of circumstances connected with the issuing of notes by the Superintendent of Finance, I am well assured that the United States have not, in any instance, allowed a depreciation upon notes issued by Mr. Morris. When the Superintendent of Finance retired from office, a considerable number of these notes were outstanding, and frequent applications were made at the Treasury for payment, the holders of them supposing them to be Treasury paper; but the applicants were invariably referred to Mr. Morris, it being well known at the Treasury that, as the agent (Mr. Swanwick) of the Superintendent of Finance had obtained credit for all payments made by him through the instrumentality of these notes, a fund was created, and which remained in his hands for the full payment of all which had been issued.

Respectfully submitted.

JOSEPH NOURSE, *Register.*

To Michael Hillegas, Esq., Treasurer of the United States of America, greeting:

Pay to Messrs. Sands, Livingston, & Co., late contractors for the moving army, and Messrs. Comfort Sands & Co., late contractors for the post of West Point and its dependencies, or their order, the sum of \$24,498¹⁸/₁₀₀, in specie, being for provisions, hospital stores, &c. furnished the moving army from the 1st day of May, 1782, to the 15th day of October following, and the post of West Point and its dependencies, between the 1st of July and the said 15th of October, as appears by a certificate from the Comptroller of this date. And for so doing, this shall be your warrant.

Given under my hand, and the seal of the Treasury, this 16th day of April, in the year of our Lord 1783.

ROBERT MORRIS.

16th CONGRESS.]

No. 524.

[1st Session.]

HALF-PAY OF A BRITISH OFFICER WHO ENTERED THE ARMY OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 6th of January, 1820, the petition of Moses White, stating himself to be executor and representative of Moses Hazen, brigadier general in the late army of the revolutionary war, have had the same, and the documents accompanying it, under consideration, and report thereon:

The petitioner states that, on the 22d of January, 1776, the Congress appointed the said Moses Hazen a colonel in the army of the United States, who at that time was a lieutenant on the British establishment of half-pay, and subsequently, to wit, on the same day, resolved "that the United States will indemnify Colonel Hazen for any loss of half-pay he may sustain in consequence of his entering into their service;" that the said Hazen, as the petitioner states, was struck off the British half-pay establishment on the 25th of December, 1781, in consequence of his having served in arms against the British forces in North America; and he states that frequent application has been made during the lifetime of said Hazen, and since his death, for said indemnity; and although the claim has always been recognised, as he states, at the Treasury Department, yet it has been refused upon the plea that no provision has been made for its payment; and the petitioner prays that provision may now be made to indemnify the loss of both principal and interest, agreeably to the resolution of Congress aforesaid; and the petitioner has filed with his said petition a statement, in writing, of principal and interest of said half-pay up to February, 1803, amounting to ten thousand four hundred and fifty-four dollars and sixty-five cents.

The committee further report that, on the 22d of January, 1776, Congress did appoint Moses Hazen, Esq. colonel for the second Canadian regiment, and on that day did resolve that the United States will indemnify Colonel Hazen for any loss of half-pay he may sustain in consequence of his entering into their service. The question, then, in this case, is, has Congress heretofore indemnified Moses Hazen, in his lifetime, and any other person claiming in consequence of his being in the service of the United States since his death, for the loss of said half-pay, which the petitioner states to have been that of a lieutenant (whether first or second is not stated) on the British establishment? On the 23d of October, 1776, Congress took into consideration the report of the committee on the petition of Colonel Hazen, and resolved that the sum of nine hundred and sixty-six dollars and two-thirds of a dollar be paid to Colonel Hazen for articles said to be taken by and appropriated to the use of the army under General Montgomery. This case is incidentally mentioned to manifest the justice of the United States to Colonel Hazen. On the 25th of April, 1781, Congress "ordered that the Board of Treasury place to the credit of Colonel Moses Hazen the sum of thirteen thousand three hundred and eighty-six dollars and two-ninetieths of a dollar, specie, being the principal and interest of the money due to him to the 1st of May, 1781, and that the same bear an interest at the rate of six per cent. per annum from the 1st day of May next aforesaid until paid;" and the whole of this grant of money, both principal and interest, has been paid. On the 29th of June, 1781, Congress resolved that Colonel Moses Hazen be, and he hereby is, appointed a brigadier in the army of the United States by brevet. On the report of a committee to whom was referred a memorial of Moses Hazen, Esq., "who alleges that sundry charges which have been rejected by the commissioners of army accounts are well founded, and that he is possessed of vouchers by which the same may be established, and prays that the same may be considered," Congress, on the 26th of April, 1785, resolved that the claims of Moses Hazen, Esq. be referred to the Board of Treasury, together with the objections that have been made to those claims by the commissioners of army accounts, and that the board examine the same and report thereon. On the 7th June, 1785, Congress resolved that the claims of Moses Hazen, Esq. to pay and half-pay above that of a colonel in the line be referred to the Secretary of War to report; that the claims of Moses Hazen, Esq. to the immediate payment of money be referred to the Board of Treasury to report; and it is presumed that all claims, of every description, of the said Moses Hazen, Esq. against the United States, were finally liquidated and settled, in pursuance of the said resolutions of Congress, or by the paymaster general, or by the commissioners of army accounts, to whom were attached the duties of paymaster general by a resolution of Congress of the 23d of March, 1787. The petitioner states that Moses Hazen was struck off the half-pay British establishment on the 25th of December, 1781. Of that fact, no doubt, Colonel Hazen had notice previous to the final settlement of his claims against the United States; and if he had not been indemnified for the loss of his said half-pay by the United States, in pursuance of the said resolution of 22d January, 1776, previous to the final settlement of his claims against the United States, he would, at the settlement of his said claims, have presented his claim for indemnification for said loss of half-pay, and would not have omitted to present a claim bottomed on that resolution; and it may be fairly inferred that Moses Hazen had been previously indemnified for the loss of his said half-pay, or that he, in the settlement of his claims, was allowed therefor, if to allow him any thing therefor was judged proper at that time. That Moses Hazen did contend respecting some disputable claims is clear, from the resolution of 26th April, 1785; and this being so, there is not any reason to induce a belief that he would have omitted to exhibit a claim bottomed on the resolution of the 22d of January, 1776. That Moses Hazen continued to have the emoluments of subsistence until the same were withheld by a resolution of Congress of the 11th July, 1785.

The committee further report that it appears that Moses White and Charlotte Hazen, executor and executrix of Moses Hazen, heretofore had this case in the House of Representatives, and that in February, 1804, the Committee of Claims reported favorably thereon; but that committee does not appear to have taken into consideration the various resolutions of Congress providing for the promotion of the said Moses Hazen to several grades of high office in the American army, and for the settlement and payment of all his claims, as hath been stated in this report; that that report of the Committee of Claims does not take into consideration the difference existing between the rank and emoluments of a colonel and of a brigadier general in the army of the United States in the revolutionary war, and that of a lieutenant on the British half-pay establishment, which the petitioner states the said Moses Hazen was at the time he entered into the service of the United States; that Moses Hazen was struck off the British half-pay establishment on the 25th of December, 1781, is stated by the petitioner, from which it is inferred that Moses Hazen was receiving the half-pay of a British officer until that time, and also holding the rank and receiving the pay and emoluments of a colonel in the service of the United States, for which the resolution of the 25th April, 1781, provided; and it seems that that resolution, providing for the payment of so large a sum of money in specie, with interest thereon, contemplated a final settlement of all his claims up to the time limited in that resolution.

That an act of Congress, approved January 23, 1805, provides that there shall be allowed to Charlotte Hazen, widow and relict of the late Brigadier General Moses Hazen, for her support, the annual sum of two hundred dollars, during her life, to commence on the 4th day of February, 1803; that an act of Congress, of the 23d April, 1812, provides that nine hundred and sixty acres of land be allowed to Charlotte Hazen, widow of Moses Hazen.

The committee further report that the petitioner, Moses White, hath not assigned any satisfactory reason to show why this claim, if it be just, hath been suffered to lie so long dormant without being urged for settlement; that, having considered this case, with the facts and circumstances stated in this report, and taking into view the high rank in the army of the United States to which Moses Hazen was promoted, this committee are of opinion that the United States, pursuant to the resolution of the 22d January, 1776, have indemnified fully for any loss of half-pay that Moses Hazen may have sustained in consequence of his entering into their service; that the petitioner, Moses White, executor (as he states himself to be) of the said Moses Hazen, hath not any just claim, bottomed on the resolution of the 22d January, 1776, against these United States; that there does not appear to be any provision made by Congress to extend that resolution to an executor. This committee do therefore submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

16th CONGRESS.]

No. 525.

[1st Session.]

LOSSES SUSTAINED DURING THE INVASION OF LOUISIANA BY THE BRITISH IN
1814-15.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 22, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the bill from the Senate entitled "An act for the relief of Francis B. Longville," reported:

That the bill is intended to provide payment for property said to have been destroyed in the neighborhood of New Orleans during the invasion by the enemy in 1814-15, and while in the occupancy of the troops of the United States.

In support of the claim is the affidavit of Richard Relf, Benjamin Morgan, and Peter Foucher, who state that, "after the retreat of the enemy, they were appointed by the quartermaster general, under an order from General Jackson, to ascertain the nature and amount of the damages caused to several persons;" that "they repaired to the country seat of Francis B. Longville, where, after a careful and minute examination of the premises, they have found and estimated the damages done to his real estate as follows:

| | | |
|--|---|-------------------|
| Damages done to the dwelling-house, occupied as quarters by General Carroll, | - | \$300 00 |
| To the store-house, - - - - - | - | 25 00 |
| The following buildings entirely destroyed: | | |
| A corn-house, - - - - - | - | 300 00 |
| An out-house 27 by 25 feet, - - - - - | - | 300 00 |
| A kitchen, and small house adjoining, - - - - - | - | 150 00 |
| A bake-house, - - - - - | - | 350 00 |
| A stable, - - - - - | - | 50 00 |
| 18 acres of standing fence, - - - - - | - | 385 00 |
| 32 acres post and rail fence, - - - - - | - | 390 00 |
| Total, - | - | <u>\$2,250 00</u> |

General Carroll, in a letter to General Jackson of the 4th of March, 1815, says:

"The owner of the plantation and house occupied by me as quarters during our stay at the camp below New Orleans has called upon me to certify the damages he sustained. I have barely to remark, that a fine garden, his out-houses, or a part of them, and all his fences, were completely destroyed; his dwelling-house was much injured, by seven or eight 18-pound balls passing through it."

There is no doubt but the injury sustained by the claimant has been very considerable, and, if entitled to relief, it may reasonably be doubted whether it is practicable to obtain more correct data from which to ascertain the amount than those which he has furnished.

This being one of a large class of cases, and of great apparent hardship, and which, in the opinion of the committee, do not come within any rule settled by Congress which would authorize an allowance; and the other branch of the Legislature having come to a decision in which the committee have not felt it their duty to concur, they have deemed it proper to present to the House somewhat in detail the views which they have taken of the question, and to which they have been led by the nature of their inquiries, connected with the events of the late war.

During the prosecution of that war, losses have been sustained by the citizens, of all the variety of character, and from as various causes and incidents as the most fruitful imagination could suggest; and, as they could be traced directly or indirectly to the events of a war declared and prosecuted by the Government, an opinion seems to have been entertained that payment may rightfully be demanded from the Treasury to their full amount, whatever be their description, or from whatever cause produced.

That war having been the first which has occurred under the present Government, the effects of which have been felt to very considerable extent, there is no settled rule of the country that can be referred to as a guide in adjusting the claims to which it has given rise; and, consequently, the rule which shall be applied to those claims will be regarded as the law of the country applicable to like cases in all future wars, and from which the Government cannot depart, to the prejudice of claimants, without furnishing just cause of complaint; for nothing can be more reasonable than that he who shall have contributed to the relief of his neighbor should, in his turn, be relieved.

And hence the necessity that, in deciding upon the claims incident to the late war, great care be taken that, while remuneration for individual losses shall be awarded to the full extent which a regard to the best interests of the country will justify, those interests shall not be essentially impaired by a desire to relieve from partial suffering.

It is believed that the interests of the people collectively would be best promoted should the Government limit its demands upon them to the sums necessary to meet the current expenses, provide for the common defence, and advance such other great national objects as are within its proper sphere of jurisdiction, and leave it to them to exercise their own discretion in selecting their situations and employments, without the hope of deriving any thing from the Treasury, except a just reward for services rendered, and a fair equivalent for their property directly applied to public purposes.

In the same proportion as the citizens are taught to look to the Treasury for support, they will relax in their exertions to acquire it by prudent care and industry; and, should it become the settled policy of the Government to remunerate for losses merely incident to a state of war, it would operate as an inducement to the citizens to seek for a ready market and a high price for their effects in losses of that description, rather than afford to them the best protection in their power; and, having secured *such* a market, a high price would follow of course—a circumstance which the Government having necessarily to decide upon, *ex parte* testimony can never guard against. Hence it is believed that it would not be expedient to remunerate for losses which shall have been incidental, and resulted from causes over which the Government has no control.

Were it practicable for Government, through the operations of the Treasury, to equalize the burdens of the people arising from a state of war, or other national calamity, much might be said in its favor; but such a result can never be effected. In the first place, human wisdom is totally incompetent to the adoption of any plan by which the true amount of such losses could be ascertained; and, secondly, the taxes on which the Government must rely to furnish itself with the means to satisfy the claims can never be made to fall equally upon those who pay them; so that, after the most of which the Government is capable shall have been done, but little advance will be made towards an equality in the public burdens of this character.

Losses and sufferings resulting incidentally from a state of war will, at a given period, fall heavier upon one section of the country than another, and always unequally upon the citizens of any. But it may fairly be presumed that different large districts, taking a series of years together, will be subjected to nearly the same suffering; and it is believed it would be much better to leave it to the citizens to equalize their burdens among themselves, as their sense of propriety shall dictate, than for the Government to encourage them to look to the Treasury for relief, and thus subject the country to the unavoidable loss of time resulting from such a policy, with which there will always be associated a lamentable source of speculation and fraud.

If the views which the committee have taken of the subject be correct, it undeniably follows that the greater the extent to which the Government shall endeavor to equalize the burdens of the people resulting incidentally from a state of war, the more will the nation be impoverished; and hence it is believed that the permanent interest of the country will be best promoted by a policy which shall confine the allowances of Government within narrow, known, and well-defined limits.

The sudden invasion by the enemy at an unexpected point near New Orleans produced a retreat of the inhabitants, and the concentration of a large military force, mostly militia, equally sudden, and without any previous preparation; and hence resulted a general prostration of private property in the neighborhood, partly by the American troops, and partly by the enemy, and there can be no doubt but much of it an unnecessary, useless waste, resulting not from the will of the Government or its agents, but from a state of things over which they had no control.

It is believed by the committee that a rule which would authorize an allowance in this case would produce to the country much more of evil than benefit; and, as the testimony does not satisfactorily show that the property for which the petitioner prays to be compensated was taken and used for the public service, they recommend that the bill be indefinitely postponed.

16th CONGRESS.]

No. 526.

[1st SESSION.]

INDEMNITY FOR JUDICIAL PROCEEDINGS AGAINST AN OFFICER OF THE ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 22, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Robert Swartwout, of the State of New York, reported:

That the petitioner states that, during the late war with Great Britain, he was quartermaster general in the service of the United States, under the command of General Wilkinson; that, in November, 1813, when the army was about to descend the St. Lawrence for the purpose of attacking the city of Montreal, the boats in use were driven ashore, damaged, and destroyed by tempestuous weather, and others by the fire of the enemy's batteries, so that it became necessary to replace the transportation before the army could proceed upon its destination; that it was his duty as quartermaster general to furnish the necessary transportation; in addition to which, he received the express orders of the commanding general to take the most effectual measures to procure such transportation, either by purchase, charter, or, when that could not be done, by impressment. Under these orders, the transportation was procured, and, generally, amicable and satisfactory settlements made with the proprietors. Among the boats thus procured and placed in the public service was one called the Nighthawk, having a quantity of sutlers' stores on board, which was afterwards destroyed, while descending the river, by the fire of one of the enemy's batteries, opposite Ogdensburg.

The petitioner further states that, in July, 1817, a suit was instituted against him in the supreme court of the State of New York, for the purpose of recovering of him, individually, the value of the boat and the cargo and stores on board of her; that he, by his counsel, laid before the court all the circumstances of the case; but the court decided the same to be an insufficient justification, and, on or about the 28th of December in said year, a verdict was rendered against him for \$2,117, which, together with plaintiff's costs, and costs and expenses of the petitioner's defence, amount to about \$2,500.

It appears further, from the statements of the petitioner, that he did not personally seize or take possession of the above-mentioned boat, nor was it at any time in his actual or particular possession, or used otherwise than for the public service, as before stated. He therefore prays Congress to grant him relief against the effects of the judgment aforesaid, &c.

The committee think the petitioner cannot be relieved. They have suspended a determination on the case to give time for the petitioner to produce the original order of General Wilkinson under which he acted, but as yet it has not been produced. The rules laid down by the President to regulate the late Commissioner of Claims require that the original order should in every instance be produced, if practicable, and that it should not be dispensed with so long as the officer who had given it was within the limits of the United States. The petitioner has failed to comply with this regulation. It further appears that far the greater part of damages recovered of the petitioner, in this instance, was for the sutlers' stores on board the boat. The committee think it incumbent on the petitioner to show that it was necessary to impress the boat with the stores on board, or that it was impracticable for him to remove them after the impressment of the boat. They therefore recommend that the claim be rejected.

[16th CONGRESS.]

No. 527.

[1st SESSION.]

LOSS OF THE SCHOONER PENELOPE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 22D OF MARCH, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Alvin Bronson, reported:

That the petitioner states that, on the 6th day of May, 1814, a schooner called the Penelope, owned by him, was captured by the public enemy in the port of Oswego, and lost to the petitioner; that said capture and loss was occasioned by an officer of the United States having taken her from the charge and direction of the master. It appears by the evidence in this case that the said schooner was employed by Captain Woolsey, of the United States navy, to transport guns, &c. from Oswego to Sackett's Harbor. It appears a suit has been instituted by Mr. Bronson against Capt. Woolsey for the value of this vessel, and a recovery had in the supreme court of the State of New York for three thousand eight hundred and thirty dollars, the *full* value of the vessel. It also appears that Bronson's principal witness was the defendant himself, Woolsey. This testimony is contained in a certificate given by Woolsey, stating all, or nearly all, the material facts in the case; this certificate is dated May 8th, 1817. It appears that Woolsey had previously given a certificate, "but not [as he states] embracing certain parts which were not then, but now are, considered necessary." The opinion of the court before whom the cause was tried was, that "the interference of the defendant with the schooner was unlawful, and that he had strictly no right to take possession of the vessel, and deprive the captain of the charge and control vested in him by the owner; that, having done so, he was responsible as a trespasser; and whether the enemy afterwards did or did not capture the vessel was immaterial." The committee consider themselves bound to pay great deference and respect to the opinions of the judges of the highest court of law in the different States upon points of law, and would not in an ordinary case call them in question. The committee are also of opinion that the Congress of the United States should be extremely cautious in doing acts which may in any way countenance or encourage trespasses upon the persons or property of the citizens by the officers or soldiers of the United States. If Captain Woolsey has committed a trespass, no good reason is seen why he should not be answerable, as any other individual would be; or why his being in the service of the United States should make the United States responsible for his conduct when acting in his own wrong. They therefore recommend the following resolution:

Resolved, That the claim of Alvin Bronson be not allowed.

[16th CONGRESS.]

No. 528.

[1st SESSION.]

HORSES LOST IN THE SEMINOLE WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 27TH OF MARCH, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the bill from the Senate entitled "An act for the relief of the officers and volunteers engaged in the late campaign against the Seminole Indians," submitted to the House the following report:

The discussion of the principles involved in this bill at an early period of the session supersedes the necessity for any very detailed remarks; the committee, therefore, merely suggest, with as much brevity as possible, the reasons which have induced them to recommend its indefinite postponement.

The bill presupposes a liability in the United States to pay for horses, which the committee are unwilling to acknowledge. The loss of horses for want of forage was one of the contingencies to be apprehended at the time they entered the service. In every country, in those best cultivated and most highly populated, a scarcity of food, both for man and beast, will sometimes be experienced. It is an accident or privation incident to the very condition of war. What, then, must have been the mutual understanding of the parties when the persons for whom

the bill provides engaged in the service of Government? The act of Congress assured them they would be allowed forty cents a day for the use and risk of their horses. This sum they are entitled to claim, and, perhaps, in every instance, have already received.

The act further assured them they would be supplied with forage; but this, like every other promise, cannot be understood as obliging Government to act beyond the boundaries of reason and probability. It has been already stated that the want of forage is one of the contingencies to be apprehended in every country where military service is to be performed; if this be true in general, how much more so is it in regard to the particular country in which the Tennessee volunteers engaged to serve? It is unreasonable to suppose that Government could promise to supply them at all times with sufficient forage in a wild, uninhabited, and uncultivated country, when it is well known that it would be impossible to execute a similar promise in those districts of country where agriculture obtains in the highest perfection. The act of Congress must, therefore, be understood to mean that, as far as it was practicable, or even possible, for Government to supply forage, it should be done; not that it should be done at all hazards, in defiance of every accident or the most uncontrollable events.

The committee cannot judge of this principle assumed in the bill by any other rule. For whose benefit, let it be asked, was it that forage should be furnished? Certainly for the Government. It follows, then, that, from a regard to its own interest, Government would have supplied forage whenever it was practicable; but to require payment now for losses occasioned by the want of it, goes to charge Government with culpable negligence; with having failed to perform its duty to itself. Such allegations cannot be supported either in principle, or by the facts which exist in the case. The letters from Dr. Bronaugh and Colonel Gibson, submitted to the committee with the bill, prove clearly that there was no negligence on the part of Government; that no exertions, however great, could have procured the necessary supplies. Will it then be said that Government should be required to perform impossibilities, or provide against events which the parties must be supposed to have included in the conditions of their contract? For these reasons, the committee object to the principle assumed in the bill, and deny any liability in Government to pay for horses which died in the Seminole campaign for want of forage.

The bill further provides that, when owners were dismounted in battle, and the horses escaped, payment shall also be made. The committee think this is another of those risks anticipated and understood by the parties, and covered by the allowance of forty cents per day. It cannot be pretended that Government engaged that the riders should always remain on horseback, notwithstanding the incidents of any particular battle, or the general service of the campaign, should require them to be dismounted. The mounted gunmen, on the other hand, must be supposed to have stipulated that, either on horseback or on foot, they would engage the enemy; that they would fight in any way pointed out by their commander; and if, in rendering obedience to orders, their horses should be lost, the loss was to be considered only as a usual and customary result from the service in which they had stipulated to engage.

The policy of the measure is likewise very objectionable. Government cannot insure property thus engaged in the public service. Volunteers, mounted gunmen, and every other species of troops, would become negligent in taking care of their horses, if it be once understood that they are to be paid for them when lost. It would, indeed, be the interest of owners to preserve them till near the close of a campaign, receiving forty cents a day for the use and risk, and then, just before quitting the service, let them die by neglect, even when forage was plenty, or destroy them by hard treatment. The policy of giving forty cents a day consists in this: that, while owners are allowed reasonable compensation, they also have an inducement sufficiently strong to take care of their horses. But this inducement would lose all its force and effect if the horses are to be paid for when lost. If forty cents is not adequate compensation, Congress should augment it to sixty, eighty, or a hundred cents, rather than pass laws holding out inducements to owners to neglect or destroy their property.

Experience forbids the passage of the bill. The act of the 9th of April, 1816, commonly called the "claims law," the Canadian volunteer act, and the late act granting pensions to those who performed service in the revolutionary war, have all been productive of serious mischief. They have opened the door for immoralities so great, that the committee will forbear to name them more specifically. It is believed no law of the kind could be so guarded in its provisions as not to be evaded in practice; and, if not absolutely required by the demands of justice, it should never be proposed.

Insurmountable difficulties are to be seen in administering the law. Who can tell whether a horse has died for the want of forage, on account of disease, or from the neglect and inattention of the owner? The only risk assumed by Government in the act under which these troops were called into service is, that if a horse be killed in battle, then the owner must be paid. The cause of this loss can be distinctly and definitely known, and, therefore, Government may safely assume the responsibility. But the total negation of all other risks on the part of Government proves clearly that the framers of the law conceived it would be bad policy to take upon themselves responsibility for losses the cause of which could not be known, and which, perhaps, if properly understood, would, in nine cases out of ten, be found to exist with the owner rather than with Government.

The injuries sustained by the claimants are depended on as a reason to induce the passage of a law for their relief. But the committee think no injuries have been sustained. Information has been received from the Second Auditor of the Treasury Department, by which it appears that the rolls of four companies have reached that office; that the officers, non-commissioned officers, musicians, and privates have received each forty cents a day for the use and risk of their horses, arms, and accoutrements, from the commencement to the termination of their services. The committee, therefore, feel authorized to state that the same rule was adopted in making payment to all the troops for whom it is intended to provide. If, then, a horse died, when only one-third or one-half the campaign had expired, the owner received pay for him after his death, at the rate of forty cents a day. Without noticing the impropriety of paying for the use and risk of a horse after he was dead, the committee would remark that, under the operation of this rule, the owners of horses have received a sum fully equal to their average value, and, in most cases, perhaps, greatly beyond it. There is, then, no real cause of complaint. Had Government purchased the horses before they entered the service, the situation of the owners could have been no better than it now is; and surely there is not the least imaginable cause of complaint, provided they are placed on no worse footing than they would have been if their property had been purchased. At all events, if Congress should pass the bill, the committee would recommend that forty cents a day for the use and risk should be deducted from the time of the death of any horse. The bill itself presupposes and admits the fact that the horses died during the campaign, and, consequently, before the end of the campaign. But it appears the owners have received pay up to the end of the campaign, and therefore have been paid for the use and risk of their horses after they had died. The committee have never before been made acquainted with any principle which would sanction the propriety of paying for the use and risk of property when that property did not exist, could not be used, and was at no risk; all of which must have happened in the present case. It seems, indeed, that the claim of Government against these individuals is much more just than their claim against Government. The committee recommend that the bill be indefinitely postponed.

16th CONGRESS.]

No. 529.

[1st SESSION.]

ARMS LOST IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 31, 1820.

Mr. SMYTH, from the Committee on Military Affairs, reported:

That, according to order, they have inquired into the expediency of providing by law for the payment for a gun and gun-carriage taken by the enemy and destroyed at the battle of North Point, on the 12th September, 1814, and are of opinion that it would be a bad precedent to pay for arms lost in service. They therefore submit the following resolution:

Resolved, That it is inexpedient to provide by law for the payment for a gun and gun-carriage taken at North Point by the enemy.

16th CONGRESS.]

No. 530.

[1st SESSION.]

ARMY CONTRACTOR.

COMMUNICATED TO THE SENATE, APRIL 5, 1820.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill for the relief of John H. Piatt, with instructions to make a detailed statement of facts connected with the claim of John H. Piatt, presented the following report:

That, on the 26th day of January, 1814, John H. Piatt entered into a written contract with the honorable John Armstrong, then Secretary for the Department of War, that he (John H. Piatt) would supply and issue all the rations that should be required of him for the use of the United States, at all and every place or places where troops were or might be stationed, marched, or recruited, within the limits of the States of Ohio and Kentucky, and the Michigan Territory and northern vicinity, thirty days' notice being given of the post or place where rations might be wanted, or the number of troops to be furnished on their march, from the 1st day of June, 1814, to the 31st day of May, 1815, both days inclusive, at the following prices, that is to say, at any place where rations shall be issued: At Detroit, Fort Wayne, and their vicinities, for twenty cents the ration; at Chicago and Michilimackinac, for twenty-three cents the ration; at any other place where troops were or might be stationed or recruited in the Michigan Territory, or in Canada, in the vicinity of the upper lakes, and in the State of Ohio, north of the Indian boundary, and west of Cleveland, at nineteen cents the ration, except at St. Joseph's and such other posts as might be established on the Canada shore of the said lakes, where the price of the ration was to be twenty-three cents; at all other places in the State of Ohio, at sixteen cents the ration; and at all places in the State of Kentucky, at thirteen cents and eight mills the ration. It was by that contract stipulated that all supplies were to be delivered at the posts where they should be required, without expense to the United States. By this contract it is required that Mr. Piatt should render his account to the Accountant of the Department of War, for settlement, at least once in every three months.

The petitioner rests his claim upon three grounds: First, the depreciation of the money advanced to him by the Government; Secondly, the failure of the Government to make the advances which, under the contract, he had a right to demand, and by which he was subjected to damages on protested bills; Thirdly, the rise of provisions above the contract price, against which he alleges the then Secretary of War assured him he should be indemnified.

The first ground (the depreciation of the money advanced to him by the Government) is supported only by his own affidavit, a copy of a letter from D. McArthur, and a copy of a letter from J. S. Swearingen—all of which state that bank paper had depreciated considerably, and must have made a considerable difference in the price of provisions; but neither of those statements gives any specific difference of exchange between specie and treasury notes, or the paper of the banks of the State of Ohio, with which the petitioner negotiated much business. The affidavit of Mr. O. M. Spence, cashier of the Miami Exporting Company, states that treasury notes were at a discount of from five to ten per cent. in Philadelphia, but that Mr. Piatt had a credit in that bank, upon taking post notes at sixty, ninety, and one hundred and twenty days, without any discount on the treasury notes. The letter of Mr. William Whann, which the petitioner has furnished the committee, certifies that, although the bills of Mr. Piatt, when presented to the Secretary of War, were not paid for the want of funds, yet the Bank of Columbia had received large amounts in other cases of bills drawn on the Government, in treasury notes, at par, and that that bank had never received them on any other terms.

The Secretary of War, in settling the extra-claims of the petitioner, hath already allowed Mr. Piatt \$3,750 for premiums paid by him, as he alleged, to the Farmers and Mechanics' Bank of Cincinnati, for negotiating sundry bills drawn on the Secretary of War between the 20th of June and the 21st of October, 1814; and the further sum of \$4,320, for premiums paid the Miami Exporting Company at Cincinnati, for negotiating sundry bills on the Secretary of War, between the 6th of June, 1814, and the 7th of February, 1815. These allowances appear to cover all the claims the petitioner had on the Government for premiums paid to banks for negotiating bills, and seem to have been made to the petitioner more on the ground of his supposed losses than on that of right.

Upon the second ground, (the failure of the Government to make the advances which, under the contract, the petitioner had a right to demand, and by which he was subjected to damages on protested bills,) from the documents, the following facts appear:

By the contract no time is specified at which the Government should make advances, but that the petitioner was bound to present his accounts once in every three months to the Accountant of the War Department for

settlement; that the petitioner alleges, in December, 1814, he was in advance with the Government \$250,000, which sum he had obtained principally from the western banks by drafts drawn on the Government, which had been protested for non-payment; upon which protested bills he alleged he was held liable for the money by the banks, with damages on account of the protest.

To enable the petitioner to meet these damages, the Secretary of War allowed him the sum of \$21,000, though the petitioner himself never paid any damages, nor were any ever exacted from him: and this was acknowledged by the petitioner to be the fact. Then, so far from the petitioner having the claim for damages on protested bills, this \$21,000 appears to form another large item allowed on the ground of alleged hardship.

However, it does not appear that the petitioner was so largely in advance with the Government; for he acknowledges, in his letter to the committee, that his balance was only \$162,051 28. In this letter he admits he had received of the Government, at sundry times, immediately after entering into the contract, several sums of money, as well as acknowledging the sum of \$47,000, which had remained in his hands since the year 1813, at which time he had acted as commissary to the northwestern army, which, together with the other sums he had actually received, amounted to \$107,000.

But, whatever might have been his advances up to January, 1815, it appears that all his drafts were then settled by the Government, and \$50,000 paid him in advance; and, after that period, it does not appear that the petitioner was, at any time, in advance with the Government.

The third ground upon which the petitioner rests his claim is, the rise of provisions above his contract price; against which he alleges the then Secretary of War assured him, early in January, 1815, he should be indemnified. He states that, from a regard to his own safety, he came on to the seat of Government in the latter end of the year 1814, with a determination to abandon his contract, because, by the failure of the Government to advance him money and pay his bills drawn on the War Department, (by which he was subjected to the payment of interest, damages, and premiums, and loss of credit,) and the rise in the price of provisions, it would be ruinous to his interest, &c. This, he says, he stated to several of his friends, who advised him to have an interview with the then Secretary of War, now the President of the United States; that he did so, and informed him of his determination; and that the Secretary was very pressing that he should continue to supply the northwestern army, "and assured him he should not be injured, or that the Government would do him justice." Relying upon this assurance, he continued to supply that army. "Your petitioner states that the provisions furnished subsequent to the above assurance of the Secretary of War cost much more than the price stipulated by the contract."

The petitioner insists, upon this assurance, he has a right to demand of the Government the sum which the supplies cost him beyond the contract price, which, he alleges, was considerable. To prove the rise in the price of provisions after the 1st of January, 1815, he offers his own affidavit, in which he says the difference was nearly one hundred per cent. The letter of Mr. J. S. Swearingen states that, as his opinion, at that season of the year, provisions could not have been delivered at Detroit for less than forty-five or fifty cents per ration. Mr. D. McArthur states, as his opinion, the provisions forwarded in the winter of 1815, from Ohio to Detroit, cost the contractor much more than the contract price—perhaps double; that the rise of provisions was very great where the payment was made in paper money.

Jacob Fowler and H. Glenn, who were the purchasing agents of Mr. Piatt, say, in their respective affidavits, made for the purpose of manifesting this fact: "After the instructions received from Mr. Piatt, supplies were purchased at an advanced price, but at the lowest price that they could be procured for." It is reasonable to suppose that these agents ought to have known precisely the prices of provisions both before and after the instructions, and that this difference could be shown; as it is not to be presumed that the petitioner would intrust agents with the disbursement of such a large sum of money, and require from them no better account than their own recollection, or their own probable conjecture of the manner in which it had been expended; and this was the more to be expected, if the petitioner intended to rely upon the assurances of the Secretary of War for indemnity against the rise of provisions; otherwise, no fair estimate could be made by which to graduate his indemnity.

But whether these assurances were given by the Secretary of War, is doubted. To prove they were given, the petitioner offers the following evidence:

First, a letter from General Parker, addressed to the President of the United States, dated the 27th January, 1820, in which General Parker states that Mr. Piatt was an able officer and agent during the war; that, when he came on, in 1814, with a view of abandoning his contract, he made it known to himself, and that he remonstrated against such a course; and, after Mr. Piatt had had two or three interviews with the now President, then Secretary of War, Mr. Piatt informed him "he had received assurances of indemnity against loss on his further supplies, which fully satisfied him, and he would devote his property and credit wholly to the service on those assurances."

Secondly, he offers the letter of Mr. John McLean, dated the 5th January, 1816, addressed to the President of the United States, who was Secretary of War when Mr. Piatt came on, in 1814, to abandon his contract. Mr. McLean says he believes he had not a distinct recollection of the precise words used, but gives what he thinks passed at an interview between Mr. Monroe, then Secretary of War, and Mr. Piatt: "Mr. Piatt's drafts were not paid, but protested, he understood, at one time for want of funds; and he was held liable for the money by the banks, with damages on account of the protest. The drafts, he understood, amounted to \$150,000. He understood from Mr. Piatt that he had furnished supplies exceeding in amount, by \$50,000, the sum stated to have been advanced by him prior to the conversation. Upon this, 'the Secretary promised to do every thing in his power for Mr. Piatt, and requested him to furnish the supplies under any circumstances that should occur, and observed (as he understood) that he should have justice done him, or that he should not be injured,' or words to that import. He well remembered that Mr. Piatt observed to him, after they left Mr. Monroe, that he was determined to rest on the assurances given, and to go on in furnishing all the supplies required, if the Government did not advance him a single dollar; that he thought he could do this, from his influence with the banks and the credit of his friends."

This letter was laid before the honorable William H. Crawford, who was Secretary of War at the time Mr. Piatt settled his accounts with that Department, and "was at that time duly considered, and would have been conclusive in favor of the claim of the petitioner, in the absence of all other evidence."

But Mr. Secretary Crawford, to whom the committee applied for information, informed them that the evidence opposed to that offered by the petitioner was, that President Monroe had no recollection of any such promise made to Mr. Piatt whilst he was Secretary of War. Also the statement made by the petitioner himself, in a letter to his agent, Hugh Glenn, dated Washington, the 10th January, 1815, in which he says nothing of the assurance of the Secretary of War, but directs him to go on and supply the army, and then says, "I shall rely solely on the liberality of my Government for remuneration for any losses I may sustain." Also, the petitioner laid before Mr. Secretary Crawford, at the time of his settlement, "a memorial of the petitioner, dated in the month of May, 1815, addressed to the Secretary of War, in which it was attempted to prove that, for all rations issued by him to Indians, and to the distressed inhabitants of the Michigan Territory, he was to receive a sum equal to what they had cost him, as he was not bound by his contract to make such issues. The necessary inference was, that, at the time it

was written, only four months after the assurances of indemnity against all loss were alleged to have been made by the Secretary of War, the petitioner was utterly ignorant of any such assurances."

But for these countervailing proofs, Mr. Secretary Crawford would have settled Mr. Piatt's claim upon the principles for which he now contends.

Since the claim was rejected by Mr. Crawford, Mr. Tench Ringgold, who was the immediate agent for the Secretary of War when these assurances were said to have been given, and a principal clerk in the War Department, states that he was present at the interviews between Mr. Piatt and the Secretary of War, when Mr. Piatt came on, in December, 1814, and proposed to abandon his contract, but thinks nothing more was intended by what the Secretary of War said than that Mr. Piatt should be indemnified against his losses for premiums, damages on protested bills, &c., by allowing legal interest. Mr. Ringgold says that he was directed to procure, and he did procure and pay to Mr. Piatt, \$100,000, to relieve himself from the demands then against him, and \$50,000 in cash, to enable him to continue his supplies.

It does not appear that Mr. Piatt ever obtained or asked for any written assurance to indemnify him against his future losses for provisions which should exceed the contract price; but he has been indemnified against all premiums to banks, damages for protested bills, and sums paid beyond his contract price for all supplies to Indians and the distressed inhabitants of Michigan.

| | | |
|---|---|--------------|
| On his general contract for rations for the army of the United States, he has been paid | - | \$558,931 98 |
| He had furnished supplies to the amount of | - | 550,861 61 |
| | | 8,070 37 |
| Balance in favor of the United States, | - | 8,070 37 |
| Since which, he has been allowed the further sum of | - | 5,952 16 |
| | | \$2,118 21 |
| Leaving an unsettled balance in favor of the United States of | - | \$2,118 21 |

This is all, exclusive of the \$47,000, which he retained in his hands from the time he acted as commissary in 1813, and which constitutes the claim of the United States, upon which a suit hath been commenced against him in the State of Ohio.

16th CONGRESS.]

No. 531.

[1st Session.]

MAIL CARRIER KILLED IN SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 7, 1820.

Mr. LIVERMORE made the following report:

The Committee on the Post Office and Post Roads, having been instructed, by a resolution of this House, to inquire into the expediency of affording some pecuniary relief to the widow of John Heaps, late of the city of Baltimore, deceased, reported:

That the said John Heaps, on the 24th day of March last past, being employed as a carrier of the United States mail, and having the said mail in his custody, was beset by ruffians, who murdered him and carried away the mail; that the said John Heaps appears to have sustained a good character, and died leaving a widow and two children under six years of age, all in indigent circumstances, and proper objects of charity. Said committee therefore propose for the consideration of this House a bill.

16th CONGRESS.]

No. 532.

[1st Session.]

LOSS OF THE PRIVATEER GENERAL ARMSTRONG.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 10, 1820.

Mr. SILSBEE, from the Committee on Naval Affairs, to whom was referred the memorial of Samuel C. Reid, in behalf of himself and the other officers and crew of the private armed brigantine General Armstrong, reported:

That it appears, by the memorial, that the brigantine General Armstrong sailed on a cruise from the port of New York, in September, 1814, and on the 26th of the same month put into the port of Fayal; that, on the evening of the same day, a British squadron, consisting of one ship of 74, one of 44, and one of 16 guns, anchored in the same port, and in the course of the night sent four armed boats to attack the Armstrong; but such a destructive fire was opened upon these boats from the Armstrong, as to compel them to retreat to the ships. A second attack was then made by twelve or fourteen boats, which (after a severe conflict of about forty minutes, in which several hundred of the enemy were supposed to have been slain) were also obliged to return to the ships. The enemy finding himself thus discomfited in the two attempts during the night, at daylight one of the ships was sent alongside of the Armstrong, and commenced a cannonade upon her, when Captain Reid, finding further resistance use-

less, and having regard to the safety of his crew, who had so gallantly supported him, concluded to, and did, scuttle and abandon his vessel, which was subsequently burnt by the enemy.

The memorialists do not ask for any specific relief, but their object is to obtain such pecuniary reward as Congress may think proper to bestow upon them.

The committee think it due to Captain Reid and his associates to express their opinion that, in but few, if any, of the naval battles recorded in the history of the late war, has the flag of our country been more honorably defended than in the one now under consideration; but as these acts of heroism were performed on board a private armed vessel, the case does not come within the provisions of any existing law, and the committee deem it inexpedient further to extend these provisions at this time.

16th CONGRESS.]

No. 533.

[1st SESSION.]

EXPENSES INCURRED BY THE SEIZURE OF THE SHIP VIGILANT, BY THE AMERICAN CONSUL AT CADIZ, IN 1809.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 11, 1820.

Mr. SARGEANT, from the select committee to whom was referred the memorial of Richard S. Hackley, reported:

That, in the year 1809, the memorialist, consul of the United States for San Lucar, and acting consul at Cadiz, seized the American ship *Vigilant*, upon a suspicion, strongly supported by circumstances, that she had violated the embargo laws of the United States. After he had detained her for a considerable time, she was forcibly taken from his possession by a body of armed men, professing to act under the orders of some of the local authorities at Cadiz. During the detention, he incurred expenses in and about the custody of the ship to the amount of \$6,213 74, for which he now prays to be reimbursed. The facts above stated are sufficiently proved, and the items of expenditure are regularly vouched. The authority under which Mr. Hackley acted in making the seizure constitutes the only remaining object of inquiry; and it is a very material one, for it clearly did not belong to his consular office, and it was not derived from any orders of the Government. But it appears, satisfactorily, from a certificate of George W. Erving, Esq., then minister of the United States in Spain, as well as from his correspondence with the Department of State, that, to sustain the policy of the United States, and to give effect to the claims he was then making for the restitution of vessels belonging to citizens of the United States which had been carried into ports of Spain, Mr. Erving thought it necessary to exert an active authority over vessels arriving in those ports suspected of having violated the embargo. Under this impression, he gave the orders to Mr. Hackley, and he admits that they applied to the case of the *Vigilant*. He fully justifies the conduct of Mr. Hackley in relation to that vessel, and asserts the justice of his claim for the expenses incurred; and he also expresses his opinion very strongly in his correspondence, that the seizures were useful in the prosecution of the claims above mentioned. The Secretary of State, however, in a communication made to a committee during the last session, states that the "seizure was without authority from the Government of the United States," meaning, as the committee understand, that Mr. Erving had no authority to give the instructions under which it is admitted Mr. Hackley acted, and upon this ground, it is supposed, the claim was deemed inadmissible by the Department of State in the adjustment of Mr. Hackley's accounts. This decision is certainly correct, as the Department has no discretionary authority to allow claims which are not in all respects regularly established. To Congress, however, the matter presents itself in a somewhat different aspect. There can be no doubt that Mr. Erving acted sincerely, with a view to the interests of the United States; and it seems probable that those interests were really promoted by the measures he adopted, of which the seizure of the *Vigilant* was one. Mr. Hackley, it is true, was not bound to execute orders which Mr. Erving had no authority to give. But it is not to be expected, nor on grounds of public policy is it desirable, that, in circumstances like those in which Mr. Hackley was placed, an inferior agent should hesitate or refuse to act until he could satisfy himself of the authority of his superior. In the present instance, it is manifest that Mr. Hackley acted with perfect good faith; and therefore the committee recommend that his claim be allowed.

16th CONGRESS.]

No. 534.

[2d SESSION.]

PENALTIES UNDER THE SEDITION LAW.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 4, 1820.

Mr. McLEAN, of Kentucky, from the select committee to whom was referred the memorial of Matthew Lyon, reported:

The petitioner states that, in violation of that provision of the constitution of the United States of America which says "Congress shall make no law abridging the freedom of speech or of the press," Congress, in July, 1798, passed the act commonly called the sedition law; that, some time previous to the passage of this bill, there appeared in the Philadelphia federal papers a violent attack upon his character, extracted from the Vermont Journal, charging

him with many political enormities, particularly with the high crime of opposing the Executive; that he wrote a reply to this charge in Philadelphia, on the 20th of June, 1798, and on the same day put the letter, directed to the editor of the said Vermont Journal, into the post office at Philadelphia, twenty-four days before the passage of the seditious law. For the publication of this letter he was indicted in October following, in the circuit court of the United States in the Vermont district. In the same indictment, he was charged with publishing a copy of a letter from an American diplomatic character in France to a member of Congress in Philadelphia; also for aiding, assisting, and abetting in the publication of said letter.

He states said letter was written by Joel Barlow to Abraham Baldwin, then a member of Congress. He denies that he printed said letter, or aided or abetted in the printing of it; but, on the contrary, that he used his endeavors to suppress it, by destroying the copies which came into his possession. He states that, owing to the political party zeal which prevailed in the United States at that time, much unfairness was used in the trial, both by the marshal in summoning the jury, and the judge who presided, in his instructions to them, and thereby a verdict of guilty was returned against him by the jury; and upon that verdict the court sentenced him to pay a fine of \$1,000, the costs of suit, he imprisoned four calendar months, and until the fine and costs were paid. He states that, by virtue of said judgment, he was arrested and confined in a dungeon, the common receptacle of thieves and murderers, fifty miles distant from the place of his trial, although there was a decent roomy jail in the county in which he lived, and in the town where the trial was had, which jail the Federal Government had the use of; that much severity was exercised towards him during his imprisonment; that he languished in the loathsome prison more than six weeks in the months of October, November, and December, in the cold climate of Vermont, without fire, before he was allowed, at his own expense, to introduce a small stove, or to put glass into the aperture which let in a small glimmer of light through the iron grate.

He states that he is poor, and asks Congress to refund to him \$1,000, the fine which he has paid, the costs of suit, for one hundred and twenty-three days' pay as a member of Congress, while he was unconstitutionally detained from a seat in that body, reasonable damages for being suddenly deprived of his liberty, put to great expense, and disabled from paying that attention to his concerns which, in other circumstances, he would have been allowed to do, and such interest on those sums as public creditors are entitled to.

Your committee state that the prosecution against the said petitioner, the judgment, imprisonment, and payment of \$1,000, the fine, and \$60 96, the costs of suit, are proved by a copy of the record of proceedings in said cause, which is made a part of this report. The committee are of opinion that the law of Congress under which the said Matthew Lyon was prosecuted and punished was unconstitutional, and therefore he ought to have the money which has been paid by him refunded; but, should they be mistaken as to the unconstitutionality of this law, yet they think there are peculiar circumstances of hardship attending this case which call for relief. Your committee, therefore, ask leave to report a bill.

THE PRESIDENT OF THE UNITED STATES *to all who shall see these presents, greetings:*

Know ye, that among the pleas of our circuit court of the second circuit of the United States, in the Vermont district, there is a certain record remaining, in the words following, to wit:

UNITED STATES OF AMERICA, VERMONT DISTRICT, *to wit:*

Pleas of the Circuit Court of the said United States, at their term begun and held at Rutland, within and for the said Vermont district, on Wednesday, the 3d day of October, in the year of our Lord 1798, and of the independence of the United States the twenty-third, before the honorable William Patterson, Esq., one of the associate justices of the Supreme Court of the United States, and the honorable Samuel Hitchcock, Esq., district judge within and for the said Vermont district, and judges of said circuit court, according to the form of the statute in such case made and provided.

United States *versus* Matthew Lyon.

Be it remembered that, at a term of the circuit court of the said United States, begun and held at Rutland, within and for the district aforesaid, on the third day of October, in the year of our Lord one thousand seven hundred and ninety-eight, and of the independence of the said United States the twenty-third, before the honorable William Patterson, esquire, one of the associate justices of the Supreme Court of the said United States, and the honorable Samuel Hitchcock, esquire, district judge within and for the said district of Vermont, judges of the said circuit court, according to the form of the statute in such case made and provided, the grand jurors within and for the body of said district of Vermont, to wit, Eli Cogswell, Nathan Pratt, David Osgood, Ozias Fuller, Royal Crafts, Abner Mead, Gideon Horton, Abraham Gilbert, Ebenezer Worster, John Mott, Thomas Hammond, Adgate Lathrop, John Penfield, Ebenezer Hopkins, Brewster Higly, Zadock Remington, Abijah Brownson, and Joel Culver, good and lawful freeholders of the said district, then and there empanelled, sworn, and charged, to inquire, for the said United States, and for the body of the district aforesaid, did present, that Matthew Lyon, of Fairhaven, in the said district of Vermont, being a malicious and seditious person, and of a depraved mind and wicked and diabolical disposition, and deceitfully, wickedly, and maliciously contriving to defame the Government of the United States, and with intent and design to defame the said Government of the United States, and John Adams, the President of the United States, and to bring the said Government and President into contempt and disrepute; and with intent and design to excite against the said Government and President the hatred of the good people of the United States, and to stir up sedition in the United States, at Windsor, in the said district of Vermont, on the 31st day of July last, did, with force and arms, wickedly, knowingly, and maliciously write, print, utter, and publish, and did then and there cause and procure to be written, printed, uttered, and published, a certain scandalous and seditious writing, or libel, in form of a letter, directed to Mr. Spooner, [meaning Alden Spooner, printer and publisher of a certain weekly newspaper, in Windsor aforesaid, commonly called Spooner's Vermont Journal,] signed by the said Matthew Lyon, and dated at Philadelphia, on the 20th day of June last; in which said libel of and concerning the said John Adams, President of the United States, and the Executive Government of the United States, are contained, among other things, divers scurrilous, feigned, false, scandalous, seditious, and malicious matters, according to the tenor following, to wit: "As to the Executive, [meaning the said President of the United States,] when I shall see the effects of that power [meaning the executive power of the United States, vested by the constitution of the United States in the said President] bent on the promotion of the comfort, the happiness, and accommodation of the people, [meaning the people of the United States,] that Executive [meaning the President of the United States] shall have my [meaning the said Matthew Lyon's] zealous and uniform support. But whenever I [meaning the said Matthew Lyon] shall, on the part of the Executive, [meaning the said John Adams, President of the United States,] see every consideration of public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, or selfish avarice; [meaning that, on the part of the said John Adams, President

of the United States, every consideration of the public welfare was swallowed up in a continual grasp for unconstitutional power, and in an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice;] when I [meaning the said Matthew Lyon] shall behold men of real merit daily turned out of office, for no other cause but independency of sentiment; [meaning that men of real merit, holding offices under the laws and constitution of the United States, were daily, by the said John Adams, as President of the United States, turned out of office for the cause of having independency of spirit;] when I [meaning the said Matthew Lyon] shall see men of firmness, merit, years, abilities, and experience, discarded in their applications for office, for fear they possess that independence, and men of meanness preferred, for the ease with which they can take up and advocate opinions, the consequence of which they know but little of; [meaning that men of firmness, years, merit, ability, and experience, were, by the said John Adams, as President of the United States, in violation of the duties of his said office, neglected in appointments to office under the laws and constitution of the United States, and discarded in their applications for such offices and appointments; and that men of meanness, who are unfit for the exercise of such offices, under the laws and constitution of the United States, were, by the said John Adams, as President of the United States, preferred to such offices and appointments, on account of the ease with which they took and advocated opinions, of the consequences of which they were ignorant;] when I [meaning the said Matthew Lyon] shall see the sacred name of religion employed as a state engine to make mankind hate and persecute one another, I [meaning the said Matthew Lyon] shall not be their humble advocate;" [meaning that the sacred name of religion was, by the said John Adams, in his capacity of President of the United States, employed as an engine of state to make mankind hate and persecute each other:] to the great scandal and infamy of the said John Adams in his capacity of President of the United States, and to the great scandal and infamy of the said Government of the said United States. And so the jurors aforesaid, upon their oaths aforesaid, do say that the said Matthew Lyon, at Windsor aforesaid, on the 31st day of July aforesaid, did, knowingly, wickedly, deceitfully, and maliciously, with intent and design to defame the said Government of the United States, and the said John Adams, President of the United States, and to bring the said Government and President of the United States into contempt and disrepute with the good people of the United States, and to excite against them, the said Government and President of the United States, the hatred of the good people of the United States, and with intent and design to stir up sedition within the United States against the Government thereof, write, print, utter, and publish, and cause and procure to be written, printed, uttered, and published, for the purpose aforesaid, the said false, feigned, scandalous, and malicious writing and libel aforesaid, containing, among other things, the said divers scurrilous, false, feigned, scandalous, seditious, and malicious matters aforesaid, in contempt of the good and wholesome laws of the United States, to the evil and pernicious example of others in like case offending against the statute of the United States in such case made and provided, and against the peace and dignity of the United States.

And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said Matthew Lyon, being a malicious and seditious person, and of a depraved mind, and of a wicked and diabolical disposition, and also deceitfully, wickedly, and maliciously contriving to defame the Government of the said United States, and with intent and design to defame the said Government, and with intent to defame John Adams, esquire, President of the United States, and with intent to defame the Senate of the United States, being one branch of the Congress of the United States, and to bring the said Government, President, and Senate into contempt and disrepute, and to excite against the said Government, President, and Senate the hatred of the good people of the United States, and with intent and design to stir up sedition within the United States, did, at Fairhaven, in the said district of Vermont, on the 1st day of September now last past, with force and arms, wickedly, knowingly, and maliciously write, print, utter, and publish, and then and there did cause and procure to be written, printed, uttered, and published, a certain false, feigned, scandalous, and seditious writing, or libel, entitled "Copy of a letter from an American diplomatic character in France to a member of Congress in Philadelphia;" in which said writing, or libel, of and concerning the said Government of the United States, and the said President and Senate of the United States, and of and concerning the speech of John Adams, esquire, then President of the United States, and of and concerning the answer of the said Senate to the said speech, are contained, among other things, divers scurrilous, feigned, false, scandalous, seditious, and malicious matters, according to the tenor following, to wit: "The misunderstanding between the two Governments [meaning the Governments of the said United States and of France] has become extremely alarming; confidence is completely destroyed; mistrusts, jealousy, and a disposition to a wrong attribution of motives are so apparent, as to require the utmost caution in every word and action that are to come from your Executive, [meaning the Executive Government of the United States]—I mean, if your object is to avoid hostilities. Had this truth been understood with you [meaning the people of the United States] before [the] recall of Monroe, [meaning James Monroe, the late ambassador from the United States to the republic of France,] before the coming and second coming of Pinckney, [meaning Charles C. Pinckney, one of the late envoys extraordinary from the United States to the said republic of France;] had it guided the pens that wrote the bullying speech of your President [meaning the said speech of John Adams, then and still President of the United States, to both Houses of Congress at the opening of their session in November, 1797] and stupid answer of your Senate, [meaning the Senate of the United States, being one House of the Congress of the United States,] at the opening of Congress [meaning the Congress of the United States] in November last, [meaning at the session of the said Congress in November, in the year of our Lord 1797,] I should probably have had no occasion to address you this letter, [meaning the said writing or libel;] but when we found him [meaning the said John Adams, President as aforesaid] borrowing the language of Edmund Burke, and telling the world that, although he should succeed in treating with the French, [meaning the Government of France,] there was no dependance to be placed on any of their engagements, [meaning the engagements of the said Government of France;] that their religion and morality [meaning the religion and morality of the French nation] were at an end; that they [meaning the French nation] had turned pirates and plunderers, and it would be necessary to be perpetually armed against them, [meaning the said French nation;] though you are at peace, we [meaning the people of France] wondered that the answer of both Houses [meaning both Houses of the Congress of the United States] had not been an order to send him [meaning the said John Adams, esquire, President of the United States] to a mad-house. Instead of this, the Senate [meaning the Senate of the United States] have echoed the speech [meaning the said speech of the said John Adams, as President of the said United States] with more servility than ever George the Third [meaning the King of Great Britain] experienced from either House of Parliament," [meaning the Parliament of Great Britain;] to the great scandal and infamy of the said Government of the said United States, and the said John Adams, President of the United States, and the said Senate of the United States, being one of the Houses of the Congress of the United States. And so the jurors aforesaid, upon their oaths aforesaid, do say that the said Matthew Lyon, at Fairhaven aforesaid, on the 1st day of September aforesaid, did, knowingly, wickedly, deceitfully, and maliciously, with intent and design to defame the said Government of the United States, and the said John Adams, President of the United States, and the Senate, being one House of the Congress of the United States, and to bring the said Government, President, and Senate of the United States into great contempt and disrepute with the people of the United States, and to excite against them, the said

Government, President, and Senate of the United States, the hatred of the good people of the said United States, and with intent to stir sedition within the United States against the Government thereof, write, print, utter, and publish, and cause and procure to be written, printed, uttered, and published, for the purpose aforesaid, the said false, feigned, scandalous, and malicious writing and libel aforesaid, containing, among other things, the said divers scurrilous, false, feigned, scandalous, and seditious matters aforesaid, in contempt of the good and wholesome laws of the United States, to the evil and pernicious example of others in like case offending against the statute of the United States in such case made and provided, and against the peace and dignity of the said United States.

And the jurors aforesaid, upon their oaths aforesaid, do further present, that the said Matthew Lyon, being a malicious man, of a depraved mind, and of a wicked and diabolical disposition, and also deceitfully, wickedly, and maliciously contriving to defame the Government of the said United States, and with intent and design to defame the said Government, and the said John Adams, esquire, President of the said United States, and the Senate, being one of the Houses of the Congress of the said United States, and to bring the said Government, President, and Senate of the United States into disrepute and contempt, and with intent to excite the hatred of the good people of the United States against the said Government and Senate of the said United States, and to stir up sedition within the said United States against the Government thereof, did, at Fairhaven aforesaid, on the 1st day of September aforesaid, for the purpose aforesaid, with force and arms, knowingly, wickedly, deceitfully, maliciously, and willingly assist, aid, and abet in the falsely and maliciously writing, printing, uttering, and publishing a certain false, feigned, scandalous, and seditious writing, or libel, entitled "Copy of a letter from an American diplomatic character in France to a member of Congress in Philadelphia;" in which said writing, or libel, of and concerning the Government of the United States, and the said President and Senate of the said United States, and of and concerning the said speech of the said John Adams, as President of the United States, to both Houses of the Congress of the United States, and of and concerning the answer of the said Senate of the United States to the said speech of the said John Adams, President of the United States, in which said writing, or libel, among other things, are contained divers false, scandalous, and seditious matters, according to the tenor following, to wit: "Had this truth been understood with you [meaning the people of the United States] before the recall of Monroe, [meaning James Monroe, ambassador from the United States to the republic of France,] before the coming and second coming of Pinckney, [meaning Charles C. Pinckney, one of the envoys extraordinary from the United States to the said republic,] had it guided the pens that wrote the bullying speech of your President, and the stupid answer of your Senate at the opening of Congress, in November last, [meaning the speech of the said John Adams, as delivered by him to both Houses of the Congress of the United States at the opening of their session in November last, and the answer of the Senate, being one of the Houses of the said Congress, to the said speech,] I should probably have had no occasion to address you this letter," [meaning the said writing, or libel, last mentioned.] "We [meaning the people of France] wondered that the answer [meaning the answer to the said speech] of both Houses [meaning both Houses of the Congress of the United States] had not been an order to send him [meaning the said John Adams, President of the United States] to a mad-house;" to the great scandal and infamy of the said John Adams, in his said capacity of President of the United States, to the great scandal and infamy of the said Senate, being one of the Houses of the Congress of the United States, and to the great scandal and infamy of the Government of the said United States. And so the jurors aforesaid, upon their oaths aforesaid, do say that the said Matthew Lyon, with force and arms, at Fairhaven aforesaid, in the district aforesaid, on the first day of September aforesaid, did, knowingly, willingly, wickedly, and maliciously, and with intent and design to defame the said John Adams, President of the United States, and the said Senate, being one of the Houses of the Congress of the United States, and the said Government of the United States, and to bring the said Government, President, and Senate into contempt and disrepute with the good people of the United States, and to excite against them, the said Government, President, and Senate of the United States, the hatred of the good people of the said United States, and with intent to stir up sedition within the said United States against the Government thereof, aid, assist, and abet in the maliciously writing, uttering, and publishing, for the purposes aforesaid, the said false, feigned, scandalous, and malicious writing and libel last aforesaid, containing, among other things, the said divers scurrilous, false, feigned, scandalous, seditious, and malicious matters aforesaid, in contempt of the good and wholesome laws of the United States, to the evil and pernicious example of others in like case offending, contrary to the form, force, and effect of the statute of the United States in such case made and provided, and against the peace and dignity of the United States.

Whereupon, the marshal of the district aforesaid is commanded forthwith to apprehend the said Matthew Lyon, if to be found within his district, and him safely keep, to answer to the charges whereof he here stands indicted.

And afterwards, to wit, on the sixth day of the same October aforesaid, at Rutland aforesaid, before the court aforesaid, here cometh the said Matthew Lyon, under the custody of Jabez G. Fitch, Esq., marshal of the district aforesaid, and by the said marshal being brought, in his own proper person, to the bar of the said court here, was forthwith demanded, concerning the premises in the said indictment above specified and charged upon him, how he will acquit himself thereof; he, the said Matthew Lyon, saith that he is not guilty thereof, and for trial puts himself upon the country; and Charles Marsh, esquire, attorney for the said United States within and for the district aforesaid, who prosecutes for the said United States in this behalf, doth the like.

Therefore, let a jury of good and lawful freeholders of the district aforesaid, on the eighth day of the same October aforesaid, at Rutland, in the district aforesaid, thereupon here come before the court aforesaid, by whom the truth of the matters aforesaid may be better known—who are not of kin to the said Matthew Lyon—to recognise, upon their oath, whether the said Matthew Lyon be guilty or not guilty of the charges of which he stands indicted as aforesaid; because, as well the said Charles Marsh, esquire, who prosecutes for the said United States in this behalf, as the said Matthew Lyon, have put themselves upon that jury for trial of said issue.

And afterwards, to wit, on the same eighth day of October aforesaid, at Rutland, in the district aforesaid, before the same court aforesaid, came as well the said Charles Marsh, esquire, who prosecutes for the said United States in this behalf, as the said Matthew Lyon, in his own proper person; and the jurors of the jury aforesaid, by the said marshal for this purpose empanelled and returned, to wit, John Ramsdel, Jabez Ward, John Hitchcock, jun., Bildad Orcutt, Andrew Leach, Daniel June, Joshua Goss, Philip Jones, Josiah Harris, Ephraim Dudley, Moses Vail, and Elisha Brown, who, being called, came, and being elected, tried, and sworn to speak the truth of and concerning the premises, upon their oaths say that the said Matthew Lyon is guilty of the charges of which he stands indicted as aforesaid, in form aforesaid, as by the indictment aforesaid is supposed against him. And, upon this, it is forthwith demanded of the said Matthew Lyon, if he hath any thing further to say wherefore the said court here ought not, on the premises aforesaid, and verdict aforesaid, to proceed to judgment against him, who nothing saith. And afterwards, to wit, on the ninth day of the same October aforesaid, at Rutland, in the district aforesaid, before the court aforesaid, came the said Matthew Lyon, in his own proper person.

Whereupon, all and singular the premises being seen, and by the judges of the court here fully understood, it is considered and ordered by the court that the said Matthew Lyon be imprisoned four calendar months; that he

pay a fine of one thousand dollars, and the costs of this prosecution; and that he stand committed until this sentence be complied with. Costs of prosecution taxed at sixty dollars and ninety-six cents.

Judgment entered this ninth day of October, A. D. 1798.

By order of court:

Mittimus issued October 9, 1798, at eight o'clock, forenoon.

CEPHAS SMITH, JUN., *Clerk.*

CEPHAS SMITH, JUN., *Clerk.*

I hereby certify that the preceding is a true copy of the record, examined and collated this 21st day of December, A. D. 1819, by me,

JESSE GOVE, *Clerk Vermont District.*

DISTRICT OF VERMONT, *to wit:*

The President of the United States to the Marshal of the District of Vermont.

Whereas Matthew Lyon, of Fairhaven, in the county of Rutland, in the district of Vermont, before the circuit court of the United States, begun and held at Rutland, within and for the said district, on the third day of October, in the year of our Lord one thousand seven hundred and ninety-eight, and of the independence of the said United States the twenty-third, was convicted of writing, printing, uttering, and publishing certain false, scandalous, and seditious libels, and of aiding, abetting, and assisting therein, contrary to the form, force, and effect of the statute entitled "An act in addition to an act entitled An act for the punishment of certain crimes against the United States," and sentenced to imprisonment for the term of four calendar months, to pay a fine of one thousand dollars to the United States, and the costs of this prosecution, taxed at sixty dollars and ninety-six cents, as appears of record, whereof execution remains to be done: Therefore,

By the authority of the United States, you are hereby commanded to imprison him, the said Matthew Lyon, in either of the jails of the United States, within and for the district of Vermont, for the term of four calendar months from the date hereof; and on his (the said Matthew Lyon's) neglect or refusal to pay said fine and costs, you are to keep and detain him, the said Matthew, in imprisonment as aforesaid, until he pay the said fine and costs, with fifty cents for this writ, and the costs of commitment, together with your fees, or until he be otherwise discharged according to law. And of this writ, with your doings herein, make due return according to law, at our said court, on the first day of May next.

Witness, the honorable Oliver Ellsworth, esquire, Chief Justice of the Supreme Court of the United States, at Rutland aforesaid, the ninth day of October, at eight o'clock, forenoon, A. D. one thousand seven hundred and ninety-eight, and of the independence of the said United States the twenty-third.

CEPHAS SMITH, JUN., *Clerk.*

DISTRICT OF VERMONT, *October 10, 1798.*

By virtue of the within writ, or warrant of commitment, I committed the body of the within-named Matthew Lyon, within the prison in the city of Vergennes, and left a true and attested copy of this writ, with my endorsement thereon, with the keeper of said prison.

Fees of commitment, fifty cents.

Attest:

JABEZ G. FITCH, *Marshal.*

DISTRICT OF VERMONT,

VERGENNES, *the 9th day of February, 8 o'clock, A. M., 1799.*

The within-named Matthew Lyon, having complied with the within warrant, is hereby discharged from his confinement.

Attest:

SAMUEL FITCH, *Marshal's deputy.*

VESSELS SUNK FOR THE DEFENCE OF BALTIMORE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the memorial of sundry citizens of Baltimore, reported:

That, in the month of September, 1814, sundry vessels belonging to the memorialists were taken by public authority, and sunk at the mouth of the harbor of Baltimore, to prevent the vessels of the enemy from entering that harbor.

On the 7th March, 1815, the Secretary of War wrote to Colonel Paul Bentalou, quartermaster general at Baltimore, as follows: "As the owners of the vessels which were sunk at Baltimore will now become very importunate, and as you probably cannot raise them fast enough to meet their wishes and expectations, you may, therefore, permit individuals to raise their own vessels for a stipulated sum, or in such other manner as may, in your opinion, be compatible with the public interest, as it is my wish that you should give every facility to the raising of those vessels which may be consistent with economy and the public interest. As there no doubt will be many applications to Congress, by individuals owning those vessels, for compensation for damages, by injuries either to their vessels or rigging, while sunk, it would be advisable that such damages should be duly ascertained, in such manner as you may think best, at the time the vessels are respectively raised, and a report thereof made to this office."

In pursuance of these instructions, three respectable citizens of Baltimore, one an "experienced" ship-carpenter, one a ship-joiner, and the other a ship-chandler, were appointed to survey the said vessels, and appraise the damages; and, in the month of September following, a return of the amount assessed upon each vessel was made to the Secretary of War; and, in April, 1816, an appropriation was made to the amount of the several sums thus assessed, which was subsequently distributed among the claimants.

On the 7th of January, 1817, the owners of the vessels presented their memorial to Congress, claiming a further allowance, alleging that the sum previously awarded them was "not sufficient to pay one-fourth the expense of repairing," and that the appraisal of damages had been made without "their knowledge or concurrence." Upon this memorial there has been no decision by Congress; and, on the 15th of February last, James H. Causten, one of the memorialists, urged his claim anew upon the consideration of Congress in a separate memorial, and, to the reasons previously assigned why further compensation should be made, has subjoined a claim for a *per diem* allowance from the time his vessel was sunk till the repairs were completed, which he alleges to have been two hundred and ninety-four days. He also alleges that the vessel was in good repair when sunk; that the repairs, after it was raised, cost \$3,589 03; and that irreparable injury was done by sinking, to the amount of \$1,000, which, with \$5 per day for demurrage, makes an aggregate of \$6,059 03; and deducting therefrom \$675, the amount awarded him by the appraisers, he claims a balance from the Government of \$5,384 03, being \$384 more than his witnesses prove his vessel to have been worth before it was sunk.

Equal and exact justice may not have been done by the surveyors who appraised the damages; but it is difficult to perceive what measures could *now* be adopted that would be more likely to effect the object. The survey and appraisal was made by three of the citizens of Baltimore, of acknowledged skill and respectability, who appear to have commenced their labors on the 26th of March, 1815, and to have concluded them on the 15th of August of the same year; and the minuteness of their survey, (of which their records furnish proof,) together with the time their attention must have been drawn to the subject, forbid the presumption that the business of their appointment could have been lightly passed over. And were it even admitted that they could have been influenced by partial considerations, it would seem at least probable that their partialities must have inclined them to the side of their fellow-citizens rather than to that of the Government. It is believed, then, that it would be inexpedient to authorize an additional allowance for damages.

The committee are, however, of the opinion that, so far as relates to demurrage, the memorialists are entitled to relief, although, until the last session, no claim of that character appears to have been urged upon the attention of Congress. Two of the surveyors have certified (and the fact is also established by their records) that they made no allowance "for the deterioration of the vessels;" and it is equally true that none was made for the detention from their owners.

As it is impracticable to ascertain what income, if any, would have been derived from the use of the vessels antecedent to the close of the war, had they not been sunk, it is believed as substantial justice as is practicable in the case will have been done should a reasonable daily allowance be made, from the close of the war to the end of a necessary period, for repairing the injuries; and for this purpose the committee report a bill.

[The following documents were subsequently communicated to the House of Representatives.]

SIR:

CAPITOL, February 19, 1820.

A memorial from certain merchants of Baltimore (claiming compensation for injury sustained by their vessels which had been sunk by legal authority for the preservation of that city) has been submitted to the Committee of Claims, over which you preside. I had given, prior to your last report, a verbal statement to you. The report and memorial having been recommitted, it may be proper to give to your committee a detailed statement in writing.

In the year 1812, I commanded in Baltimore. The enemy appeared off the mouth of the river, and threatened the city. To prevent an attempt to pass the fort, I caused a number of vessels to be moored, head to stern, from the fort to the opposite point, prepared for sinking. The enemy did not attack during that year, and the vessels were returned to their owners. The expense of repairing the injury sustained by their exposure to the weather was paid by the city. This occurrence called my attention to the subject, and I submitted a bill, (in Senate,) which was signed on the 16th July, 1813, entitled "*An act providing for the further defence of the ports and harbors of the United States,*" which authorized the sinking of hulks or vessels as impediments to the entrance of the ships of the enemy into the ports of the United States, and appropriated the sum of \$250,000 to defray any expense that might occur in consequence.

Subsequent to the attack on Washington, I was again called into the service of the United States, as commander at Baltimore, and made a requisition on the city for vessels to be sunk; a sufficient number were delivered to Commodore Rodgers, (then acting with a body of seamen in concert with me,) and sunk under his direction.

The enemy attacked by land and water, and, having completely failed in both, they evacuated the Chesapeake; and, being superseded in my command, I took my seat in the Senate. Aware of the injury the sunken vessels would sustain, I requested the Secretary of War, Colonel Monroe, to direct Commodore Barney, who had a number of seamen under his command, to cause the vessels to be raised; and an order was sent to that effect, but was not executed. The commodore alleged that his men had not been paid, and had not clothing sufficient for such work. I then requested the Secretary to direct the quartermaster general, Colonel Bentalou, to cause the vessels to be raised. The winter had set in; few were raised; and most of the vessels remained all winter and late in the spring under water, and must have sustained great injury. I also recommended to the Secretary of War the propriety of appointing appraisers to value and assess the damage each vessel had sustained. That course was pursued; the ships were all raised, and delivered to their respective owners. Three respectable men were appointed by the quartermaster general as appraisers, to wit, an experienced ship-master, a ship-carpenter, and a ship-chandler; they visited each vessel, and appraised the damage or injury that was apparent.

It has been alleged that most of the owners knew not of the appraisal having been made; that the masters were not on board when made; and that the appraisers were not apprized of the real injury sustained by the destruction of the sails and rigging on board of the vessels when sunk, all which must have been completely destroyed by their long immersion. Such was the case (as I have been told) of the brig or schooner Sally, belonging to J. H. Causten. The damage sustained by that vessel was valued at \$676; nor was it possible for the appraisers, by a visit of a few hours, to ascertain the real damages that had been sustained; they could only be known by an attendance on each vessel whilst their repairs were making. I had two vessels sunk, and was allowed for damages sustained by the Adriana \$300, which sum scarcely paid for cleaning and drying the ship. The principal injury she sustained was not discovered; she foundered at sea during her first voyage, yet she had been carefully examined.

No. 3.

Brig Swallow, April 10.

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| Two main hatches, - - - - - | \$20 |
| One booby hatch, companion and binnacle, sashes, dead-lights, cabin, &c., much injured, - - - - - | 80 |
| Fore-scuttle hatch wanted, figure-head, fall-bits, and bowsprit injured, - - - - - | 50 |
| Scuttle-port and copper to be repaired, - - - - - | 30 |
| Lining of the stern, - - - - - | 20 |
| One anchor, 1,200 lbs. - - - - - | 150 |
| One cable, 10 inch, about 50 fathoms, half worn, - - - - - | 120 |
| One hawser, 4½ inch, 75 fathoms, lost, - - - - - | 50 |
| One kedge anchor, 150 lbs. - - - - - | 20 |
| Main mast, - - - - - | 50 |
| Washing and scraping, in and out, and painting, - - - - - | 75 |
| Caboose, - - - - - | 50 |
| | <u>\$715</u> |

No. 4.

Ship Fabius, April 12.

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| Larboard plankshare, two stanchions, and two counter-timbers, step of the main mast to be repaired, and streak plankshare, - - - - - | \$50 |
| One pump, - - - - - | 20 |
| Bowsprit-bits wanting, bowsprit to be taken out and put in again, - - - - - | 20 |
| Ship tiller gone, - - - - - | 8 |
| Washing, scraping, and cleaning ship and spars, - - - - - | 75 |
| Repairing bottom, - - - - - | 50 |
| Additional allowance for hull, - - - - - | 127 |
| | <u>\$350</u> |

No. 5.

Schooner Ann, April 12.

| | |
|--|--------------|
| Main hatch and companion gone, - - - - - | \$15 |
| Stern moulding and dead-lights, chocks and platform for caboose, - - - - - | 15 |
| Tiller gone, - - - - - | 5 |
| One set of pump gear, two breaks, one chock for the boom, - - - - - | 15 |
| One tool chest, - - - - - | 5 |
| One main boom, - - - - - | 40 |
| Washing, scraping, and cleaning, &c. - - - - - | 50 |
| Repairing bottom, - - - - - | 20 |
| | <u>\$165</u> |

No. 6.

Ship Temperance, April 18.

| | |
|---|--------------|
| Fore, main, and after hatch, and companion, gone, - - - - - | \$30 |
| Main mast, fore mast, and bowsprit, much injured, - - - - - | 100 |
| One iron and one wood fall gone, - - - - - | 20 |
| One cathead, one plankshare injured, rails both sides injured, - - - - - | 35 |
| Main and half deck injured, - - - - - | 150 |
| Rudder hood gone, stern lining much injured, cabin much injured, binnacle gone, - - - - - | 50 |
| Bottom injured by boring, - - - - - | 60 |
| One main yard gone, - - - - - | 20 |
| One anchor and cable missing, - - - - - | 340 |
| Washing, scraping, &c. - - - - - | 75 |
| | <u>\$880</u> |

No. 7.

Brig Blanche, April 21, 1815.

| | |
|--|--------------|
| Two channels starboard side gone, - - - - - | \$40 |
| Hatches, fore and aft, gone, - - - - - | 25 |
| Cabin much injured, companion doors, slide and binnacle, - - - - - | 40 |
| One iron pump gallows gone, pump gear, - - - - - | 10 |
| One 5½ inch hawser, 180 fathoms, of which about 20 fathoms left, - - - - - | 60 |
| One cathead gone, - - - - - | 5 |
| Two anchors, 700 and 800 pounds, - - - - - | 80 |
| One nine-inch cable, about 30 fathoms remaining, - - - - - | 90 |
| One topgallant mast gone, - - - - - | 7 |
| Washing and cleaning, scraping, painting, and repairing bottom, - - - - - | 150 |
| Hencoops, lining the stern, quarter and waist boards, - - - - - | 40 |
| | <u>\$547</u> |

No. 8.

Ship Chesapeake, April 21.

| | | | | | | |
|--|---|---|---|---|---|--------------|
| Upper deck hatches, fore and aft, gone, | - | - | - | - | - | \$30 |
| Stern davits gone, and one fashion piece, | - | - | - | - | - | 20 |
| Quarter boards and rails injured, | - | - | - | - | - | 30 |
| Awning gone, | - | - | - | - | - | 30 |
| Fore and main channels gone, starboard side, | - | - | - | - | - | 50 |
| One top mast gone, | - | - | - | - | - | 30 |
| One bin white fall, 60 fathoms, | - | - | - | - | - | 50 |
| Pump gear much injured, | - | - | - | - | - | 30 |
| Washing and cleaning ship, | - | - | - | - | - | 110 |
| Caboose house gone, | - | - | - | - | - | 30 |
| One bell gone, | - | - | - | - | - | 30 |
| Stern and cabin injured, | - | - | - | - | - | 40 |
| Scuttle to be repaired in bottom, | - | - | - | - | - | 60 |
| Calking and painting, | - | - | - | - | - | 100 |
| | | | | | | <u>\$640</u> |

No. 9.

Brig Sally, May 6.

| | | | | | | |
|---|---|---|---|---|---|--------------|
| Starboard cathead and windlass rack gone; fore scuttle hatch, main hatch, booby hatch, companion, skylight, rudder hood, and tiller gone; starboard main channel injured, | - | - | - | - | - | \$45 |
| Quarter and waist boards entirely wanted, cabin, bulkheads, hencoops, much injured, broke and gone, cabin stairs, | - | - | - | - | - | 75 |
| Nine water casks much injured and six lost, two pump breaks and pump gear gone, | - | - | - | - | - | 30 |
| Belfry cap broke, | - | - | - | - | - | 15 |
| Best bower anchor lost, 1,000 weight, | - | - | - | - | - | 100 |
| Small bower cable cut, 35 fathoms on board, | - | - | - | - | - | 75 |
| Lower standing rigging and best bower cable on board, while sunk, much injured, | - | - | - | - | - | 50 |
| Both masts slightly injured, | - | - | - | - | - | 10 |
| Main and foretop mast stays and backstays, | - | - | - | - | - | 75 |
| Scuttle holes to be repaired, washing, scraping, painting, &c. | - | - | - | - | - | 100 |
| Injury sustained in spars missing, bowsprit, | - | - | - | - | - | 100 |
| | | | | | | <u>\$675</u> |

No. 10.

Brig Betsey and Mary, May 10.

| | | | | | | |
|--|---|---|---|---|---|--------------|
| Channels and catheads both sides gone, plankshares both sides forward to be repaired, fore scuttle, main hatch, and companion gone, deck injured about the fore mast, step of fore mast to be repaired, both pumps at present wanting, | - | - | - | - | - | \$75 |
| Stern bulkhead and cabin to be repaired, | - | - | - | - | - | 25 |
| Tiller gone, after scuttle gone, | - | - | - | - | - | 5 |
| Quarter boards to be repaired, one binnacle gone, | - | - | - | - | - | 5 |
| Bowsprit cap wanting, | - | - | - | - | - | - |
| Scuttle hole in bottom to be repaired, washing, cleaning, &c. | - | - | - | - | - | 40 |
| | | | | | | <u>\$150</u> |

No. 11.

Ship India Packet, May 16.

| | | | | | | |
|---|---|---|---|---|---|----------------|
| Both catheads to be repaired, channels both sides, fore and aft rails and stanchions, fore and main hatch, booby hatch, companion and skylight hatches and iron grating gone, rudder hood and hencoops gone, both davits broke, | - | - | - | - | - | \$140 |
| Two bulkheads and cabin destroyed, all the berths in the forepeak and all bulkheads gone, | - | - | - | - | - | 100 |
| Eight water casks gone, | - | - | - | - | - | 25 |
| All the pump gallows and gears lost, | - | - | - | - | - | 25 |
| All the cabin furniture, leads, lines, &c. lost, | - | - | - | - | - | 100 |
| Three top masts, three top sails, three lower yards, one sprit sail yard, one jib boom, one spanker boom, one gaff lost, ship's wheel gone, | - | - | - | - | - | 200 |
| One 7-inch hawser, 120 fathoms, lost, | - | - | - | - | - | 130 |
| One kedge anchor, 270 pounds, lost, | - | - | - | - | - | 35 |
| One best bower anchor,* | - | - | - | - | - | 208 |
| Caboose house, | - | - | - | - | - | 20 |
| Twelve oars, ten handspikes, belfry, each gone, | - | - | - | - | - | 25 |
| Plankshares, forward, naval piece to be repaired, | - | - | - | - | - | 5 |
| One cable, 16 inch, cut, 25 fathoms on board, | - | - | - | - | - | 370 |
| One pump, with iron gallows, 16 feet long, | - | - | - | - | - | 20 |
| Washing, scraping, painting, and repairing scuttle port, | - | - | - | - | - | 150 |
| | | | | | | <u>\$1,553</u> |

* In case the above anchor is found, the sum of \$208 is to be deducted from the above.

No. 12.

Schooner Enterprise, May 27.

| | | | | | |
|---|---|---|---|---|------|
| Larboard quarter rail and one stanchion gone, | - | - | - | - | \$10 |
| Quarter timbers to be repaired, companion door and slide and skylight gone, cabin to be repaired, | - | - | - | - | 40 |
| Main hatch and fore scuttle gone, | - | - | - | - | 10 |
| Fore mast and fore rigging gone, | - | - | - | - | 65 |
| Bowsprit injured at the end, all the channels and plankshares to be repaired, | - | - | - | - | 35 |
| Both cables missing, | - | - | - | - | 150 |
| Tiller gone, | - | - | - | - | 5 |
| Scraping, cleaning, &c., repairing scuttle in the bottom, | - | - | - | - | 40 |
| One anchor, | - | - | - | - | 58 |

\$413

No. 13.

Ship Mars, June 6.

| | | | | | |
|--|---|---|---|---|------|
| One cathead, five channels to be repaired, | - | - | - | - | \$40 |
| One knighthead broke off, mizen mast gone, companion and skylight gone, six hatches gone, four boat's davits, | - | - | - | - | 115 |
| Plankshare, forward, to be repaired, | - | - | - | - | 10 |
| Two pumps wanting, 23 feet long, | - | - | - | - | 30 |
| Six top masts, three lower yards, two topsail yards, a mizen topsail yard, and crotchet yard, three topgallant yards, and sprit sail yard, two topgallant masts, one jib boom, one flying jib boom, three studding sail booms, one derrick and spanker boom, twelve handspikes, three studding sail yards, | - | - | - | - | 170 |
| One bower anchor missing, 12 cwt. | - | - | - | - | 137½ |
| One kedge anchor, 284 pounds, | - | - | - | - | 35 |
| One piece of junk, 8½ inch, 75 fathoms, | - | - | - | - | 30 |
| Storage on materials, | - | - | - | - | 32 |
| Washing and cleaning ship, | - | - | - | - | 50 |

\$649½

No. 14.

Brig George, June 10.

| | | | | | |
|---|---|---|---|---|------|
| Warping chocks, plankshare, timber heads, and larboard cathead gone, windlass to be repaired, | - | - | - | - | \$20 |
| Upper deck hatches gone, one lower deck hatch gone, | - | - | - | - | 20 |
| Caboose broke, gallows cap gone, | - | - | - | - | 20 |
| Companion and slide and skylight gone, quarter rail and fore quarter stanchions gone, six counter-timbers and taffrail rail gone, | - | - | - | - | 35 |
| Two davits and iron work gone, tiller and stern moulding gone, | - | - | - | - | 10 |
| Cabin and state rooms injured, | - | - | - | - | 30 |
| Two pumps missing, as yet, | - | - | - | - | - |
| Three channels injured, | - | - | - | - | 12 |
| Washing, cleaning, &c. | - | - | - | - | 100 |

\$247

No. 15.

Brig Father and Son, June 12.

| | | | | | |
|--------------------------------|---|---|---|---|-------|
| Damages sustained on hull, &c. | - | - | - | - | \$250 |
|--------------------------------|---|---|---|---|-------|

No. 16.

Schooner Scudder, June 12.

| | | | | | |
|---|---|---|---|---|---------|
| Condemned for injury sustained by vessels running over her, | - | - | - | - | \$2,000 |
| The hull and anchor, injury to cables, &c. | - | - | - | - | 750 |

\$2,750

No. 17.

Brig Eliza, June 14.

| | | | | | |
|---|---|---|---|---|------|
| Two catheads gone, hawser piece to be repaired, fore scuttle and main hatch gone, partners of the fore mast and top sail sheet bits tore up and gone, windlass rack gone, | - | - | - | - | \$45 |
| One anchor lost, 800 pounds, | - | - | - | - | 100 |
| One 10-inch cable, 90 fathoms, | - | - | - | - | 116 |
| Fore mast, foretop mast, fore yard, foretop gone; maintop mast, main yard, and trisail mast gone, | - | - | - | - | 90 |
| Three channels to be repaired, | - | - | - | - | 10 |
| Cabin much injured, | - | - | - | - | 15 |
| Jib boom lost, taffrail rail, tiller and quarter boards all gone, | - | - | - | - | 25 |
| Skylight to be repaired, one chock aft gone, | - | - | - | - | 8 |
| Bobstay gone, main mast injured, | - | - | - | - | 20 |
| Washing, cleaning, &c., bottom to be repaired, | - | - | - | - | 100 |

\$529

No. 18.

Schooner Columbia, June 22.

| | |
|--|--------------|
| Starboard main channel gone, and all the other channels to be repaired, two ruffrees crotchets gone, two stanchions and quarter boards, taffrail and stern to be repaired, the deck abaft the rudder and tiller gone; main and after hatches and hatch bars, and fore scuttles gone; one of the backings of windlass gone; both catheads gone; foretop mast gone; deck injured; main mast injured; two sets of pump gear gone; rudder iron started; companion door, steps, binnacle, and slide gone; top of the lockers injured; two hencoops about four feet long, two gaffs, main and fore boom, one flying jib boom; washing and cleaning (schooner about eighty tons,) - - - - - | <u>\$140</u> |
|--|--------------|

No. 19.

Ship Thomas Wilson, July 10.

| | |
|--|----------------|
| New fore channels and main and mizen channels to be repaired; fore, main, and after hatches gone, and one lower deck hatch, - - - - - | \$80 |
| Hook over the bowsprit, figure head, and starboard head rail and bobstay gone, - - - - - | 60 |
| Companion door top and binnacle gone, - - - - - | 15 |
| Quarter rails and davits to be repaired, - - - - - | 20 |
| Lining in and outside the stern quarter galleries gone, - - - - - | 55 |
| One stanchion broke in the waist, above deck, - - - - - | 10 |
| Cabin and forecabin to be repaired, - - - - - | 150 |
| Cabin furniture destroyed, - - - - - | 150 |
| One 16-inch cable damaged, - - - - - | 200 |
| Caboose much injured, caboose house gone, - - - - - | 50 |
| One 9½-inch cable injured, - - - - - | 75 |
| Lower rigging, fore and aft, damaged by being in the hold, - - - - - | 200 |
| Hatch bars lost, handspikes and capstan bars lost, and the starboard chest tree gone, tool chest and tools lost and damaged, and boatswain's stores, - - - - - | 60 |
| Pump gear blocks and straps damaged, - - - - - | 30 |
| Washing, scraping, calking and scraping, - - - - - | 100 |
| Bottom to be repaired, - - - - - | 150 |
| | <u>\$1,405</u> |

No. 20.

Brig Ann, July 12.

| | |
|---|--------------|
| Fore mast gone, steerage and main hatch gone, - - - - - | \$40 |
| Sheathing and deck tore up, - - - - - | 20 |
| Washboards, with part of the companion, gone, - - - - - | 15 |
| Starboard cathead gone, taffrail rail to be repaired, - - - - - | 15 |
| Quarter rail and quarter boards gone, - - - - - | 5 |
| Top sail sheet bits gone, starboard plankshare to be repaired, fore scuttle gone, - - - - - | 20 |
| Cabin torn to pieces, steps gone, - - - - - | 40 |
| Washing and cleaning the brig, - - - - - | 40 |
| | <u>\$155</u> |

No. 21.

Sloop Rosanna, July 12.

| | |
|-------------------------------|--------------|
| Damages in general, - - - - - | <u>\$200</u> |
|-------------------------------|--------------|

No. 22.

Ship Nancy, August 10.

| | |
|---|----------------|
| Damage on two 15-inch cables, 100 fathoms each, - - - - - | \$500 |
| One 6-inch hawser, 120 fathoms, - - - - - | 80 |
| Eight water casks, - - - - - | 32 |
| Three lower masts, - - - - - | 150 |
| Two top masts and three topgallant masts, - - - - - | 50 |
| One top, - - - - - | 20 |
| Washing, scraping, cleaning, &c. - - - - - | 168 |
| | <u>\$1,000</u> |

Starboard fore and mizen channel gone; main channel to be repaired, larboard channel to be repaired; quarter galleries, and stern taffrail rail and starboard plankshare and starboard midship rail gone; skylight hatch and companion gone; gallows bits rotten and carried away; stanchions and rail forward the quarter deck gone; three stanchions, starboard side, gone; belfry cap and cheeks gone; one windlass rack gone; starboard rack bowsprit gone; six hatches gone; one pump gone; starboard plankshare, about six feet gone; waistboard, fore and aft, gone; sheathing plank on deck started.

No. 23.

Schooner Packet, August 10.

| | |
|--|--------------|
| Rotten and sunk, total loss, - - - - - | <u>\$200</u> |
|--|--------------|

No. 24.

Brig Aid, August 15.

Two new masts, one new main boom, two new trisail masts; starboard capping, waste and plankshare, and water ways repaired; new belfry cap, one new after companion; deck repaired; cabin repaired; damage on rigging; washing, scraping, painting, and cleaning, - - - - - \$520

UNITED STATES OF AMERICA, *State of Maryland, ss.*

I, Samuel Farnandis, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known, that the foregoing estimates, marked from No. 1 to No. 24, inclusive, are true and faithful copies of the originals of which they purport to be copies, having been by me carefully examined and compared with said originals, and were found to agree therewith, word for word and figure for figure. And I, notary, do further certify that Thorndick Chase and John Snyder did severally declare and say to me that they, together with a certain James Cordery, who is now insane, at the request of Paul Bentalou, Esq., did examine, survey, and estimate certain damages, as particularized in the original of which the foregoing is a true copy, on the several and respective vessels therein named; that they made no other or further allowance for damage or injury of or to said vessels than is therein set forth; also, that the said vessels were those sunk during the late war with Great Britain, and afterwards raised from the channel-way near Fort McHenry, just before the said examination, survey, and estimate was made.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial, this 28th of February, in [L. s.] the year of our Lord one thousand eight hundred and twenty.

SAMUEL FARNANDIS, *Notary Public.*

We, Thorndick Chase, John Snyder, and James Cordery, appointed by Colonel P. Bentalou, quartermaster general, to examine the different vessels sunk during the summer of eighteen hundred and fourteen, in the entrance and for the defence of the harbor of Baltimore, and to ascertain the damages sustained in consequence thereof, having carefully examined the following vessels, do hereby report, from the best of our judgment, and evidence we have been able to collect, that the damages sustained by each of the several vessels is as follows, viz:

Ship Adriana, three hundred dollars; ship Scioto, seven hundred and fifty-five dollars; ship Fabius, three hundred and fifty dollars; ship Temperance, eight hundred and eighty dollars; ship Chesapeake, six hundred and forty dollars; ship India Packet, fifteen hundred and fifty-three dollars; ship Mars, six hundred and forty-nine dollars and fifty cents; ship Thomas Wilson, fourteen hundred and five dollars; ship Nancy, one thousand dollars; brig Blanche, five hundred and forty-seven dollars; brig Swallow, seven hundred and fifteen dollars; brig Sally, six hundred and seventy-five dollars; brig Betsey, one hundred and fifty dollars; brig George, two hundred and forty-seven dollars; brig Father and Son, two hundred and fifty dollars; brig Eliza, five hundred and twenty-nine dollars; brig Ann, one hundred and fifty-five dollars; schooner Ann, one hundred and sixty-five dollars; schooner Enterprise, four hundred and thirteen dollars; schooner Scudder, twenty-seven hundred and fifty dollars; schooner Columbia, one hundred and forty dollars; sloop Rosanna, two hundred dollars; schooner Packet, two hundred dollars; brig Aid, five hundred and twenty dollars.

In testimony whereof, we have hereunto affixed our names. Baltimore, September 29, 1815.

THORNDICK CHASE,
JOHN SNYDER,
JAMES CORDERY.

BALTIMORE COUNTY, *to wit:*

On the 29th day of September, 1815, before me, the subscriber, a justice of the peace in and for said county, came the within-mentioned Thorndick Chase, John Snyder, and James Cordery, and made oath on the Holy Evangelists of Almighty God that they have assessed the damages of the within-named vessels to the best of their skill and judgment.

Sworn before

NATHL. KNIGHT.

I do certify that the vessels mentioned in the foregoing report, signed by Thorndick Chase, John Snyder, and James Cordery, were sunk by my order, under the direction and superintendence of Commodore John Rodgers, for the purpose of preventing the enemy from entering the harbor of Baltimore, in September, 1814.

S. SMITH, *Late Maj. Gen. commanding.*

We, the subscribers, do hereby certify that, in making the survey of the several vessels that were sunk for the defence of the harbor of Baltimore, under the direction of Colonel Paul Bentalou, quartermaster general, we were not required, nor did we take into view or allow any compensation, by way of demurrage, for the time those vessels were detained from their owners on account of their having been sunk.

Given under our hands this 24th day of January, 1817.

THORNDICK CHASE,
JOHN SNYDER,
JAMES CORDERY.

UNITED STATES OF AMERICA, *State of Maryland, to wit:*

I, Samuel Farnandis, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the 22d day of June, in the year of our Lord 1821, before me personally appeared Thorndick Chase and John Snyder, persons whose names are subscribed to the foregoing certificate or instrument of writing, and severally acknowledged the signatures to be their *bona fide* and proper handwriting, and by them subscribed thereto for the purposes mentioned in the said instrument of writing; at the same time the said Thorndick Chase and John Snyder declare and say to me, notary, that James Cordery, whose name is also subscribed to said certificate, died some time in the year 1820.

In testimony whereof, I, the said notary, have hereunto subscribed my name and affixed my notarial seal, [L. s.] the day and year aforesaid.

SAMUEL FARNANDIS, *Notary Public.*

We, the subscribers, do hereby certify, in addition to the facts set forth in our several certificates, bearing date the 24th of January, 1817, the 23d of February, 1820, and the 8th of March, 1820, that we had no written instructions from Colonel Bentalou; that we were not appointed under oath; and that the Secretary of War's instructions to Colonel Bentalou were not exhibited to us by him, nor did we ever see the same.

Given under our hands, this 16th day of November, 1821, at the city of Baltimore.

THORNDICK CHASE,
JOHN SNYDER.

UNITED STATES OF AMERICA, *State of Maryland*, ss:

I, Samuel Farnandis, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the day of the date hereof, personally appeared before me the above-named Thorndick Chase and John Snyder, and acknowledged the above to be their respective signatures, and subscribed thereto by them for the purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal, this 17th day of December, [L. s.] in the year 1821.

SAMUEL FARNANDIS, *Notary Public*.

SIR:

CAPITOL, *January 7, 1822.*

Since I had the honor of submitting to you some observations in the case of the vessels sunk for the defence of the city of Baltimore, other vouchers have been referred to your committee, which serve further to elucidate the subject. The letter from Edward Johnson, chairman of the Committee of Vigilance, shows that a formal application was made to him by the commanding general for vessels; that they were sunk by an officer of the navy of the United States. That they were essential is evident from a letter from the captain of the fleet to Admiral Cockburn, left by him in his quarters near Baltimore, and among my papers in that city. He says: "We cannot pass the fort, because I find the enemy have sunk hulks between the fort and Gorsuch's Point, so that the channel is completely closed; nor do we make much impression on the fort." Indeed, I always considered the sinking of those vessels as an important part of our defence. The certificates of the appraisers show that the appraisers were not on oath, and never saw the orders of the Secretary of War; that they received no specific direction from Colonel Bentalou, the quartermaster general; that they only placed a valuation for the injury done above the water, and allowed nothing for deterioration or for injury done below the water; that the owners were not parties to the appraisement, were asked no questions, and, of course, they were wholly uninformed as to the articles on board when sunk, and were made no allowance for any such; that they took for granted that the vessels suffered no injury from being under water, in which they were greatly mistaken, in most of the cases, but particularly in two ships: the one owned by John Donnel; she was prepared and had her ballast in for a voyage to India; she was under water until June or July, and was so much injured that he sold her for four or five thousand dollars; I think she was worth thirty thousand: the other ship belonged to Robert Barry, was worth ten or twelve thousand dollars, and was rendered wholly unfit to proceed to sea, and never did. She was totally lost to her owner. Complete justice cannot now be done to the owners; but as far as can be ought to be done, and I must believe will be done, by the report of the committee. I take the liberty to enclose the draught of a bill that would be satisfactory, and pray you to submit it to the consideration of the committee over which you preside, and have the honor to be your obedient servant,

S. SMITH.

HON. LEWIS WILLIAMS, *Chairman Committee of Claims.*

SIR:

BALTIMORE, *December 17, 1821.*

I have just been informed that the owners of the vessels that were sunk at the entrance of this harbor in the month of September, 1814, are without a settlement with the United States for the injuries they sustained from the application of their property to the public use.

As the presiding officer in this city at the period alluded to, the transactions incident to its defence came under my notice, and I deem it my duty, as an act of justice, to comply with the wishes of the owners of the sunken ships, to make this communication to you, as the proper organ of the General Government. The United States officer then commanding at this post having made a requisition on this city (at the instance of Commodore Rodgers) for a sufficient number of vessels to obstruct the channel-way near Fort McHenry, in order to prevent the enemy's ships' passage into the harbor, the local authorities, with great confidence in its prospect of efficient defence, readily met the requisition, and authorized the commodore to take possession of and sink any vessels he could most readily obtain. The moment had arrived when this important post was at its utmost peril, and our most skilful officers had their attention and anxiety fixed on this entrance, not only as the least prepared for defence, but as the very course through which the enemy calculated on passing with his naval forces. The emergency was limited to a moment; but, by the unequalled exertions of that intelligent officer, Commodore Rodgers, that moment sufficed to provide a barrier of about twenty-five vessels of all descriptions.

The bombs from the enemy's ships were thrown over Fort McHenry before all the vessels were sunk; it was therefore not possible either to select vessels destined to be sunk, or to remove from those indiscriminately taken even the most valuable articles. It was then seen that these vessels would be materially deteriorated, and their materials and articles on board lost and destroyed; but the exigency and procedure admitted of no delay. The local authorities were, however, satisfied that the justice and equity of a fair and full compensation being made to their owners would be recommended to the nation, as well by the high sanction of the procedure by the public functionaries, as by the united opinion of the citizens and the official acknowledgment of the enemy's commander. The vessels remained sunk a considerable time after the war terminated, which subjected their owners to great loss in being deprived of their services at a period particularly advantageous for commercial pursuits.

It can hardly be necessary for me now to state that the sinking of the vessels chiefly, if not entirely, saved the city from destruction. The application was highly judicious, and made at a period when some or all their owners were in contact with the enemy's troops at North Point. Many of the owners are to me personally known as men of respectability in wealth, influence, and public zeal; and I do most earnestly recommend their case to the consideration of the Government.

EDWARD JOHNSON.

HON. JOHN C. CALHOUN, *Secretary of War.*

Having read with attention the foregoing, and having a knowledge of a number of the facts detailed therein, and also the great and essential defence afforded to this city by the measures recommended by Commodore Rodgers relative to the sinking of the vessels, I cheerfully subscribe to the contents of the foregoing statement.

JOHN MONTGOMERY,
Mayor of the city of Baltimore.

[Added to show the nature of the "general deterioration."]

STATE OF OHIO, *Cincinnati, to wit:*

Be it remembered that, on this thirty-first day of October, in the year of our Lord one thousand eight hundred and twenty-one, before me, Griffin Yeatman, notary public for the State of Ohio, residing in the city of Cincinnati, personally appeared Joseph H. Cromwell, late master of the brig Sally, late the property of James H. Causten, of the city of Baltimore, State of Maryland, who, being by me duly sworn according to law, did depose and say: That deponent took charge as master of said brig Sally immediately after she was raised from the channel-way near Fort McHenry, in May, 1815, where she had been sunk in the month of September preceding; that she was at that time in a most offensive condition, being literally loaded with mud, much broken and damaged, and her rigging, cables, and other articles buried in the mud, those in her hold and cabin several feet deep; that said articles, on inspection, appeared to have been in a good state of preservation when placed in her hold and cabin, but when taken out were found to be nearly destroyed, in consequence of exposure for eight months (through a rigorous winter) to the wet and mud; that some parts of said rigging, to all appearance least injured, were refitted to her, but in every instance they failed to be serviceable, as they broke from being rotten, when dried, and had to be replaced with others out of the cargo on board upon the first outward voyage; that the great weight of materials and mud in her when raised caused her to be much strained and weakened in the raising, and she was placed in this deponent's charge in a very shattered condition; that deponent attended to her repairs, and inspected her with much care, as he intended making a voyage in her as master; that deponent always feared that she was more injured than was visible, particularly in her fastenings, upon the principle that a vessel sunk so long, without previous preparation, must swell and injure in all her parts; but, from the close examination and attention to her repairs, as before stated, he did consider her when fitted for sea to be a staunch vessel; that, in the month of July following, she sailed for South America, in charge of deponent; that upon the voyage deponent found that the vessel, from the straining and swelling before stated, was weak in her fastenings and other parts, which constrained deponent many times to avoid carrying sail when it would have been safe and proper to have done so but for said weakness, which caused the voyage to be tedious and protracted beyond the usual length of time; that, upon the return of said vessel to Baltimore, deponent often examined her with a view to discover said weakness, and found it to be general to all her visible parts, and has every reason to believe that it extended to all other parts; the wood had shrunk, when dried, from the chain bolts and other fastenings, so as to leave large holes which admitted much water to the cargo; and the treenails in her upper works had shrunk so, that deponent pushed many of them through into the hold with the strength of a single finger; that deponent was urged to make a second voyage in said vessel to South America, with a view to sell her, which he undertook, and sailed in May, 1816; that he stopped at the Cape de Verd islands, and took on board a cargo of salt, which he sold, with the vessel, (then in a leaky condition,) at the port of San Salvador, Brazil, for seven thousand one hundred and thirty-three dollars, of which sum one thousand dollars was considered the value of the cargo, and the residue for account of the vessel; that, at the time of said sale, said vessel was to all appearance a sound staunch vessel, but was in reality not so, because of her being strained and weakened as before stated, which was so general throughout her frame and most hidden parts, that it was not possible to remedy by repairs; that after said sale deponent was offered the command of said vessel back to Baltimore, where deponent resided, and where it was his intention to go, but he declined said offer because of the weak and unsafe state of said vessel; that deponent left said brig in said port of San Salvador, and, at considerable expense, trouble, and loss of time, took passage for and arrived at Martha's Vineyard, and from thence to Baltimore.

And I, said notary, do further make known that the above-named deponent is to me well known to be a man of good character, whose oath is entitled to full faith and credit.

[L. s.] In witness whereof, I have hereunto signed my name, and affixed my notarial seal, day and year as above written.

GRIFFIN YEATMAN, *Notary Public.*

[Added to show the nature of the general deterioration and irreparable damage.]

UNITED STATES OF AMERICA, *State of Maryland, to wit:*

I, Samuel Farnandis, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the day of the date hereof, before me personally appeared Joseph Turner, who, being duly sworn on the Holy Evangelists of Almighty God, doth depose and say: That he was employed by James H. Causten as master carpenter to repair the brig Sally in May, 1815, immediately after she was raised from the channel-way near Fort McHenry, where she had been sunk in the month of September preceding; and that it was found necessary for that purpose to remove all the bulkheads, cabin, and a considerable part of the ceiling, to get out the mud and dirt, which afforded this deponent an opportunity of ascertaining the injury sustained in her hull in consequence of being sunk as aforesaid, (said deponent having put said vessel in order just before she was sunk.) And this deponent, upon his oath, declares that he estimated the injury sustained in the hull of said vessel, in consequence of being sunk, as aforesaid, at at least one thousand dollars over and above the injury for articles lost from, or damage on board, such as fixtures, spars, and other items of carpenter's or joiner's work.

[L. s.] In testimony whereof, the said deponent has hereunto subscribed his name, and I, the said notary, have hereunto set my hand and affixed my notarial seal, the fourteenth day of January, eighteen hundred and nineteen.

JOSEPH TURNER.
SAMUEL FARNANDIS, *Notary Public.*

UNITED STATES OF AMERICA, *State of Maryland, to wit:*

I, Samuel Farnandis, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the day of the date hereof, before me personally appeared William Edwards, who, being by

me duly sworn on the Holy Evangelists of Almighty God, doth depose and say: That he was employed by James H. Causten, in the month of May, 1815, as master ship-joiner to repair the brig Sally's joiner's work, immediately after she was raised from the channel-way near Fort McHenry, (where she had been sunk in the month of September preceding,) and that, in the performance of said work, (having put the said vessel in order just before she was sunk,) he witnessed the injury in her hull, in consequence of being so long under water, and verily believes it to be over one thousand dollars, exclusive of articles lost from or damaged, such as fixtures, spars, rigging, and other articles on board.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said notary, have [L. s.] hereunto set my hand and affixed my notarial seal, the nineteenth day of January, in the year of our Lord eighteen hundred and nineteen.

WILLIAM EDWARDS.
SAMUEL FARNANDIS, *Notary Public.*

[Adduced to account for James Cordery's signature not appearing on all the surveyors' certificates.]

STATE OF MARYLAND, *Baltimore County, ss:*

I hereby certify that, on the twenty-third day of November, in the year of our Lord one thousand eight hundred and nineteen, on the petition of Henry Cordery, of the city of Baltimore, to the judges of Baltimore county court, stating that James Cordery, of the said city of Baltimore, shipwright, the brother of the said Henry Cordery, then was, and had been for many months previous, so far deprived of his reason and understanding that he is rendered altogether unfit and unable to govern himself or to manage his affairs, the said court did order and direct a writ *de lunatico inquirendum* for the said James Cordery; which writ accordingly issued, directed to the sheriff of Baltimore county, commanding him, by the oaths of good and lawful men of his bailiwick, to inquire into the truth of the premises: and that afterwards, to wit, on the first day of December, in the year aforesaid, the said sheriff, to wit, John Stevenson, Esq., made return to the said county court, that, by virtue of the said writ to him directed, he had summoned James Biays, jun., William P. Barney, John Snyder, Sheppard C. Leakin, James B. Stansbury, David Burke, James Forbes, Isaac Atkinson, George Hall, Levin Hall, Baptist Mezick, Peter Galt, Nathaniel Knight, Frederick Schaffer, Nicholas Brewer, John G. Chappell, Matthew Bennett, Jonathan Harrison, William Inloes, Thomas Sheppard, and Nicholas Stansbury, good, honest, and lawful men of the said county, who, being charged upon their oaths, say that the said John Cordery is a lunatic and of unsound mind, and doth enjoy lucid intervals; and that, by reason of his so being a lunatic and of unsound mind, he is incapable of the government of himself or the management of his affairs, and that he hath been in the same state of lunacy for the space of six months [then] last past and upwards; but how or by what means the said James Cordery so became lunatic the jurors aforesaid know not, unless by the visitation of God: and I further certify that, afterwards, to wit, on the seventh day of January, in the year of our Lord eighteen hundred and twenty, the said court appointed Joseph Zane and Maria Cordery trustees of the person and estate of the said James Cordery.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the court aforesaid, this [L. s.] twenty-fifth day of February, in the year of our Lord one thousand eight hundred and twenty.

WM. GIBSON, *Clerk Baltimore County Court.*

Insurance Companies' Certificates.

[Adduced to show the "general deterioration."]

OFFICE OF THE BALTIMORE INSURANCE COMPANY, *October 20, 1821.*

The president and directors of the Baltimore Insurance Company, having been requested by the owners of the vessels sunk in Patapsco river for the purpose of obstructing the passage of the enemy's ships in September, 1814, to express their opinion of the deterioration the said vessels had undergone by the immersion, can only state, generally, that some of them when raised were deemed irreparable; that those that were fitted for foreign voyages required extensive and costly repairs, and were afterwards considered inferior to what they would have been had they not been sunk; and that, in most instances, a higher premium of insurance was demanded on them, owing to the prevailing opinion that the injury they had sustained could not be adequately repaired.

In behalf of the president and directors of the Baltimore Insurance Company,

D. WINCHESTER, *President.*

OCTOBER 22, 1821.

The directors of the Maryland Insurance Company, approving the above, have instructed me to sign the same.

JOHN HOLLINS, *President.*

OFFICE OF THE CHESAPEAKE INSURANCE COMPANY, *October 22, 1821.*

The Chesapeake Insurance Company agree in the foregoing opinion of the Baltimore Insurance Company.

A. J. SCHWARTZE, *President.*

OFFICE OF THE UNIVERSAL INSURANCE COMPANY, *October 27, 1821.*

The president and directors of the Universal Insurance Company assent to the opinions expressed in the foregoing by the Baltimore Insurance Company.

THOMAS PARKER,
President of the Universal Insurance Company.

The president and directors of the Patapsco Insurance Company agree with the Baltimore Insurance Company in the opinion stated above.

CHRISTIAN MAYER,
President of the Patapsco Insurance Company.

The Union Insurance Company concur in opinion with the Baltimore and other insurance companies on the above subject.

SAMUEL STERETT, *President.*

The Marine Insurance Company concur in opinion with the other insurance companies on the above subject.

ROBERT GILMOR, *President.*

Certificate of Surveyors.

[Added to show that the owners were not represented, and the impossibility of making a full survey.]

We, the subscribers, do hereby certify that, in the month of March, 1815, we were appointed by Colonel Paul Bentalou, quartermaster general of this district, to make an estimate of the articles lost from and injured on board a number of vessels that had been sunk near Fort McHenry, in September, 1814, for the defence of that fort and of the city of Baltimore; that we did examine said vessels, and thereupon estimate the aggregate damage, as aforesaid, at \$15,188 50, as by report thereof made by us to said Bentalou will more fully appear.

We do further certify that, in said estimate, we confined our report to the articles lost, and the specified damage to the articles enumerated in said report; and that, from the nature of the subject, it was impracticable to make an accurate estimate of the articles lost, as, in many cases, the information was unsatisfactory. An inventory of the articles on board when sunk was furnished in only a single instance, the vessels having been taken from the wharves and sunk without any previous notice.

We also certify that the owners of the sunken vessels were not represented in the survey.

Given under our hands, the 8th day of March, 1820.

THORNDICK CHASE,
JOHN SNYDER.

UNITED STATES OF AMERICA, *State of Maryland, to wit:*

I, Samuel Farnandis, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the 22d day of June, in the year of our Lord 1821, before me personally appeared Thordick Chase and John Snyder, persons whose names are subscribed to the foregoing certificate or instrument of writing, and severally acknowledged the signatures to be their *bona fide* and proper handwriting, and by them subscribed thereto for the purposes mentioned in said instrument of writing.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal notarial, the day [L. s.] and year aforesaid.

SAMUEL FARNANDIS, *Notary Public.*

16th CONGRESS.]

No. 536.

[2d SESSION.

LOSSES SUSTAINED DURING THE INVASION OF LOUISIANA BY THE BRITISH IN 1814-'15.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Rosalie P. Deslonde, reported:

That the petitioner alleges she was possessed of a plantation, with sundry buildings and other improvements thereon, situated below New Orleans, and that, during the invasion by the enemy in December, 1814, and subsequently, her dwelling-house was occupied as quarters for some of the officers, and a hospital for the sick and wounded, and, while so occupied, her house, out-houses, fences, &c. were damaged or destroyed, as set forth in the following schedule, viz:

| | | | | |
|--|---|---|---|-------------------|
| 28 arpents of four and five rail fence destroyed and burnt, | - | - | - | \$343 00 |
| 210 feet close garden fence, | - | - | - | 254 00 |
| 5 negro houses, | - | - | - | 400 00 |
| 1 kitchen, framed on sills, weather boarded, shingle roof, two rooms and double chimney, | - | - | - | 400 00 |
| 1 coach-house, two rooms, | - | - | - | 120 00 |
| Damage done to the mansion-house while occupied as a hospital, from the 23d December, | - | - | - | 500 00 |
| for the sick and wounded, | - | - | - | 60 00 |
| 1 large gate, | - | - | - | 150 00 |
| An out-house greatly damaged, | - | - | - | |
| Amounting, in the whole, to | - | - | - | <u>\$2,227 00</u> |

To the foregoing a claim is subjoined for hay, corn, beans, tables, sheep, cows and calves, pickets piled in the yard, "destruction of a garden in full crop," and three months' rent of the house. These latter items are estimated at the sum of \$802. The damages to the real estate appear to have been assessed, in the first instance, by commissioners under an order from General Jackson, and at the sum stated in the schedule, and established subsequently by testimony taken under a commission from the late Commissioner of Claims. Should compensation be made for any part of the alleged injuries, it is believed it should be confined to the real estate, respecting which the proof is probably as satisfactory as it is practicable to obtain; but, in regard to the personal effects, there is none but the statement of the petitioner. Were there any rules established, or were it practicable to establish any, which could be applied with exactness to the various claims presented for allowance, particularly such as are connected with the events of the late war, the committee, as well as the House, would certainly be relieved from much perplexity; but they are of such a variety of character, and accompanied by such a variety of circumstances, that, with many, their rejection or allowance is made to depend upon the exercise of discretion rather than the application of any rule.

At the present, as well as at former sessions of Congress, the committee have bestowed upon the claims from the vicinity of New Orleans the most deliberate and careful attention, but have found it altogether impracticable to come to any satisfactory conclusion respecting them. There is, probably, no provision of the constitution which ought to be regarded more sacred than that which forbids the taking of "private property for public use without

just compensation;" and it is believed there are none which will be found more difficult in their just application, particularly when applied to the occurrences of war, such as happened near New Orleans, where there was a sudden invasion by the enemy at an unexpected point, and the retreat of the inhabitants, equally sudden, the concentration of a large military force, mostly militia, and all without any previous preparation either of barracks or fuel, and at an inclement season. Under these circumstances, the property of the citizens seems to have fallen almost an indiscriminate sacrifice, not from the will of the Government or its officers, but from circumstances over which neither had any control; and, consequently, could not have been avoided but by yielding it up to a still greater sacrifice by the enemy. The taking of "private property for public use" would seem to imply a voluntary act on the part of the Government, which, in the present case, could hardly be alleged, particularly as it respects a large portion of it.

There have been thousands of instances during the late war (the like of which will probably occur in case of future wars) where, although the property of the citizens cannot be said to have been taken for public use, no advantage having been derived from it, yet the loss to the owners can be traced, directly or indirectly, to the acts of the Government; and nothing, it is believed, can be more difficult than to distinguish satisfactorily between such losses as ought to be sustained by the Government and such as cannot. Were it practicable, through the operations of the Treasury, to distribute equally among the citizens the losses incident to a state of war or other national calamity, it would certainly be an object worthy of the earnest pursuit of the Government. But, in this pursuit, there would be insurmountable difficulties. Human wisdom is utterly incompetent to the adoption of any measures by which the true amount of such losses could be ascertained; and the taxes, upon which the Government must rely for the means to satisfy the claims of those who might be sufferers, could never be made to fall equally upon those who pay them; so that, while an equality would be unsuccessfully attempted on the one hand, an inequality would be produced on the other; and, after the utmost of which the Government is capable shall have been accomplished, and that, too, at the expense of a ruinous waste of time in collecting testimony and adjusting claims, and in collecting and distributing the necessary funds, but little advance will have been made in the desirable work; while a lamentable scene of speculation and fraud will have been encouraged, and a large portion of the industry of the country paralyzed.

That policy, then, which shall direct the application of the revenues to the best defence of the country, hold out to the citizens but few inducements to look to the treasury for relief, by confining allowances within narrow and well-defined limits, which shall leave the equalization of their burdens to their own discretion, without any prospects from the Government other than the best protection in its power to afford, and remuneration for services actually rendered, or for property directly applied to public use, will, in the opinion of the committee, contribute most, by far, to the prosperity and happiness of the country.

Among the objections which suggest themselves against allowing the claim under consideration, and others of a similar character, the impracticability of ascertaining the amount of injury, if any, for which the Government ought to remunerate is by no means the least. Admitting the house to have been used as quarters for the officers and a hospital even for the term of three months, (which is not in proof,) it is difficult to perceive how injury should have been done to the amount of five hundred dollars, and of more than seventeen hundred to the out-houses and fences, unless it shall have resulted from a useless, wanton waste, for which individuals, and not the Government, should be held responsible.

Notwithstanding there are no *known rules* or established usage of the Government which would seem to authorize an allowance in a case thus involved in obscurity, the committee are nevertheless of opinion that, in a case of such extreme apparent hardship as the one under consideration, and several others in the vicinity of New Orleans, it would best comport with the dictates of sound policy that, in the exercise of the *discretion* of Congress, *some* relief should be granted; and, for that purpose, a bill is herewith reported to authorize a payment to the petitioner to the amount of the injury alleged to have been done to the real estate.

16th CONGRESS.]

No. 537.

[2d SESSION.

CATTLE ILLEGALLY SEIZED AND SOLD.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 15TH DECEMBER, 1820.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of John McCartney, of the State of Alabama, reported:

That the petitioner represents that, in the year 1817, he resided in Madison county, of the then Territory of Alabama; that his cattle would frequently, and unavoidably, run off to range upon the Indian lands; that, during this time, Lieutenant Houston, of the army of the United States, was ordered to remove intruders from the Indian lands, and to take all their stock; that, under this order, he forcibly took and carried from the lands aforesaid eighteen head of the petitioner's cattle, whereby he has sustained considerable loss, and for which he asks Congress to make him compensation.

It appears, by information the committee have received from the War Department, that General Jackson, at the time aforesaid, was ordered to cause to be removed, by military force, all persons who should be found upon the Indian lands, and to destroy their houses and improvements. In executing this order, General Jackson gave directions to Lieutenant Houston to destroy not only their houses and improvements, but also to seize their stock, and deliver it over into the hands of the marshal. Pursuant to order, Lieutenant Houston delivered to the agent of John Childers, marshal for the district of West Tennessee, fifty-one head of cattle and one horse creature, which were advertised and sold according to the laws and customs of that State. Other cattle, besides these, were subsequently taken, but the marshal refused to receive them. There is no evidence in the Treasury Department that any money arising from the sale has been paid to the United States.

Such were the proceedings under the order from the War Department to remove intruders from the Indian lands; the order extended only to the destruction of their houses and improvements, not to the confiscation of their

property. The committee are of opinion that, if General Jackson exceeded the order, when he caused to be seized and delivered over to the civil authority the stock which belonged to intruders, he would, according to the laws and usages of Government, be personally and individually responsible for any invasion of private rights committed without authority. The following resolution is therefore submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

TREASURY DEPARTMENT, *December 11, 1820.*

Enclosed you will receive the petition of John McCartney, and the papers which were transmitted with it. It does not appear that any payment has been made to the Treasury of the United States on account of the money arising from the sale of cattle or other property of those who have intruded upon the public lands or Indian hunting grounds.

There is no evidence in the possession of this Department which has any relation to the case of the petitioner.

I remain, your most obedient servant,

WM. H. CRAWFORD.

Honorable LEWIS WILLIAMS,
Chairman of the Committee of Claims.

16th CONGRESS.]

No. 538.

[2d SESSION.]

LOSS OF PROPERTY AT VALLEY FORGE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 20TH DECEMBER, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 14th of December, 1820, was referred the petition of Sarah Dewees, of Chester county, Pennsylvania, and others, heirs of the late William Dewees, have had the same under consideration, and report thereon:

The petitioners state that, at the commencement of the revolutionary war, the said William Dewees was the proprietor of the estate known by the name of the Valley Forge, in Chester county, Pennsylvania; that, in September, 1777, after the British army had landed at the head of Elk river, and were on their march to Philadelphia, General Mifflin, then quartermaster general, ordered the greater part of the provisions and military stores belonging to the main army to be deposited in the houses of the petitioners, contrary to the consent of the then proprietor, and that the loss of the battle of Brandywine produced the entire destruction of the property above mentioned by the enemy a few days after that event; that, in the winter of 1777 and 1778, General Washington established his head-quarters at the Valley Forge, and remained there for more than six months, by which (as the petitioners state) the whole of the timber belonging to the estate was also totally destroyed; that, in June, 1783, an appraisement was, on oath, made of the property destroyed by the enemy at the sum of 3,404*l.* 3*s.* 4*d.* equal to \$3,678 33, and the wood destroyed at 300*l.* or \$800, and that these accounts were submitted to the Board of Treasury about the year 1784 or 1785.

The petitioners, in their said petition, enumerate and state various applications to Congress for indemnification on account of said losses previous to the session of Congress in the year 1818, at which session they state that Congress granted to them \$8,000.

The petitioners state that they now again approach your honorable body under a firm and sincere belief that if Congress will review this case they will not themselves be of opinion that all has been done which justice, honor, and magnanimity might seem to require.

The petitioners state that they are aware of the terms of the act under which the above-mentioned relief was granted, but that they feel equally confident that Congress will never suffer themselves to be restrained by any phraseology, however clear, if it should militate against their justice.

The committee, in the examination of the case of the petitioners, have had recourse to the act of Congress alluded to in the petition of the said petitioners, and observe that, on the 11th day of April, in the year 1818, was approved an act of Congress entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees," as follows:

"Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be paid to Sarah Dewees, relict of Colonel William Dewees, and the heirs and legal representatives of the said Colonel William Dewees, deceased, the sum of eight thousand dollars in full of all claims the estate of the said deceased may have against the United States for the loss of property owing to its being taken for public use, and that the said sum be paid out of any money in the treasury not otherwise appropriated."

The said sum of money the petitioners are presumed to have received, and they did receive it with complete knowledge of the terms of the said act of Congress, and did receive it in full of all claims the estate of the said deceased had against the United States for the loss of property as in said act mentioned. The committee, in the examination of this claim set up by the petitioners against the United States, have had recourse to the journals of the Congress of the Revolution, and observe that, on the 3d of June, 1784, Congress, on report of a committee, resolved, "That, according to the laws and usages of nations, a State is not obliged to make compensation for damages done to its citizens by an enemy, or wantonly and unauthorized by its own officers; yet humanity requires that some relief should be granted to persons who by such losses are reduced to indigence and want; and as the circumstances of such sufferers are best known to the States to which they belong, it is the opinion of the committee that it be referred to the several States (at their own expense) to grant such relief to their citizens who have been

injured as aforesaid as they may think requisite; and, if it shall hereafter appear reasonable that the United States should make any allowance to any particular States who may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States;" and at the same time Congress resolved "That such compensation as the commissioner may think reasonable be made for wood, forage, or other property of individuals taken by order of any proper officer, or applied to or used for the benefit of the army of the United States, upon producing to him satisfactory evidence thereof by the testimony of one or more disinterested witnesses."

This committee further report that the late William Dewees could, in pursuance of said resolution, have applied to the State of Pennsylvania (in which State he lived) for indemnification for damages alleged to have been sustained by destruction of his property by the enemy, where and at a time when these matters were more fully known, together with all attending circumstances; it appearing that he lived many years after the destruction of said property, as alleged, by the enemy; that, if he did not, in pursuance of said resolution, apply to the State of Pennsylvania for compensation for said alleged damages, it was in his own wrong, by his own neglect; and that, therefore, his representatives can have no just claim against the United States.

The petitioners state that General Washington, in the winter of 1777 and 1778, established his winter quarters at the Valley Forge, and remained there for more than six months, by which the whole of the timber belonging to the estate was also totally destroyed. On this subject the committee believe that William Dewees ought, if he did not, to have, in pursuance of the resolution alluded to, applied to the commissioner mentioned in that resolution for compensation for the alleged destruction of timber on his estate, who was empowered to make reasonable compensation for the same, on evidence satisfactory to him; that, if William Dewees did not take the benefit of the provision of that resolution, it was his own neglect; and, therefore, his representatives cannot have any just claim for the same against the United States.

By the resolutions alluded to, it appears that Congress directed application to be made to the States, respectively, for compensation for damages done by the enemy to the property of individuals in the time of the revolutionary war, and that application was to be made to the commissioner for compensation for wood, forage, or other property of individuals, taken by order of any proper officer, or applied to or used for the benefit of the United States. The petitioners allege that William Dewees, in his lifetime, and they since his decease, have been at great expense and trouble in prosecuting said claim against the United States; but William Dewees, in his lifetime, might have applied to the State of Pennsylvania for compensation for damages done by the enemy, and to the commissioner for compensation for timber alleged to have been destroyed. The petitioners have received eight thousand dollars in full of all claims the estate of William Dewees, deceased, may have against the United States for the loss of property, owing to its being taken for public use. On a full view and consideration of this case of the petitioners, the committee are of opinion that the petitioners have not any just claim against the United States; and therefore submit the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

MARCH 14, 1817.

We, the subscribers, being inhabitants of Chester county, in the State of Pennsylvania, being called upon by the widow and heirs of Colonel William Dewees, deceased, do certify and declare as follows: That we have been inhabitants and residents of that part of the county situate from three to five miles of the Valley Forge, in the said county, for the period of more than forty years; that we are, and always have been, well acquainted with the said estate, owned at the time of its destruction by the British army by the said William Dewees; that we have already certified our opinion of the appraisal formerly made by Benjamin Bartholomew and John Pawling, esquires, now deceased, of the value of the property destroyed by the enemy in the year 1777, and amounting to the sum of £3,404 3s. 4d.; the original papers and vouchers relative to this claim having, as we understand and have been informed, been destroyed in the conflagration of the Capitol, in the year 1814. We do further certify, for the causes aforesaid, that, on the arrival of General Washington at the Valley Forge, in the year aforesaid, he encamped on the land of the said Dewees, as well as on the lands of others, a considerable proportion of which was in wood; that the American army cut down the same, and used it for the purpose of building huts, for fuel, &c.; that the quantity of land, being in wood and belonging to the said William Dewees, amounted to about one hundred and fifty acres; and that the value of the timber at the time of its destruction was worth the sum of forty shillings per acre, or thereabouts.

JOHN DAVIS,
WILLIAM DAVIS.

16th CONGRESS.]

No. 539.

[2d Session.

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 20, 1820.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred the memorial of Jane Baker, have had the same under their consideration, and report thereon:

The memorialist states that she is the widow of the late Thomas Baker, formerly a post captain in the navy of the United States; that the said Captain Baker served his country during the whole period of the war of the Revolution as an officer on board of various vessels of war; that, in the discharge of his duties, and while commanding the Delaware sloop of war, it was his misfortune to sustain an injury in his constitution, which ever after rendered him incapable of further service. The memorialist further states that her late husband received a pension from the Government at the rate of \$450 per annum during life, and that she is now left, at an advanced period of life, with

one child to rear, in a state of penury and distress; and she humbly submits to Congress the propriety of continuing to her and to her child the same indulgence which they have been pleased heretofore to grant during the lifetime of her said husband.

The committee beg leave further to report that although they fully appreciate the important services rendered to the country by Captain Baker, as well as many other revolutionary officers, yet they think it would be highly inexpedient to provide pensions for the families of officers other than those provided for by law. The committee think that the Government has already gone quite far enough in providing pensions for the officers and soldiers of the revolutionary army and navy, and therefore recommend the following resolution:

Resolved, That the prayer of the memorialist ought not to be granted.

16th CONGRESS.]

No. 540.

[2d SESSION.]

LOSS OF A BOAT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 22, 1820.

Mr. RICH, from the Committee of Claims, to whom was referred the petition of Eber Hubbard, reported:

That the claimant alleges his boat, of the value of from \$650 to \$800, was, in the month of September, 1812, employed by one Jabez Foster, a contractor's agent, to transport a cargo of provisions from Sackett's Harbor to Ogdensburg, and that, on her return from the latter place, she was captured by the enemy. He rests his claim against the United States upon the alleged ground that the contractor was guaranteed by the Government against capture, and that, in his contract with the agent, it was stipulated that, in case of the capture of his boat, he should have the benefit of the contractor's guaranty from the Government. Admitting there was, between the Government and the contractor, a stipulation of which the latter might avail himself in case his means of transportation had been taken by the enemy, it is not perceived by what process that stipulation has been converted into even an implied contract between the Government and the present claimant. The following resolution is therefore submitted:

Resolved, That the claim of Eber Hubbard ought not to be granted.

16th CONGRESS.]

No. 541.

[2d SESSION.]

PROPERTY DESTROYED BY THE BRITISH ON THE RAPPAHANNOCK.

COMMUNICATED TO THE SENATE, DECEMBER 29, 1820.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Joseph Janney, submitted the following report:

The petitioner's claim is for the value of certain buildings and the contents thereof, estimated by him at \$7,655 75, destroyed by the enemy in the late war, at a place called Bowler's, on the Rappahannock river. On the 4th of December, 1814, the petitioner was stationed at the before-mentioned place, with his company of militia, in pursuance of an order of Lieutenant Colonel Ritchie, issued a few days before. In descending the river, the enemy landed and obliged him to retire, and immediately set fire to the petitioner's property. In the time the militia were stationed at Bowler's, some of the buildings were occupied by them: on this ground, the petitioner brought his case before the Commissioner of Claims, and three several commissions appear to have been issued to take evidence. This evidence, in the opinion of the committee, is insufficient to prove the property was either in proper military occupancy, or that the destruction proceeded from any such opinion being held by the enemy. It rather appears to have been destroyed in conformity with the order given previously to the time of this occurrence, by the commander of the enemy's naval forces, to devastate all assailable places. This claim is of a similar character with those of Phineas Meigs, of Connecticut, Richard Frisby, of Maryland, and sundry others, which have been decided by the Senate to be not allowable. The following resolution is submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 542.

[2d SESSION.

BOUNTY ON SLAVES CAPTURED BY THE PRIVATEER MIDAS.

COMMUNICATED TO THE SENATE, JANUARY 8, 1821.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of John Gooding and James Williams, submitted the following report:

The petitioners state that, in the year 1814, they were owners of the private armed schooner *Midas*, commanded by Captain Thompson; that, during said year, the *Midas* captured the British privateer *Dash*, and carried her and her crew into Savannah, in Georgia, and delivered the said crew to the marshal of the district, who gave a receipt for the same as prisoners of war; that nineteen of said prisoners were freemen, and twenty-two of them slaves; that, by virtue of the act of Congress passed the 19th of March, 1814, (chapter 86,) entitled "An act in addition to an act entitled An act allowing a bounty to the owners, officers, and crews of the private armed vessels of the United States," the petitioners supposed they were entitled to receive the premium of one hundred dollars for each of said prisoners, as well slaves as freemen; but that, by a construction given to the act of Congress by Mr. Rush, then Attorney General of the United States, which the petitioners are advised was an erroneous one, they were prevented from receiving the premium on the said slaves delivered as prisoners of war aforesaid. The petitioners refer to certain documents relating to the said case, and pray that Congress will take it into consideration, and allow them the bounty of one hundred dollars a head for each of the said slaves, who were all *combatants*, and two of them *petty officers*.

Upon an examination of the documents exhibited in support of this application, the committee find that all *combatants* were to be exchanged agreeably to certain principles settled in the cartel for the exchange of prisoners, and that, in the receipt of the marshal for the prisoners taken on board the *Dash*, the said slaves are admitted to be combatants, and two of them petty officers. Application was made by the owners of another privateer to the attorney for the district of Georgia to have certain slaves libelled as prize of war and condemned in the court of admiralty, which was refused, for reasons stated in a letter from said attorney, exhibited among the documents. On application by the petitioners at the Treasury Department for the bounty for the slaves in this case, the subject was referred to Mr. Rush, then Attorney General, for his opinion, who, in his reply, briefly states "that slaves of the enemy, captured and brought into port during the late war, were not objects of the bounty provided by the act." He offers no reasons in support of his opinion. It appears from documents, also exhibited in this case, that the British agents were willing to receive slaves in exchange as prisoners of war, and that the said slaves were finally delivered, by order of our Government, to the person authorized to receive them on the part of the British Government. The committee are of opinion, from all the circumstances of this case, that the petitioners are entitled to the bounty of one hundred dollars a man for each of the said slaves; for which purpose they report a bill.

[NOTE.—For documents, see previous report, No. 468, page 655.]

16th CONGRESS.]

No. 543.

[2d SESSION.

LOSS OF CLOTHING, &c. BY AN OFFICER OF THE ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 8, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Elijah Boardman, a captain in the army of the United States, reported:

That the petitioner states he was of the number who, in the year 1819, received orders from the War Department to march from Plattsburg, on Lake Champlain, to the Council Bluffs, on the Missouri river; and that in passing up the said river, and while he was sick on shore, his boat, then under the command of Captain Livingston, was accidentally sunk, and, with the property on board, entirely lost, among which were his effects, consisting of his "clothing and furniture necessary for his comfort, together with the books of his company, and all his personal property." For this loss, which happened, as he alleges, without any fault or neglect on his part, he solicits relief from the Government. Captain Livingston certifies to the truth of the facts set forth in the petition, and sundry persons in this city are referred to for further proof in the premises. Of these other persons the committee have not inquired, because they have supposed that, taking all for granted which the petitioner states, no legal claim will have been made out; and it is believed to be highly inexpedient to make equitable considerations the ground for an allowance in this or any other similar case. The following resolution is therefore submitted:

Resolved, That the petitioner have leave to withdraw his petition.

16th CONGRESS.]

No. 544.

[2d SESSION.]

ARREARS OF PAY, &c. OF MAJOR GENERAL BARON DE KALB.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 9, 1821.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 4th of December, 1820, the petition of Elie, Baron of Kalb, knight of the royal order of military merit, and Maria Anna Carolina, of Kalb, widow Geymuller, have had the same under consideration, and report thereon:

That, on the 10th of December, 1819, the petition of the said petitioners was referred to the Committee on Pensions and Revolutionary Claims; that, on the 7th of February following, that committee made report thereon. [See No. 517, page 702.]

This petition being again referred to the Committee on Pensions and Revolutionary Claims, the committee have had recourse to the Treasury Department for information relating to the accounts of the Baron de Kalb, and, by a report from that Department, it appears that "the only information on the subject of his accounts during the revolutionary war is to be found in one of the ledgers of the late office of commissioner of army accounts, preserved from the fire which destroyed the public buildings; a copy of his accounts is extracted therefrom and enclosed. There does not appear, as far as the evidence in this office affords information, that any final settlement was made of the accounts of the Baron de Kalb; and, at this period, when the records have so generally been destroyed, it would be impracticable to make one with accuracy." By the account alluded to, it appears that there is a balance standing to the debit of the Baron de Kalb, amounting to \$234,100 $\frac{7}{10}$.

The committee further report that the petitioners appear to claim the payment of any arrears of pay which may be due to their late father. On this subject the committee observe that the large balance appearing on the books of the Treasury, and standing debited in the account of the late Baron de Kalb, goes to preclude the expectation of any arrears of pay being due to the Baron de Kalb.

The petitioners appear to claim five years' pay as being due to their late father, the Baron de Kalb. On this subject the committee observe that, on the 15th of May, 1778, Congress unanimously resolved "That all military officers commissioned by Congress, who now are, or hereafter may be, in the service of the United States, and shall continue therein during the war, and not hold any office of profit under these States, or any of them, shall, after the conclusion of the war, be entitled to receive, annually, for the term of seven years, if they live so long, one-half of the present pay of such officers: *Provided*, That no general officer of the cavalry, artillery, or infantry, shall be entitled to receive more than the one-half part of the pay of a colonel of such corps, respectively: *And provided*, That this resolution shall not extend to any officer in the service of the United States, unless he shall have taken the oath of allegiance to, and shall actually reside within, some one of the United States." The resolution alluded to appears to be expressly intended for those officers only who, being in the service of the United States, did actually reside within some one of the United States, and did continue in the service of the United States during the war; and to the exclusion of all other officers who, although being in the service of the United States, did not actually reside within some one of the United States, or who did not continue in the service of the United States during the war. The Baron de Kalb, in the resolution of Congress of the 14th of October, 1780, is stated to be a brigadier in the armies of France. The family of the Baron de Kalb is believed to have resided, and continued to reside, in France; hence it is inferred that France was the place of his residence, and, therefore, that he is included within the proviso of that resolution. The resolution of Congress of the 15th of May, 1778, contains not any provision for the widows or orphans of officers who had died, or thereafter might die, in the service of the United States. On the 16th of August, 1780, the Baron de Kalb, major general in the service of the United States, in the action near Camden, in South Carolina, leading on the troops of the Maryland and Delaware lines against superior numbers, and gloriously contending on behalf of the rights of mankind, was mortally wounded, and died on the 19th of that month. On the 24th of August, 1780, Congress resolved "That the resolution of the 15th of May, 1778, granting half-pay for seven years to the officers who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service, to commence from the time of such officers' death, and continue for the term of seven years; or, if there be no widow, or in case of her death or intermarriage, the said half-pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any; and that it be recommended to the Legislatures of the respective States to which such officers belong to make provision for paying the same on account of the United States."

That resolution of the 24th of August, 1780, is explanatory of the resolution of 15th of May, 1778, and manifesting that that resolution was limited and confined to officers who did actually reside in some one of the United States, and not otherwise, and recommending to the several States, respectively, to make provision accordingly for the widows or orphans of officers who did reside within some one of the United States, respectively. On these resolutions of Congress it does not appear that the heirs of the Baron de Kalb can bottom any claim for five years' pay, as mentioned in their petition. By a resolution of Congress of the 21st of October, 1780, half-pay for life was granted to officers in the service of the United States, alluded to in that resolution; that resolution does not include the case of the heirs of the Baron de Kalb. On the 26th of January, 1784, Congress resolved "That half-pay cannot be allowed to any officer, or to any class or denomination of officers, to whom it has not been heretofore expressly promised." The resolutions of Congress of the 21st of October, 1780, of the 22d of March, 1783, and of the 8th of March, 1785, allowing half-pay for life, or commutation thereof for five years' full pay, do not include this case of the petitioners. Their claim for five years' pay does not appear to be included in, or provided for, by any act or resolution of Congress.

This committee do further report that evidence has not been adduced to prove that any arrears of pay are due to the Baron de Kalb, and that, therefore, his heirs, the petitioners, have not any just claim against the United States for any arrears of pay said to be due to their late father, the Baron de Kalb; that the claim of the heirs of the Baron de Kalb to the full pay of five years on account of the services of the baron to the United States is not bottomed on any act or resolution of Congress, and is therefore inadmissible, and ought not to be allowed. By the report from the Department of the Treasury alluded to, it appears that, on reference to the register of officers of the revolutionary army returned as entitled to land, the name of the Baron de Kalb is entitled to land; for which application is to be made to the Department of War.

This committee, after consideration of this case of the petitioners, and taking into view the circumstances attending it, are of opinion that it does not appear that any arrears of pay are due to the late Baron de Kalb, as inti-

mated by the petitioners in their petition; that it does not appear that the petitioners, heirs of the Baron de Kalb, have any just claim against the United States for five years' pay in consequence of services by him performed to the United States; and therefore submit the following resolution:

Resolved, That the prayer of the petitioners, so far as relates to their claim of any arrears of pay supposed to be due to their late father, the Baron de Kalb, and so far as relates to their claim of pay for five years in consequence of services of their late father, the Baron de Kalb, to the United States, be not granted; and that the petitioners have leave to withdraw so much of their said petition as relates to their claim for land as heirs of the Baron de Kalb, so that they may apply to the Department of War for the same.

16th CONGRESS.]

No. 545.

[2d Session.

LOSSES SUSTAINED DURING THE INVASION OF LOUISIANA BY THE BRITISH IN 1814-'15.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 10, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Pierre Denis De la Ronde, reported:

That the petitioner claims \$40,008 38, the amount of losses and injuries sustained by him from the occupancy of his plantation and buildings by the troops of the United States and those of the British, during the invasion of New Orleans. The nature of his alleged losses and injuries, which are detailed at great length by the petitioner, will, it is believed, be sufficiently understood by the House from the following brief abstract:

| | | | | | |
|--|---|---|---|--------|-------------|
| A field of sugar-cane, (66 arpents,) | - | - | - | - | \$7,920 00 |
| 40,000 pounds sugar, | - | - | - | - | 11,200 00 |
| 15,320 pickets in fence, and 5,000 new ditto, | - | - | - | - | 1,932 00 |
| Corn, potatoes, beans, hay, bottles of wine, cordials, syrups, sweet oil, brandy and spirits, empty bottles, demijohns and pots, hogs' lard, honey, sweetmeats, preserves, vinegar, tallow and spermaceti candles, and coffee, | - | - | - | - | 2,743 10 |
| Earthen and glass ware, | - | - | - | - | 256 50 |
| Bedding and wearing apparel, kitchen and other furniture, | - | - | - | - | 2,502 00 |
| Poultry \$262 50; cattle, horses, and sheep, \$2,848, | - | - | - | - | 3,110 50 |
| Fowling-pieces, powder and shot, | - | - | - | - | 126 00 |
| Farming utensils and carpenter's tools, | - | - | - | - | 664 00 |
| Carriages, saddles, and bridles, | - | - | - | - | 860 00 |
| Library \$300, negroes \$7,200, | - | - | - | - | 7,500 00 |
| 200 cords of wood, | - | - | - | - | 400 00 |
| Buildings damaged or destroyed, | - | - | - | - | 794 28 |
| | | | | Total, | \$40,008 38 |

It appears, from certificates from Generals Jackson and Coffee, that the petitioner joined the army under General Jackson on the 23d of December, 1814, and continued in active and useful employment till the end of the campaign, without any efforts to save his property other than such as were combined with the army, and employed for the common defence. It is in proof that, in the evening of the 23d of December, and after the battle, a detachment of Louisiana cavalry, with some of the wounded of the army, took post on the plantation of the petitioner, occupied his house, and made free use of the articles found therein; and that General Coffee's brigade encamped in the cane-field, where they had no other fuel than the cane, which was necessarily used. The hay, corn, &c. were also fed out to the cavalry horses. From that evening until the 28th the cavalry guard remained on the plantation, which was occasionally visited by other troops; but on the latter day was driven in by the British, who remained in undisturbed possession of the post till the place was evacuated on the night of the 18th of January following. During the period when the place was occupied by the cavalry guard, the balance of the cane-field appears to have been burnt by order of the commanding general, to prevent it from affording a cover to the British. Several of the witnesses testify that, the morning after the British left the place, they saw the troops of the United States carrying off large quantities of sugar, cooking utensils, dishes, knives, forks, &c. from the plantation of the petitioner.

The testimony, which is very voluminous, goes generally to establish the fact that, previous to the invasion, the plantation and buildings were in good repair, and well furnished with tools, furniture, and other supplies; and that, when repossessed by the owner, it was almost a naked waste. Fences, out-houses, and a large quantity of new pickets, had been burnt, and the mansion-house stripped of every thing valuable, and, with several other buildings, greatly injured. If the view which has been taken by the committee in the case of Rosalie P. Deslonde be correct, this case does not come within any rule which would authorize an allowance. But it is believed that in this, as in that case, it is expedient that some allowance be made.

So far as the United States have been benefited by the use of the property by its troops, and so far as the petitioner may have been injured by their justifiable acts, whether the United States have been benefited or not, he is certainly entitled to remuneration, beyond which no equitable claim can extend. But, although there can be no doubt but in this case the United States have derived some benefit from the use of the property, the impracticability of ascertaining the amount of injury which has been thereby sustained is such as to preclude the possibility of the application of any rule for an allowance, and any allowance which shall be made must depend altogether on the discretion of Congress.

Whatever use may have been made of the property by the troops of the United States, the petitioner can hardly be said to have suffered by it, since his place was in possession of the British from the 23th of December to the

18th of January, and, consequently, whatever was used by the former was only subducted from what would otherwise have been used by the latter. This remark may not apply to what might have been wantonly destroyed or carried away, for which compensation could not, under any circumstances, be made; but it is believed it may be strictly applied to whatever constituted the subsistence of an army, or to forage or fuel. But, as the United States must have been benefited so far as the property of the petitioner was used by their troops, either for subsistence, fuel, or barracks, the committee propose to waive impracticable inquiry as to the amount thus used, and recommend an allowance for one-half the estimated value of the cane-field, fences, pickets, corn, hay, beans, and potatoes, and the injury to the buildings; and they would have extended their recommendation to the half of the two hundred cords of wood, had they found any satisfactory evidence in support of that item in the claim.

The whole amount of the charges, the half of which it is proposed to allow, is, after deducting \$125 which the witnesses say is overcharged on the cane-field, \$11,541.

For the half of that sum, \$5,770 50, a bill is herewith reported.

16th CONGRESS.]

No. 546.

[2d SESSION.

ARREARS OF PAY.

COMMUNICATED TO THE SENATE, JANUARY 12, 1821.

Mr. WALKER, of Georgia, from the Committee on Naval Affairs, to whom was referred the petition of Samuel Tucker, reported:

That the petitioner was, as he states in his petition, a captain in the navy of the United States during the revolutionary war; that he obtained his commission on the 20th January, 1776, and served his country with fidelity during the whole of our revolutionary struggle; that, after encountering the hardships, privations, and dangers incident to his station, and having, by his successful exertions, contributed much to the advancement of the American cause; he was taken prisoner by the enemy, at Charleston, in the month of May, 1780, but was, in the month of August of the same year, exchanged, and again, as he states, entered the service of his country, in which he continued until the successful termination of our controversy, in 1783, having received the thanks of Congress for his meritorious services; that the petitioner has received no pecuniary remuneration for the services rendered his country from August, 1780, to the conclusion of the war; that although the petitioner does not appear to have been *actively* employed after his exchange, yet there is no evidence of his having been discharged; and, as he was ready and liable to obey the call of his country at any moment, he could not profitably pursue any private avocation. The committee are therefore of opinion that the petitioner is entitled to some pecuniary remuneration, provision for which the committee the more cheerfully recommend to the Senate, from the consideration that the petitioner is a very aged person, (being upwards of seventy-three years of age,) that he is very poor, and, from the infirmities incident to such advanced age, is, as he himself states, incapable, by manual labor or individual exertion, of procuring a subsistence for himself and family. The committee are of opinion that both justice and gratitude unite in the call upon the Government to grant the prayer of the petitioner in the present case. They therefore report a bill for his relief.

16th CONGRESS.]

No. 547.

[2d SESSION.

SUPPLIES FOR THE TROOPS UNDER THE COMMAND OF GENERAL SCHUYLER, OF THE REVOLUTIONARY ARMY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 15, 1821.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Phineas Babcock, have had the same under consideration, and report thereon:

That the petitioner states his residence to have been in Queensbury, in the State of New York, in the year 1777; that, during the same time, he owned a store of goods at Lake George, and that the American army standing in need of supplies, Colonel Brown, who commanded a regiment, took from him goods to the amount of £5,530 12s., continental currency. The petitioner further charges that there were driven from his farm, by the direction of General Schuyler, sundry stock and other property; for which goods, stock, and other property, he alleges he never received pay, but, on the contrary, has expended large sums of money in endeavoring to obtain his right; and that, in consequence of his property having been taken from him for the use of the American army, he became poor, and, after fruitless attempts to regain it, retired with a broken heart. The petitioner therefore prays the relief adapted to his case.

The committee report that, at and before the date of this transaction, as appears by the journals of the old Congress, boards of commissioners were appointed to settle the accounts of individuals against the United States; and that, as early as February, 1782, a commissioner was appointed in each State, who was required to sit at convenient places within the same, to give particular public notice of his appointment, and to settle all accounts according to the principles of equity and good conscience. In the month of March, 1785, Congress, having found, as they express in the preamble, that delay in the settlement of accounts tended to render them obscure, and to encourage frauds, therefore resolved that persons having unliquidated claims against the United States should in twelve months deliver a particular abstract of such claims to the commissioner within the State, and that those who failed to do so should forever thereafter be precluded from recovering their demand, &c.

The committee are of opinion that, after the lapse of upwards of forty-three years, and the solicitude evinced by Congress, and the facilities afforded individuals to establish their claims, and more especially after an explicit statute of limitations, if Congress should allow any claim not manifested according to legal requisitions, it should be only where the evidence of its justice and extent was of the most unquestionable and definite character.

The petitioner relies upon a single witness to prove that the goods, to the amount of £5,530 12s., were taken by order of an officer, or that they were converted to the use of the American army. This witness states that they were taken by the orders of Colonel Brown; that they consisted of rum, port wine, blankets, &c., the value of which he could not recollect, but was strongly impressed with the belief it exceeded £1,000, Halifax currency; that some of the goods were converted to the use of the troops in his presence, and the residue, as said deponent was informed and believed, were brought up to Lake George. This evidence is deemed unsatisfactory, not having stated whether the order was verbal or written, or any circumstances relating to it, and there being no order, receipt, or other writing conducing to establish the same fact; it does not liquidate the amount of the goods taken, and much less satisfactorily does it establish the proportion or value of the goods converted to the use of the army.

Three witnesses prove, in support of the charge for stock, that, in the month of July, (as near as they can recollect, 1777, the other evidence proving the month to have been September,) the petitioner, then of the town of Queensbury, had taken from him, for the use of the army, one yoke of oxen, a number of cows, two horses, and one young creature. This evidence is subject, more strongly than that already referred to, to most of the objections made to the evidence relied upon to prove the item of merchandise.

Were the committee allowed to indulge in reasonable speculation, they would feel themselves authorized to conjecture, from the evidence and documents, that the petitioner was a licensed sutler in the army, consulting his own pecuniary interest; that, upon the retreat of General St. Clair from Ticonderoga, the petitioner was reduced to the alternative of leaving his merchandise to the depredations of the enemy, or endeavoring to save it by depending on the uncertain and hazardous assistance of a retreating army; and that he shared a common fate in such a case, and lost a part of his goods, (for it does appear from the evidence that a part was restored to him.) Under such circumstances, the petitioner ought not to expect relief, but should rather have felt gratitude to the army for whatever he may have been able to save. That the claim is altogether groundless, the committee are further justified in inferring from the petitioner's own statements, that he at the time spent much time and money in urging and exemplifying his claim; that, upon his application to one officer, he would direct him to another, and the other to a third, &c. This is conduct on the part of officers which the committee are unwilling to believe would have taken place, except to shove off an importunate claimant, whose demand was notoriously groundless. This conclusion is further corroborated by the circumstance that a commissioner or commissioners were constantly to be found in each State, whose business and whose duty it was to liquidate and settle the claims of individuals against the Government according to the principles of equity and good conscience; for it would seem to the committee impossible that a just claimant, frequently and importunately asking officers and commissioners to interpose betwixt himself and ruin, could have failed to obtain a hearing and the redress to which he was entitled, or, at least, to have caused some official notice to have been taken of his claim. The committee therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

16th CONGRESS.]

No. 548.

[2d Session.

LOSS OF THE SCHOONER PENELOPE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 17, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Alvin Bronson, of the State of New York, reported:

It appears that Captain Woolsey, of the United States navy, employed, during the late war, a schooner called the Penelope, belonging to the petitioner, to transport guns and other equipments for the navy, from Oswego to Sackett's Harbor. The schooner being loaded, Captain Woolsey gave directions to a midshipman, with some seamen, to take charge of her, and, in case the enemy should succeed in carrying the fort at Oswego, to sink the vessel, with her cargo. The order was executed; but, as the persons engaged were not well acquainted with the harbor, they sunk the vessel in water so shallow, that the enemy, on leaving Oswego, raised and took her away, on the 6th of May, 1814.

It further appears, from the certificate of Captain Woolsey, that there was no agreement between the petitioner and himself respecting the price of transportation or risk, although they were aware of the imminent danger there was of being captured; and he also gives it as his opinion that, had the vessel remained in charge of the former owner or master, she would probably, from their better knowledge of the harbor, have been sunk in such a manner as to have prevented the enemy from raising her during the short stay they made at Oswego, and that the owners would afterwards have recovered her, as was the case with the Henrietta, a similar vessel to the Penelope.

With other papers, in manuscript, the committee have had referred to them, at this session, a printed report of this case, as it was decided in the supreme court of the State of New York. From it they learn that the petitioner,

Bronson, brought suit against Captain Woolsey for the damage sustained by the loss of his vessel. The court decided that Captain Woolsey was not liable. The petitioner, therefore, asks from Congress the remuneration which the supreme court of New York decided he had no right to claim from Captain Woolsey. The committee are of opinion that the petitioner is not entitled to relief. His loss must be considered as incidental to the service in which his vessel was engaged. It is true the vessel was navigated by the petitioner's captain and crew, and had, immediately before the British made their assault, performed several trips between Oswego and Sackett's Harbor; but this circumstance could not deprive Captain Woolsey of the right to direct such disposition to be made of her, and the public property on board, as he might judge expedient or necessary. Captain Woolsey was invested, *pro tempore*, with the rights of ownership or control over the vessel. These he exercised with as much discretion as if the property had absolutely belonged to him; and the United States, whose agent he was, should not be made answerable for a loss purely accidental, and beyond their power to prevent.

It is contended, however, that if Captain Woolsey had not interfered, the vessel would have been sunk in deeper water, so as to have prevented the enemy from raising and taking her away. In reply to this, the committee would adopt the reasoning of the court in New York, viz: "That the orders given by Captain Woolsey did not deprive the master of a right to aid and advise as to the best course to be pursued; and, although the witnesses seem to suppose she might and could have been sunk in such a way as to baffle all attempts to raise her by the enemy, it is extending speculation too far to pronounce that she would have been so sunk." This is the opinion of the judge who presided at the trial of the case, and it seems to the committee conclusive as to the point. It has not, however, been shown to the committee that the captain did advise the sinking of his vessel in any other position than that selected by the midshipman who was put in charge of her, nor that the captain, or any part of his crew, was on board at the time of the midshipman taking such charge. It is but reasonable to require that the petitioner should exhibit the best proof of which the nature of the case is susceptible. This he has failed to do in the present instance; and, until the defect be remedied, the committee think no allowance, under any view of the subject, could be made to him.

But the committee are still further of opinion that it would have made no odds how or in what manner the vessel was sunk. In the case of the Commonwealth of Pennsylvania *vs.* Sparhawk, (1 Dallas's Rep. 363,) it was decided by Chief Justice McKean that Sparhawk, a claimant under circumstances precisely analogous to the present, had no right to demand compensation for the loss of a quantity of flour which was removed by order of Congress (as was believed at the time) to a place of safety, but which was subsequently captured by the British during the revolutionary war. The committee invite the attention of the House to that case, because, in their judgment, it will afford most conclusive evidence of the inadmissibility of the present claim. The following resolution is therefore submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

To the honorable the Congress of the United States in Senate and House of Representatives convened: Your memorialist begs leave respectfully to represent:

That, on the 6th day of May, 1814, a schooner, called the Penelope, owned by him, was captured by the public enemy in the port of Oswego, and lost to your memorialist.

That said capture and loss were occasioned by an officer of the United States navy having taken her from the charge and direction of the master, as will appear by documents herewith presented; and your petitioner prays your honorable body to grant him compensation for said loss, and, as in duty bound, will ever pray.

ALVIN BRONSON.

Oswego, November 15, 1819.

ALVIN BRONSON,
ads. }
MELANCTHON T. WOOLSEY. } *Circuit Court.*

This was an action of trover brought to recover for the schooner Penelope, and was tried at the Oneida circuit, before his honor Mr. Justice Platt, on the 15th day of June, 1818.

The plaintiff gave in evidence a certificate signed by the defendant, in the words and figures following, viz:

"I do hereby certify that the schooner Penelope, owned by Alvin Bronson, was employed by me in the service of the United States to transport guns and other equipments for the United States ships Superior and Mohawk, in the spring of 1814, from Oswego to Sackett's Harbor.

"2d. There was no agreement made between the said Alvin Bronson and myself respecting the price of transportation or risk, though we were aware of the imminent danger there was of her being captured.

"3d. The Penelope was of that class of vessels denominated (from the rigging) schooner. I have, however, seen on this lake vessels of greater burden, but of a different and more slender construction, usually denominated boats. She has a large open hatchway, and was peculiarly adapted for the reception of heavy guns and other bulky articles; and, upon this emergency and for this service, no other vessel so well calculated as the Penelope could be engaged.

"4th. The schooner Penelope was loaded, under my directions, by Lieutenant Pierce, of the United States navy, with heavy guns, shot, &c.; she was detained about two days after her arrival at Oswego for the United States ordnance, &c. to arrive from Oswego falls, where I had directed the deposite to be made, lest the enemy should capture Oswego and all the military stores at once, as the event proved they would have done.

"5th. Previously to the capture of the Penelope, I had ordered a midshipman, with United States seamen, to take charge of her, and, in case the enemy should succeed in carrying the fort, to sink her, with her cargo. This order was executed; but, as he was not well acquainted with the harbor, he sunk her in water so shoal that the enemy succeeded in raising and taking her away. I am of opinion that, had she remained in charge of the owner or former master, she would probably, from their better knowledge of the harbor, have been sunk in such a manner as to have prevented the enemy from raising her during the short stay they made at Oswego, and that the owners would have afterwards recovered her, as was the case of the Henrietta, a similar vessel to the Penelope.

"6th. I also certify that I have given to Alvin Bronson a certificate, dated some months since, in relation to the Penelope, but not embracing certain facts which were not then, but now are, considered necessary.

"MEL. T. WOOLSEY, *Captain U. S. Navy.*

"SACKETT'S HARBOR, *May 8, 1817.*"

The plaintiff then called Peter D. Huginnin as a witness, who testified that he knew the schooner Penelope; that she was a new vessel, and the property of the plaintiff; that she was worth, with her tackle and furniture, about three thousand dollars at the time when she was taken by the British; that, on the 6th day of May, 1814, the fort and town of Oswego were captured by the British forces; that, during their stay there, they raised the schooner from the water where she was sunk, and took her away; that the defendant, who was a captain in the navy of the United States, was at that time at or near Oswego, superintending the forwarding and transportation of a quantity of ordnance and military stores from Oswego to Sackett's Harbor; that he had with him under his command there two lieutenants, several midshipmen, and fifteen or twenty sailors; that the schooner was sunk in water so shallow that her deck was above water; that the British took and carried away all the ordnance and military stores, and all the boats and water craft which they found there, except such as were sunk in deep water, as was the case of the schooner Henrietta; that he (the witness) knows nothing of the intention of the owner or the captain with regard to the placing the said schooner in a place of safety, or sinking her at any other place, except that, after the alarm of the British squadron's approaching the harbor, and shortly before the assault upon the fort, the schooner in question was removed by the plaintiff's captain and crew from the upper wharf to the lower, where the water was deeper.

The witness further testified that the vessel was under the sole control of the plaintiff's captain and crew, without any interference from the defendant, until the morning of the British assault; and she had performed, immediately before, several trips between Oswego and Sackett's Harbor, in transporting property of the United States for the defendant. This witness expressed a confident opinion that, had the vessel remained under the command of the plaintiff's captain, a man of experience and well acquainted with the harbor, she might have been saved by being sunk in so deep water as that the enemy would not, during the short time they remained, have been able to raise her, loaded as she was. He stated that the removing the schooner back to the upper wharf and sinking her, as was done, was highly injudicious. The Henrietta was safely sunk off against the lower wharf, though efforts were made by the enemy to raise her.

Charles Coulton, a witness on the part of the plaintiff, testified that, on the morning of the 6th of May, and before the enemy landed, he saw the schooner in the possession of the captain and crew of the plaintiff, on board of her; that she was then at the lower wharf, to which she had been hauled down; that, during the forenoon, and about ten o'clock, he saw a midshipman and several of the sailors under him on board of her; that she was then at the upper wharf, near which the water was more shallow than at the lower wharf, where, (at the lower wharf,) if she had been sunk, her hull would have been altogether under water; that, when he saw her at the lower wharf, an axe and a saw were on board of her on the deck; that she had not a full load, but was only loaded in part; that her cargo consisted only of ordnance belonging to the United States; that the fort was taken about twelve o'clock, and the British troops reached the upper wharf about twenty minutes after she was sunk; that she was sunk a few yards from the upper wharf, in about eight feet of water; that the upper wharf was the place where she was to take in the rest of her cargo; that the water further up the river was more shallow; and that, loaded as she was, she could not have been got further up the river; that her value was three thousand dollars. He saw the schooner in the possession of the plaintiff's captain and crew about an hour before the enemy landed to attack the fort, and he has no doubt but she might have been safely sunk so as not to be raised by the enemy had she remained in the hands of the plaintiff's captain, or any other discreet commander acquainted with the harbor. The deck remained above water where she was sunk. The vessel had performed several trips in transporting United States property for the defendant, immediately before the transaction in question, under the sole command of the plaintiff's captain; and the defendant assumed no control until the time of the vessel being so entered into and sunk by an officer and seamen of the United States.

The cause was here rested, and his honor the judge stated to the jury, in his charge, that the interference of the defendant with the schooner was unlawful, and that he had strictly no right to take possession of the vessel, and deprive the captain of the charge and control vested in him by the owner; that, having done so, he was responsible as a trespasser, and whether the enemy afterwards did or did not capture the vessel was immaterial; that the rule of damages in judgment of law, under the circumstances of the case, was the value of the vessel, with or without interest, in the discretion of the jury. The jury found a verdict for the plaintiff for three thousand eight hundred and thirty dollars.

STATE OF NEW YORK, ss.

NOVEMBER 1, 1819.

I certify that the within is a true statement and report of the trial of the within-mentioned cause, before me, upon which the judgment of the supreme court of this State was rendered at the August term last, as appears in the 17th volume of Johnson's Reports, page 46. I also certify that, through every stage of said cause, the defence on the part of Captain Woolsey appeared to be conducted in good faith, and with great vigor and ability on the part of his counsel; and that every effort was also made on the part of the plaintiff to sustain the suit, aided by counsel of respectability and eminence.

The opinion of the court, as unanimously expressed in the report of the case, was, that Captain Woolsey conducted himself, in relation to the seizure and sinking of the vessel, as a faithful and discreet officer, in his station, ought to have done.

JONAS PLATT,

One of the Justices of the Supreme Court of said State.

SIR:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *December 15, 1820.*

I have the honor to acknowledge the receipt of your letter of the 13th instant, enclosing the petition of Alvin Bronson, and its accompanying testimony, and to state, in reply, that, as the petitioner's vessel appears to have been employed in the naval service, the documents in this office would not afford any information on the subject of your inquiries; if any is to be obtained, the Navy Department, it is presumed, can furnish it.

On reference to the records of the late Commissioner of Claims, it has been found that a claim for a vessel, valued at \$3,000, was exhibited by Mr. Bronson to the commissioner, but which was not allowed by him; the reasons for which, or the documents, are not to be found among the papers of his late office.

The papers are returned.

With great respect, your most obedient servant,

PETER HAGNER, *Auditor.*

The Hon. LEWIS WILLIAMS, *Chairman of the Committee of Claims.*

SIR: NAVY DEPARTMENT, December 19, 1820.

I have received your letter of the 18th instant, referring the petition of Alvin Bronson to this Department; and, in reply, have the honor to state that, on the 16th November, 1815, Captain M. T. Woolsey, commanding naval officer at Sackett's Harbor, was directed to settle the claims of certain persons for boats which were lost while employed in the transportation of ordnance, &c. for the United States service; but it is not known whether the claim of Mr. Bronson was settled at that time. A schooner called the Penelope, with ordnance on board, was captured by the British in the attack made by them on Oswego, in May, 1814.

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

SMITH THOMPSON.

Hon. LEWIS WILLIAMS, *Chairman Committee of Claims.*

SIR: NAVY DEPARTMENT, January 6, 1821.

I have the honor to return the papers in the case of Alvin Bronson, which accompanied your letter dated the 3d instant, together with the copy of a communication from the Fourth Auditor of the Treasury, furnishing the information required by the honorable Committee of Claims.

I have the honor to be, with very great respect, sir, your most obedient servant,

SMITH THOMPSON.

Hon. LEWIS WILLIAMS, *Chairman Committee of Claims.*

SIR: TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE, January 5, 1821.

In reply to the inquiries contained in the letters addressed to you by the honorable Lewis Williams and the honorable Henry R. Storrs, of the House of Representatives, I have the honor to report that the accounts of Captain M. T. Woolsey, and those of Commodore Isaac Chauncey, from the commencement of the year 1814, have been carefully examined, and I do not find any charge for payment made to Alvin Bronson for the schooner Penelope, or for freight in said vessel. These are the only accounts in which payment for that vessel could be charged. I find, however, that prior to 1814 purchases of vessels were made of Alvin Bronson and Townsend, Bronson, & Co.; and subsequent to the 1st January, 1814, payments were made to Townsend, Bronson, & Co. for freight in several boats and other vessels; but as the names of the boats are, in many instances, omitted, I am unable to state whether the freight was on board the Penelope.

An abstract of the above-mentioned payments is herewith transmitted, and all the papers referred by you returned.

I have the honor to be, &c.

CONST. FREEMAN, *Fourth Auditor.*

Hon. SMITH THOMPSON, *Secretary of the Navy.*

Abstract of payments made by Commodore Isaac Chauncey to Townsend, Bronson, & Co. and Alvin Bronson, per vouchers filed in this office, for the purchase of vessels, and the transportation of ordnance and stores on Lake Ontario.

| | |
|---|------------|
| Paid Alvin Bronson, 24th October, 1812, for schooner Charles and Ann, her hull, tackle, and apparel, | \$5,800 00 |
| Paid Townsend, Bronson, & Co., 26th December, 1812, for schooner Catharine, her sails, rigging, &c. | 5,500 00 |
| Paid Townsend, Bronson, & Co., 26th January, 1815, for freight charged by them at the following dates, viz: | |
| 1814, June 25, per boat, P. D. Huginnin, master, - - - - - | 96 07 |
| " " 29, do. do. do. - - - - - | 138 68 |
| " " 30, do. Gallagher, do. - - - - - | 112 27 |
| " July 1, do. Johnson, do. - - - - - | 65 25 |
| " " 4, do. Palmer, do. - - - - - | 26 62½ |
| " " 8, do. Huginnin, do. - - - - - | 126 17 |
| " " 14, per schooner Henrietta, Wing, master, - - - - - | 75 04 |
| " August 3, per boat, Huginnin, master, - - - - - | 16 37 |
| " " 10, do. E. W. Taylor, master, - - - - - | 8 75 |
| " " 16, per schooner N. H. Packet, Snow, master, - - - - - | 22 08 |
| " " 16, per schooner Hunter, Eades, master, - - - - - | 127 19½ |
| " " 16, do. do. do. - - - - - | 65 50 |
| " " 19, per boat, Huginnin, master, - - - - - | 104 05½ |
| " October 9, per boat, Bush, master, - - - - - | 89 88½ |
| " November 3, per boat, Huginnin, master, - - - - - | 34 76 |

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE, January 5, 1821.

CONST. FREEMAN, *Fourth Auditor.*

BRONSON, }
vs. } *Supreme Court of the State of New York, August 18, 1819.*
WOOLSEY. }

This was an action of trover, brought to recover the value of a vessel called the Penelope. It was tried at the Oneida circuit, before Mr. Justice Platt, on the 15th June, 1818.

The vessel of the plaintiff, which was a schooner, was employed in the spring of 1814, by the defendant, (who was a captain in the navy of the United States during the late war with Great Britain,) for the service of the United States, in the transportation of ordnance and military stores from Oswego to Sackett's Harbor, on Lake Ontario. It was proved that, on the 6th of May, 1814, the fort and town of Oswego were captured by the British forces, who raised the schooner from the water in which she had been sunk, and carried her away, with all the ordnance and military stores, and all the boats and water craft found there, except such as were sunk in deep water. The deposite

of ordnance, &c. was at Oswego falls, and the defendant was superintending the forwarding and transportation of the ordnance and military stores, and had under his command two lieutenants, several midshipmen, and about twenty seamen. He had ordered a midshipman, with some seamen, to take charge of the schooner; and, in case the enemy should succeed in carrying the fort, to sink her, with her cargo. The vessel was under the sole control of the plaintiff's captain and crew, without any interference on the part of the defendant, until the morning of the day on which the British made their assault, and had, immediately before, performed several trips between Oswego and Sackett's Harbor, in transporting property of the United States. On the alarm of the approach of the British towards the harbor, and shortly before the assault, the schooner was removed by the captain and crew from the upper to the lower wharf, where the water was deeper. She was afterwards, in the forenoon of the same day, removed back to the upper wharf, and sunk in about eight feet water, the deck remaining above the water. A midshipman and several sailors were just before on board of her. The witnesses were of opinion that the vessel might have been saved by sinking her in such deep water as that the enemy could not, during the short time they remained, have raised her; and they stated that another schooner, the Henrietta, was sunk at the lower wharf, where the water was deeper, and was saved, as the enemy were unable to raise her. The fort was taken about noon, and the British reached the upper wharf about twenty minutes after the Penelope was sunk. The witnesses thought that the removing her back to the upper wharf, and sinking her there, was extremely injudicious. The judge charged the jury that the interference of the defendant with the schooner was unlawful, and that he had no right to take possession of her, or to deprive the master of the charge and control of her; that he was, therefore, answerable as a trespasser, and whether the enemy did or did not afterwards capture the vessel was immaterial; that the rule of damages was the value of the vessel, under the circumstances of the case, with interest or not, in the discretion of the jury. A verdict was found for the plaintiff for \$3,830.

A motion was made to set aside the verdict, and for a new trial.

F. C. White, for the defendant, contended that the vessel being employed as a transport in the service of the United States, the defendant, as commanding officer at the place, had a right to do what had been done in regard to the vessel, to prevent her falling into the hands of the enemy. If the plaintiff has a remedy, he must seek it against the United States, not against the defendant. Transports employed by Government are always under the direction and control of its officers. The nature of the case and of the service required it. The owner of the vessel does, from the very nature of the service, put his vessel, as in the case of a secret expedition, under the control of the Government, to go wherever the exigency may require. A neutral vessel, employed as a transport, is identified with the enemy, (1 Wheat. Rep. 387, 391; 6 Rob. Adm. Rep. 420, 426; 2 Azuni's Mar. Law, part 2, chap. 1, sec. 7.) A transport, then, is distinguishable from a common carrier, which is under the sole direction and control of the master and crew appointed by the owner. There is no distinction between a transport in a port and one on the high sea; the moment she is employed in the public service, she is under direction of the public officer, whose duty it is to take care of the public property, and to promote the public service. In case vessels are pressed into the public service, and are shipwrecked or taken by an enemy or pirate, the owner, if there be no fault of the commanding officer, must bear the loss arising from inevitable accident. (2 Azuni, 241, part 1, chap. 3, sec. 6.)

Again: the defendant, as a public officer, can be liable only for negligence, or an improper use of his authority. (Ruan vs. Perry, 3 Caines' Rep. 122.) Trover will not lie; but if any action can be brought, it should be an action on the case. Besides, there has been no wrongful conversion of the property by the defendant. (6 Bac. Abr. Trover, B; Bulst. 280; 1 Burr's Rep. 31.)

Again: this vessel being loaded with munitions of war, the defendant, as commanding officer at Oswego, had a right, in a case of imminent danger of capture or necessity, to sink or destroy the vessel, to prevent the cannon, &c. from falling into the hands of the enemy. In the Commonwealth of Pennsylvania vs. Sparhawk, (1 Dall. Rep. 357,) where a quantity of flour belonging to the appellee was taken by the officers of Government, and removed by them, as was supposed, to a place of safety, but which afterwards fell into the hands of the British, McKean, chief justice, held that Congress might lawfully direct the removal of any articles necessary to the maintenance of the American army, or which might be useful to the enemy, and in danger of falling into their hands, for such a power was a natural and necessary consequence of war; and that the owner of the property was not, therefore, entitled to compensation for his loss. He said that "the rights of necessity form a part of our law." Here the enemy were in the mouth of the river, within a few hours' march of the place, and the capture certain. (Vattel's Law of Nations, b. 3, chap. 15, sec. 232.) The necessity of the case is manifest.

Sill, contra.—The plaintiff has shown such a conversion of the property as is sufficient to support the action of trover. Assuming the right to dispose of, or to exercise dominion over, the property of another, is a conversion of it. (Bristol vs. Burt, 7 Johns. Rep. 254.) The only question is, whether the defendant, from his office and station, is protected from the action. Admitting the law of necessity, yet it must be a necessity which grows out of the right of self-defence, and from an immediate and pressing exigency. An officer of the Government is not justified in taking or destroying private property on any prospective calculation that it might become useful to the enemy. If he rests his defence on the plea of necessity, he must show it to be urgent, immediate, and irresistible. This is not such a case. Further, the defendant must prove that he was an officer having power and authority to destroy the property. There was a regular fort at Oswego, and the defendant was not stationed there. He merely commanded a party of men employed in superintending the transportation of munitions of war to Sackett's Harbor. He was there casually, and for a temporary purpose. He had no authority to order the vessel to be destroyed as a measure of precaution. That power was in the commanding officer of the fort.

Again: here was very gross negligence in the defendant. The sinking of the vessel might have been delayed, at least, until she could be sunk in such deep water that the enemy could not weigh her up again. A public officer is liable for negligence, or the want of due discretion. (2 Cranch, 133; 3 Cranch, 458.) There is no distinction in this case between civil and military officers. (2 Cranch, 179.) Sparhawk's case (Dallas, 362) arose during the revolutionary war, and its circumstances were very different from the present. In the case of Ruan vs. Perry, the defendant was exercising a well-known and established right under the law of nations.

As to the doctrine cited from Azuni, of the right to press neutral vessels into the service of a belligerent, without compensation in case of loss, if it were necessary to discuss the point here, the soundness of it might well be doubted. But this is a suit between two of our citizens; and the question is, whether the defendant had power sufficient to justify his conduct.

As to the objection to the form of the action: The case of Murray vs. Burling (10 Johns. Rep. 172) shows clearly that trover lies. If a man, intrusted with property for a particular purpose, goes beyond his authority, and also contrary to his orders, it is a conversion of the property, and trover lies. (Syed vs. Hay, 4 Term Rep. 260; 6 East, 540; 1 Johns. Cas. 406.)

N. Williams, in reply, said that the principle on which it was attempted to support this action would, in effect, obstruct the operations of war, by defeating the most important military plans; that not only the writers on the law of nations, but the common law courts, justified the taking and destroying of private property in cases of necessity.

Where it is a measure of mere precaution, Government no doubt must make good the loss; but where it is a case of necessity, in order to defend the country against an enemy, there was no remedy. The defendant, instead of sinking the vessel, would have been justified in burning her, rather than suffer these warlike stores to have fallen into the hands of the enemy. The cases cited from Cranch were admiralty cases, and the defendants acted without any power or authority whatever.

Spencer, chief justice, delivered the opinion of the court.

The only ground on which the defendant can be held responsible is this: that he gave directions to an inferior officer to take charge of the plaintiff's schooner, and, in case the enemy should succeed in carrying the fort, to sink her, with the cargo; and, that event having occurred, the schooner was sunk. The gravamen is, that she was sunk in too shallow water, so that the enemy raised her and took her off as a prize; and that, had the plaintiff's master continued to keep charge of her, she would have been so sunk as to prevent her being raised, and thus she would have been preserved to the plaintiff.

Was the defendant authorized, under the circumstances of the case, to order the schooner to be sunk? and, if he was, would he be responsible for the imperfect execution of his orders?

The defendant was a captain in the navy of the United States, and was, at the time of the injury complained of, at or near Oswego, superintending the forwarding and transportation of ordnance and military stores from Oswego to Sackett's Harbor, and had with him under his command several officers and sailors. The plaintiff's schooner was loaded under the defendant's directions with heavy guns, shot, &c. The schooner was navigated by the plaintiff's master and crew, without any interference from the defendant, and she had performed, immediately before, several trips between Oswego and Sackett's Harbor, in transporting property of the United States.

There is proof in this case that the fort of Oswego having been taken by the enemy, the vessel was sunk, under the defendant's orders, by a midshipman; and it appears that she was thus sunk in shoal water, and was afterwards raised and carried off by the enemy; and it is rendered quite probable, as far as the opinion of witnesses can ascertain, that, had she been left under the management of the master, she might and would have been so sunk as to have escaped capture.

It has not and cannot be pretended that the defendant was influenced in giving the orders by any other motives than those proceeding from a laudable zeal for the public service, and with the sole intention of preventing the ordnance and munitions of war on board the plaintiff's schooner from falling into the hands of the enemy. The schooner, being in the transport service of the United States, was subject to the defendant's orders and control, as much as if she had been navigated by officers and men in the service of the United States. In the case of the Commonwealth of Pennsylvania vs. Sparhawk, (1 Dallas's Rep. 362,) Chief Justice McKean very justly observes: "The transaction, it must be remembered, happened *flagrante bello*, and many things are lawful in that season which would not be permitted in time of peace." Again, he says, "It is a rule, however, that it is better to suffer a private mischief than a public inconvenience; and the rights of necessity form a part of our law." In time of war, bulwarks may be built on private ground, because it is for the public safety. In the present case, the vessel was not ordered to be sunk to deprive the owner of his property, or to appropriate it to the defendant's use, but she was ordered to be sunk from the paramount consideration of the public welfare; it was to secure her from capture by the enemy. That the vessel afterwards fell into their hands, was an event involuntary, and perfectly accidental.

In this case the public property, which the defendant was bound to preserve from capture, was placed on board the plaintiff's vessel. Was the defendant to fold his arms, and suffer this property, so necessary to the United States, to be preserved or not, at the option of the plaintiff's master? It seems to me the answer must be that he had a right, in order to secure the ordnance and munitions in the vessel, to command her either to proceed to a place of safety, or to be sunk; and that he was not bound to rely on the discretion of the plaintiff's master to do this or not. The orders given did not deprive the master of a right to aid and advise as to the best course to be pursued; and, although the witnesses seem to suppose that she might and could have been sunk in such a way as to baffle all attempts to raise her by the enemy, it is extending speculation too far to pronounce that she would have been so sunk.

The defendant gave his orders under a pressing exigency, when there was no time to wait for the directions of the President; and, according to the law of nations, he represented the sovereign or executive power, by virtue of an authority tacitly given by his commission. (Vattel, b. 3, ch. 2, § 7.) Had the President of the United States been present, and given the order which the defendant gave, it will hardly be insisted that he would have been a trespasser.

It would seem, according to Vattel, (b. 3, § 232,) that this act being done voluntarily, and by precaution, the damages are to be made good to the owner by the sovereign power; because the party suffering in such case should bear only his quota of the loss. But we are clearly of opinion that the defendant is not responsible. There must be a new trial; the costs are to abide the event of the suit. [New trial granted.]

RESPUBLICA }
vs. } Supreme Court of Pennsylvania, 1788.
SPARHAWK. }

This was an appeal from the comptroller general's decision; on the trial of which, by consent of the attorney general, Sparhawk was considered as plaintiff.

There was a verdict and judgment *nisi* for the commonwealth, when Ingersoll obtained a rule to show cause why a new trial should not be granted.

The case was this: Congress, perceiving that it was the intention of the British army to possess themselves of Philadelphia, and being informed that considerable depositories of provisions, &c. were made in that city, entered into a resolution, on the 11th of April, 1777, that "a committee should be appointed to examine into the truth of their information, and, if it were found true, to take effectual measures, in conjunction with the Pennsylvania board of war, to prevent such provisions from falling into the hands of the enemy."

On the 13th of the same month, the Pennsylvania board of war, in aid of this resolution, addressed a circular letter to a number of citizens in each ward of the city, requesting them "to obtain from every family a return of the provisions, &c. then in possession, and the number of persons that composed the families, respectively, in order that proper measures might be pursued for removing any unnecessary quantity of supplies to a place of security." At the same time it was mentioned that "this proceeding was not intended to alter or divest the property in the articles removed; but, on the contrary, that the same should be at all times liable to the order of the respective owners, provided they were not exposed to be taken by the enemy."

That no precaution might be omitted upon this occasion, the Pennsylvania board of war, on the succeeding day, desired General Schuyler to prevent the introduction of further supplies, and to adopt the most effectual means for

preventing the departure of the wagons which were then in the city, and for procuring as many more as would be necessary to transport, not only the public stores, but also such private effects as it might be thought expedient to remove.

Several intercepted letters having increased the apprehensions of Congress, on the 16th of April, 1777, they resolved "that it be recommended to the president and members of the executive authority of this State to request the commanding officer of the continental forces in this city to take the most effectual means that all provisions, and every other article which, by falling into the hands of the enemy, may aid them in their operations of war against the United States, or the loss of which may distress the continental army, be immediately removed to such places as shall be deemed most convenient and secure."

This recommendation was transmitted by the executive council to the Pennsylvania board of war, who, on the 18th of April, passed an order that "houses, barns, stores, &c. should be hired or seized for the reception of such articles as should be sent out of the city by their direction or that of Congress;" and, accordingly, a very considerable quantity of property was soon removed to Chestnut Hill, and placed under the care of Messrs. Loughead and Barnhill, who gave receipts to the owners, promising "to restore what belonged to them, respectively, or to deliver the same to their respective orders."

The enemy not approaching so rapidly as was expected, a considerable part of this property had, accordingly, been redelivered to the order of the owners, before the city was entered by the British troops; when, however, the depot at Chestnut Hill fell likewise into their hands, and with it two hundred and twenty-seven barrels of flour, belonging to Sparhawk, being the remainder of three hundred and twenty-three barrels that had been originally removed thither, in consequence of the above-mentioned proceedings.

For the price of these two hundred and twenty-seven barrels of flour, with interest from the time of their being taken, Sparhawk exhibited an account, amounting to £919 6s. 6d., against the public; upon which, the comptroller general reported to the executive council that "neither the principal, the interest, nor any part of either, would be allowed;" and against this decision the present appeal was entered.

The question, therefore, on the motion for a new trial, was, whether this claim, under all the circumstances, ought to be admitted; and it was argued, on the 28th of April, by Ingersoll for the appellant, and the attorney general for the commonwealth.

On the part of the appellant, it was premised that, in a season of peace, the law had so great a regard for private property that it would not authorize the least violation of it, no, not even for the general good of the whole community, (1 Black. Com. 139;) and it was contended that, although a state of war entitled one nation to seize and lay waste the property of another, and their respective subjects to molest the persons and to seize the effects of their opponents, yet, as between a state and its own citizens, the principle with respect to the rights of property is immutably the same in war as well as peace. Sometimes, indeed, the welfare of the public may be allowed to interfere with the immediate possessions of an individual; but these must be cases of absolute necessity, in which every good citizen ought cheerfully to acquiesce; yet, even then, justice requires, and the law declares, that an adequate compensation should be made for the wrong that is done; for the burden of the war ought to be equally borne by all who are interested in it, and not fall disproportionately heavy upon a few. These general principles are fortified by the explicit language of the declaration of rights, sec. 8, which provides that "no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives." In the present case, the appellant did not voluntarily surrender his property, nor was it taken from him by any legislative sanction.

That there are, however, some instances where an individual is not entitled to redress for injuries committed on his property in the prosecution of public objects, must be admitted; but these instances are carefully distinguished by the writers on the law of nations, (Vat. b. 3, sec. 232,) and are in no degree analogous to the foundation of the appellant's claim. If, indeed, the property in question had remained in Philadelphia, and had there been seized by the enemy, there could have been no reason to claim an indemnification from the public; but, when it was taken out of the possession of the owner by the executive authority of the State, and removed to a distant place, with a promise of restoring it on demand, the subsequent capture being clearly a consequence of this interference, the Government is bound to indemnify the appellant for his loss.

It is unnecessary to travel into an investigation of the various modes by which an individual may seek for redress and compensation where his property has been divested for the use of the public. The right is clear; and that every right must have a remedy, is a principle of general law which the Legislature of Pennsylvania has expressly recognised, directing, by an early act of Assembly, the settlement of the accounts of the committee and council of safety, and prescribing in what manner the claims of individuals should be settled and discharged, (2 State Laws, 144.) To these bodies the Pennsylvania board of war succeeded; the business of the board was transacted in the same way; and there can be no good reason why the obligations which they incurred should not be as fairly and fully adjusted and satisfied. The Legislature, indeed, must have regarded the matter in the same light; for, finding that the former law was inadequate to its objects, another was enacted to appoint a comptroller general, and to authorize him "to liquidate and settle, according to law and equity, all claims against the commonwealth for services performed, moneys advanced, or articles furnished, by order of the legislative or executive powers, for the use of the same, or for any other purpose whatever." This authority embraced the appellant's claim, and the comptroller general has erred in deciding against it.

The attorney general for the commonwealth stated the case to be briefly this: That the Pennsylvania board of war, acting under the recommendations of Congress, removed, among other things, a quantity of flour belonging to the appellant, in order to prevent its falling into the hands of the enemy; declaring, however, that the removal was not intended to divest the property, but that the flour should still be subject to the order of the owner, provided it was not exposed to a capture. The flour being afterwards seized by the British troops at the place where the Pennsylvania board of war had deposited it, two questions arise: 1st, whether this court has power to grant relief to the appellant, if any ought to be granted; and, 2dly, whether, on principles of law and equity, he is entitled to be relieved.

1. Considering this as a case immediately between Sparhawk and the commonwealth, it is clear that a sovereign is not amenable in any court, unless by his own consent, (1 Black. Com. 242;) and, therefore, unless the commonwealth has expressly consented, there is nothing in the constitution of this court which can warrant their sustaining the present proceedings. What, then, is the evidence of consent? We are referred to the law appointing the comptroller general. Let us examine this law; and, as the case comes by appeal from the comptroller, if it appears that he had no authority to liquidate and settle Sparhawk's claim, it follows, as a necessary consequence, that this court also has no jurisdiction for that purpose.

By the act of Assembly which gives the appeal from the comptroller general's decision to the supreme court, (3 State Laws, 444,) this is restricted to such accounts as he shall settle in pursuance of the preceding act by which he was appointed, (3 State Laws, 57;) and there we find the specific object of his authority to be the liquidation and

settlement of all claims against the commonwealth "for services performed, moneys advanced, or articles furnished by order of the legislative or executive powers," &c. In order, therefore, to found the jurisdiction of the comptroller, two things must concur: first, that the claim be for services performed, moneys advanced, or articles furnished; and, secondly, that the debt has been incurred by order of the legislative or executive power.

Now, in the present case, the appellant makes no claim for services performed or money advanced, and it is impossible for the most ingenious fancy to bring his demand within the description of articles furnished. It is conceded, indeed, that the law does not, in peace, acknowledge any authority to violate the rights of property, or to interfere with the possessions of individuals; but there is, in war, a transcendent power which is connected with the fundamental principle of all Governments—the preservation of the whole; and the interest of private persons may certainly, in that season, be sacrificed, *ne quid detrimenti respublica capiat*. The loss of which the appellant complains was occasioned by the exercise of this power. As a tort, it cannot be charged against the commonwealth, for a declaration stating it so would be cause of demurrer; and, therefore, as it is only in cases of contract, either express or implied, that the comptroller general is authorized to act, there is no jurisdiction which can relieve him but that of the Legislature.

But, in the next place, the claim does not originate upon any order of the legislative or executive power, agreeably to the terms of the act. The order for the removal of the provisions, &c. to Chestnut Hill was issued by the Pennsylvania board of war, not in obedience to the executive council, but in pursuance of a recommendation from Congress, which the executive council merely transmitted to the board. Even, indeed, if the executive council had undertaken to direct this proceeding, a question would still arise whether they had a right to do so, for the act of Assembly providing for the settlement of claims against the public, by order of the executive council, though not in express words, yet, by a necessary implication, must intend a legitimate order founded upon the constitutional powers of that department, or issued under the authority of some law. The executive council cannot otherwise charge the public; without the legislative sanction they cannot erect magazines, or any other public buildings, nor enter into the most trifling contract; of which, indeed, a recent proof appears in the refusal of the General Assembly to pay for the arms of the State that had been placed in the supreme court, or to discharge the additional expense of the triumphal arch, which had been incurred by the direction and upon the faith of the executive council.

2. But it is further to be shown, even supposing the comptroller general, or this court, upon appeal, had the power of granting Sparhawk's claim, yet that the claim itself is not founded in law or equity, and ought, therefore, to be rejected. If the appellant's claim is just, he ought either to urge it against the immediate agent in the wrong which he has sustained, or travel to the source, and demand reparation from Congress. The Commonwealth of Pennsylvania cannot be liable, for the persons who took and kept the provisions, &c. at Chestnut Hill acted under the authority of the board of war, who, it is true, were appointed by the executive council; but, in this instance, proceeded entirely upon the recommendation of Congress; which the executive council did not, and could not, legally enjoin or enforce. It is possible, however, that, in strict law, Messrs. Loughhead and Barnhill would have been liable as trespassers had not the Legislature interfered to protect persons in their situation from vexatious prosecutions. (3 State Laws, 178.) And this act, although it relates immediately to individuals, shows generally that the temporary bodies, by whose orders such individuals were governed, are, likewise, to be exempted from suits on account of their conduct in the service of their country.

But on what ground can redress be at all expected on this occasion? The removal of the appellant's property arose from the necessity of the war; it was not done to convert the flour to the public use, nor to deprive the owner of the advantages of it any further than the paramount consideration of the public welfare required. The object was to secure it from the depredations of the enemy; and that it afterwards fell into their hands, was an event involuntary and merely accidental; in which case Vattel expressly says no compensation shall be made. (Vat. lib. 3, sec. 232.) If the appellant is entitled to relief, every farmer whose cattle have been driven from his plantation to avoid the enemy; every man whose liquors have been staved, or provisions destroyed, upon the approach of the British troops; all the owners of Tinicum island, which was deluged by a military mandate; and, in short, every one whose interests have been affected by the chance of war, must also, in an equal distribution of justice, be effectually indemnified. What nation could sustain the enormous load of debt which so ruinous a doctrine would create?

Ingersoll, in reply.—With respect to the first point made on the part of the commonwealth, it is not contended for the appellant that, generally speaking, citizens may sue the State, but only that every Government which is not absolutely despotic has provided some means (in England, for instance, by petition in chancery) to obtain a redress of injuries from the sovereign.

As to the second point: The Pennsylvania board of war acted under the authority of the executive council, and the principal is responsible for the agent. When the appellant's property was taken out of his own custody, the Government stood in his place, and undertook all the consequent risks. The individuals who were charged with the care of it are protected by the act of Assembly; but the State, upon every principle of justice, is still liable for the loss; and the authority of the comptroller general was intended, and has always been understood, to be competent for granting the satisfaction which is now claimed.

The chief justice, after stating the case, delivered the opinion of the court, as follows:

McKean, chief justice.—On the circumstances of this case, two points arise:

1st. Whether the appellant ought to receive any compensation or not; and,

2d. Whether this court can grant the relief which is claimed.

Upon the first point, we are to be governed by reason, by the law of nations, and by precedents analogous to the subject before us. The transaction, it must be remembered, happened *flagrante bello*, and many things are lawful in that season which would not be permitted in a time of peace. The seizure of the property in question can, indeed, only be justified under this distinction, for, otherwise, it would clearly have been a trespass, which, from the very nature of the term *transgressio*, imports to go beyond what is right. (5 Bac. Abr. 150.) It is a rule, however, that it is better to suffer a private mischief than a public inconvenience; and the rights of necessity form a part of our law.

Of this principle there are many striking illustrations. If a road be out of repair, a passenger may lawfully go through a private enclosure. (2 Black. Com. 36.) So, if a man is assaulted, he may fly through another's close. (5 Bac. Abr. 173.) In time of war, bulwarks may be built on private ground. (Dyer, 8; Brook. Trespass. 213; 5 Bac. Abr. 175;) and the reason assigned is particularly applicable to the present case, because it is for the public safety. (20 Vin. Abr. Trespass. b. A. sec. 4, fo. 476.) Thus, also, every man may, of common right, justify the going of his servants or horses upon the banks of navigable rivers, for towing barges, &c. to whomsoever the right of the soil belongs. (1 Ld. Raym. 725.) The pursuit of foxes through another's ground is allowed, because the destruction of such animals is for the public good. (2 Buls. 62; Cro. I. 321.) And, as the safety of the people is a law above all others, it is lawful to part affrayers in the house of another man. (Keyl, 46; 5 Bac. Abr. 177; 20 Vin. Abr. fo. 407, sec. 14.) Houses may be razed to prevent the spreading of fire, because for the public good. (Dyer, 36; Rud. L. and E. 312; see Puff. lib. 2. c. 6. sec. 8; Hutch. Mor. Philos. lib. 2. c. 16.) We find, indeed, a memorable instance

of folly recorded in the third volume of Clarendon's History, where it is mentioned that the Lord Mayor of London, in 1666, when that city was on fire, would not give directions for, or consent to, the pulling down forty wooden houses, or to the removing the furniture, &c. belonging to the lawyers of the temple then on the circuit, for fear he should be answerable for a trespass; and, in consequence of this conduct, half that great city was burnt.

We are clearly of opinion that Congress might lawfully direct the removal of any articles that were necessary to the maintenance of the continental army, or useful to the enemy and in danger of falling into their hands, for they were vested with the powers of peace and war, to which this was a natural and necessary incident; and having done it lawfully, there is nothing in the circumstances of the case which, we think, entitles the appellant to a compensation for the consequent loss.

With respect to the second point: This court has authority to confirm or alter any proceedings that come properly before the comptroller general; but if he had no jurisdiction, we can have none. It appears, then, that his power is expressly limited to claims "for services performed, moneys advanced, or articles furnished" by order of the Legislature or the executive council: and as he has no right to adjudge a compensation from the State for damages which individuals may have suffered in the course of our military operations, we are of opinion that we could grant no relief, even if the appellant were entitled to it.

By the court: Let the rule be discharged, and the judgment for the commonwealth be made absolute.

16th CONGRESS.]

No. 549.

[2d SESSION.

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 22, 1821.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Esther Rogers, have had the same under consideration, and make thereon the following report:

That the petitioner states that her late husband, Major Hezekiah Rogers, served in the army of the United States during the whole period of the revolutionary war; that he entered the service as a captain at the commencement of the war, and held the rank of major at the close of the same; that he served his country with fidelity and zeal during that eventful period; that the only compensation which he received for those services was in the then depreciated currency of the country; that, being destitute of property, and embarrassed with a young and growing family, he was obliged to sell out his securities on the Government at such a sacrifice as left him almost without remuneration for the toils and dangers he had undergone.

That the petitioner further states that, about the year —, her late husband received the appointment of chief clerk in the War Department; that he continued in said office, and discharged the duties thereof, as she believes, entirely to the satisfaction of the Government, until the summer of —, when he died suddenly, leaving the petitioner (his widow) and two daughters, his only surviving children; that, owing to many unfavorable circumstances, he was unable during that period to make any provision for his family, so that, at his death, the petitioner and her daughters were left without the means of support; that her said daughters are now residing with her, together with three small grandchildren, who are left without property, and wholly dependant on the petitioner. She therefore prays that, in consideration of the services of her late husband, and especially of his services as a revolutionary officer, Congress would afford her such relief as they may deem proper.

The committee commiserate the situation of the petitioner; but whether Congress can, with propriety, grant her relief by appropriating any part of the public money to that object, is the question which the consideration of her petition involves. In the opinion of the committee, this question must be answered in the negative. It is not properly the business of Congress to attend to cases of individual embarrassment and distress, but rather to provide general rules for the regulation of the community, leaving those rules to be applied to individuals by those whose province it is to administer or execute the laws. Should relief be granted, the committee presume it must be by way of pension; but they believe that justice as well as good policy requires that pensions should be granted (except in any peculiar cases) by classes, and not individually. If relief is granted in a particular case, there can be no good reason why the same relief should not be afforded in every other similar case. The petitioner does not come within the provisions of any of the acts of Congress heretofore passed on the subject of pensions, and, in the opinion of the committee, those acts are already sufficiently broad. They therefore offer the following resolution:

Resolved, That the petitioner have leave to withdraw her petition.

16th CONGRESS.]

No. 550.

[2d SESSION.

DAMAGES TO PROPERTY NEAR DETROIT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 24, 1821.

Mr. SAMUEL MOORE, from the Committee of Claims, to whom was referred the petition of James May, of Detroit, reported:

That the petitioner states that, in the year 1813, he occupied, under a lease, at the annual rent of five hundred dollars, a farm, seven acres in front and forty in depth, belonging to the heirs of the late William Macomb,

near the city of Detroit, and was the owner of another, called the Cavisa farm, adjoining the former, of the same depth, and two acres in front; that the quantity of land cleared and enclosed on those two farms was about one hundred and eighty acres, under good fence, of which a large proportion consisted of post and rail fence—the posts being red cedar, and the rails oak; and that about sixty-five acres were enclosed with white cedar pickets, from ten to twelve feet long; that, in the month of October, the American army, commanded by General Harrison, arrived at Detroit, together with the Indians in the service of the United States, and that a part of the army and Indians commanded by General McArthur encamped upon and near the premises of the petitioner. He further states that, on the 9th or 10th of October, a storm commenced, and continued many days, which, rendering it impracticable to procure fuel, in the existing state of the surrounding country, the troops destroyed his fences and pickets to supply themselves with fuel, and carried away his out-buildings, either for fuel or for the erection of huts; that he applied to General Harrison, General McArthur, General Cass, and Colonel Butler, successive commanders at that post during the following months, imploring them to restrain those depredations, but without any other effect than to receive assurances of indemnity for all the damage he should sustain. About the month of April, he says, the whole of the fences, pickets, and out-buildings on the premises aforesaid had been made use of by the army; shortly after which time, Colonel Croghan, having succeeded to the command of Detroit and its dependencies, issued an order to value the damage sustained by the petitioner.

Among the documents in this case is a copy of the order of Colonel Croghan, dated April 28, 1814, addressed to Captain James McClaskey, then assistant deputy quartermaster general, directing him to appoint two respectable citizens of the town, to act conjointly with two others to be chosen by the petitioner, for the purpose of determining the amount of damage sustained in the destruction of his property by the troops of the United States. Conformably to this order, Henry J. Hunt and James Conner were appointed on behalf of the United States, and James H. Audrain and Antoine Dequindre chosen by the petitioner. A copy of the order from Captain McClaskey addressed to the above valuers is also among the documents before the committee, by which it appears that they were directed to “be particular in estimating the value of such property, viz. houses, barns, rails, &c., as were actually destroyed, burnt, and carried away by the troops—estimating such property at its real value—taking into consideration the defective state it was in at the time it was destroyed or used; because the property, viz. houses, barns, and rails, wanted repairs, and the proprietor would have been under the necessity of repairing and replacing them in a short time.”

Pursuant to this order, the valuers proceeded to determine the aforesaid damages, and have certified the amount thereof on the Macomb farm to be \$4,348 10, and on the Cavisa farm, \$880 55.

It appears that, under the provisions of the act of April, 1816, usually called the “claims law,” the above valuation was recognised and confirmed by the deposition of the valuers, taken before commissioners appointed for that purpose by the Commissioner of Claims, who thereupon decided in favor of the claimant. This decision was disapproved by the Secretary of War, as the petitioner states, on the following exceptions: that the proof was defective; the damage done to houses and fences not distinguished; the estimate in gross, and apparently extravagant.

For the amount of damages ascertained as above, the petitioner, under the aforesaid circumstances, and with the aid of some additional evidence, asks to be remunerated by Congress.

The proofs adduced to the committee in support of this claim are substantially as follows:

General Cass, under date of November 19, 1817, at Detroit, certifies that, in October, 1813, he was left by General Harrison in command of the troops at Detroit, and continued in command until the latter part of December, during which time he boarded with James May, Esq., the petitioner; that the quarters he occupied commanded a view of a considerable part of the Macomb farm; that he often saw the soldiers carrying away the rails and pickets, and sometimes portions of a small building, for fuel; that “the situation of the country was such that no human exertions could procure an adequate supply of fuel for the troops,” the weather being cold and stormy, many of the men in tents, and others scattered about in open and exposed quarters; that there was not, when the enemy evacuated the country, any quantity of fuel in store, as in ordinary years, procured while the weather was good, and the roads passable; that the country in the immediate vicinity of Detroit is impassable for teams after the fall rains commence; that the timber, for about three miles, had been destroyed, and it was impossible, after the arrival of the troops, to procure fuel from thence; and the procuring it by water, at that tempestuous season, was impracticable. In this situation, it became absolutely necessary to burn such fuel as could be procured; and therefore, although the men were not authorized to take this fuel, they were not punished for doing so; that it was used to preserve the lives of the troops in the severity of a northern winter, in the most tempestuous weather, at an exhausted and important post, where no other means of supply could be adopted.

General McArthur, under date of May 20, 1820, at Chillicothe, certifies that, in the autumn of 1813, when the army of General Harrison took possession of Detroit, there was little or no firewood to be procured; that it was impracticable to procure it through the quartermaster's department, and that the troops were compelled to make use of the fencing; and that when the fact was represented to the general by the petitioner and others, as an extreme grievance, his reply was, that the troops must have firewood, and that the Government must pay the damages.

Major Gratiot, under date of November 19, 1817, certifies to the fact of the fences, pickets, and out-buildings of the petitioner being used for fuel, and for the erection of huts for the men, on account of the dilapidated condition in which the country was left by the enemy, the exposed accommodations of the troops, and the badness of the roads, which made hauling from the woods impracticable.

Captain James McClaskey, late assistant deputy quartermaster general, on oath, declares, under date of November 4, 1817, that he arrived at Detroit about the 1st of October, 1813; that the troops were then encamped on and about the premises of the petitioner; that, in the months of October, November, and December, or until snow fell, fuel could not be procured sufficient for the troops; that, from their exposed situation, they were under the necessity of committing depredations on private property, by pulling down pickets, fences, and all old buildings in the vicinity which were not occupied, in order to use them for fuel; that both the farms of the petitioner were almost entirely stripped of their fences by the soldiers in the fall and winter of 1813 and 1814; that he often heard the petitioner complain to the officers of the conduct of the soldiers, who informed him it was not in their power to prevent it; that, of the men stationed at Detroit in the fall and winter of 1813 and 1814, about fifteen hundred were sick, and unable at times to aid in procuring fuel; and that this witness, at sundry times, directed the soldiers to use any fences or timber they could find, to supply the messes of those who were sick, when a sufficient quantity of fuel was not furnished.

Peter Audrain, a citizen of Detroit, under the date of November, 5, 1817, on oath, states that on the arrival of General Harrison with the northwestern army at that post in 1813, there being no barracks, part of said army, with a band of Indians in the service of the United States, encamped on the premises of the petitioner; that there was no possibility of procuring fuel from the woods before January; that he often saw the troops, in October, November, and December, tearing away the fences, pulling up the pickets which enclosed the aforesaid premises, and burning them for fuel; that he also saw the said troops demolish and carry off sundry out-buildings belonging to said prem-

ises, which he supposes were applied towards completing the cabins and huts. This witness further states that he often heard the petitioner remonstrate with the different commanding officers respecting those trespasses, and solicit their interference to prevent them; that he was told they could not, that the army could not exist without fuel.

Henry J. Hunt, a citizen of Detroit, one of the persons appointed by Captain McClaskey, on the part of the United States, to determine the amount of damage done to the petitioner, in his deposition, taken before one of the commissioners appointed by R. B. Lee to take evidence in the case, says that he believes that the depredations were, from the state of the country, necessary for the preservation of the troops, who could not exist without fuel at that inclement season; that fuel could not be furnished by the inhabitants, owing to the destitute situation in which they were placed, by the occupation of the territory by the British and Indians. In regard to the manner in which the valuation of the damage was made, under the order of Captain McClaskey, the witness on his oath says that he visited the premises of the petitioner, in company with the other valuers, and with care and attention estimated the damages committed; that the several articles were computed, item by item, at the lowest cash price, when taken, having always, in the execution of this duty, the interest of the Government in view.

James Conner, the other valuer appointed on behalf of the United States, in his deposition, taken before the aforesaid commissioner, says that to the best of his recollection there were neither pickets nor rails remaining on the premises at the time the valuation was made. He says a written order from Colonel Croghan was shown to the valuers by Captain McClaskey, directing the valuation, and declares on his oath that the damages were estimated with care and attention.

Antoine Dequindre, one of the valuers chosen by the petitioner, in his deposition, taken before the commissioner aforesaid, also testifies to the care and attention with which the valuation was made.

On a careful consideration of the foregoing evidence, the committee feel justified in the conclusion that the depredations of which the petitioner complains resulted, unavoidably, from the inclement and tempestuous character of the season, the condition of the surrounding country, and the exigencies of a suffering army, thrown suddenly upon a position destitute of accommodations, and exhausted of supplies by the recent occupation of an enemy.

Though it must be always wise and just to make a marked distinction between injuries arising out of wanton excesses of the soldiery, and those resulting from a regularly authorized application of private property to public use, leaving the former to the vigilance of the citizen and the judicial tribunals of the country, and extending to the latter the prompt interposition of the Government, the committee believe that cases of uncontrollable necessity sometimes occur, in which the citizen may equitably claim redress from the legislative power for injuries to his property, committed without official formalities. Such a case, it is believed, is presented in the present instance. The damages complained of, though irregular, do not appear to have been wanton or unnecessary; they were not, indeed, founded on a previous order, but they were deliberately permitted, and expressly and repeatedly approved, as unavoidable, by the only officers competent to authorize them; and they were eventually recognised by an order to estimate their amount, addressed to the officer whose province it was to pay them. When damages thus characterized have been ascertained in good faith by the best evidence the case would admit, the committee believe that to compensate for them would comport with the justice of the Government, and could not be dangerous by its example.

The committee have accordingly proceeded to consider the proofs by which the amount of damage is sustained, and have thereon to remark, that, while it is satisfactory to observe, in the order from Captain McClaskey, an honorable evidence of his regard for the public interest, they have to regret the absence of all the details by which the valuation was made. H. J. Hunt declares, indeed, on oath, that every article was valued carefully, item by item, at its lowest cash price, when taken, and James Conner, the other valuer for the United States, confirms the declaration; yet it must be obvious that the opportunity is not afforded to determine whether, among those items, there are not some for which it would be utterly inexpedient to make an allowance. This remark applies, however, more particularly to the damage sustained on the Macomb farm; for, in relation to the Cawisa farm, a list of items has been preserved, which, though informal, is believed to be genuine. It is as follows:

| | | |
|---|------|--------|
| 79 panels post fence, the posts of white cedar, used as fuel and for erecting temporary barracks, - | \$77 | 70 |
| 10,130 rails, used for fuel, at \$2 50 per hundred, - | - | 254 50 |
| 2,164 stakes, - | - | 53 60 |
| A barn and horse mill pulled down, and taken to burn or erect barracks, - | - | 494 75 |

The committee have only to observe, further, that, in granting compensation by Congress for property taken under circumstances marked with irregularity, the strongest considerations of public safety require that the amount should not be estimated by any temporary rate of value, arising out of the very exigencies on which the appeal to Congress is founded.

After carefully examining the present claim with a due regard to all the principles which seem applicable to it, the committee think it equitable to allow, for the damages sustained on the Macomb farm, \$2,900, and for the damages sustained on the Cawisa farm, \$800; and for that purpose report a bill.

16th CONGRESS.]

No. 551.

[2d SESSION.]

DIFFERENCE BETWEEN THE PRICES OF THE FIRST AND SECOND LOANS UNDER THE
ACT OF MARCH, 1814.

COMMUNICATED TO THE SENATE, JANUARY 25, 1821.

Mr. VAN DYKE, from the Committee of Claims, to whom was referred the petition of Jacob Barker, of the city of New York, submitted the following report:

That the Secretary of the Treasury, on behalf of the United States, made contracts with Jacob Barker and other individuals, on the 2d day of May, 1814, for a portion of the ten million loan, part of the twenty-five millions of dollars authorized by the act of 24th of March, 1814, the condition of which contract was expressed in the following words, viz: "Eighty-eight dollars in money for each hundred dollars in stock; and the United States

engage, if any part of the sum of twenty-five millions of dollars, authorized to be borrowed by the act of 24th March, 1814, is borrowed upon terms more favorable to the lenders, the benefit of the same terms shall be extended to the persons who may then hold the stock, or any part of it, issued for the present loan of ten millions." The proposals issued by the Secretary of the Treasury, under date of April 4, 1814, for said loan, and a letter from him to Jacob Barker, under date of May 2d, 1814, accepting Jacob Barker's proposal for five millions of dollars of the loan, are annexed, and form part of this report. [For this letter, see Finance, vol. ii, p. 845.]

On the 31st August, 1814, another contract was made by the Secretary of the Treasury with Dennis A. Smith for a further portion of the said twenty-five million loan, on the terms of one hundred dollars in six per cent. stock for each eighty dollars paid, and which Dennis A. Smith states, in his affidavit accompanying the petition, it was understood and agreed between the Secretary of the Treasury and him (the deponent) that he, the deponent, should pay in paper of the banks of the District of Columbia and of the banks of the city of Baltimore.

The Secretary of the Treasury, in his communication to the President of the Senate, of February 18, 1820, states that "no money was raised by loan, under the act authorizing a loan of \$25,000,000, subsequent to the 31st of August, 1814, upon terms more favorable to the lenders than the loan of 2d May, 1814."

The loan of 31st August being on terms more favorable to the lenders than that of 2d May preceding, those who then held stock of the first loan became entitled to claim the benefit of those terms according to the contract in that behalf. The petitioner states that he repaired to Washington soon after the second loan, and applied "for an order for the supplemental stock to issue to the persons who, according to the books of the commissioner of loans, held the original stock on 31st August, the day on which the more favorable terms were allowed," insisting that no others could, with the least propriety, claim it, because a sale and transfer of the stock, subsequent to that event, did not transfer the benefit of the condition.

It appears that, in October, 1814, the Secretary of the Treasury submitted a statement of the case, with several questions arising out of it, to the consideration of the then Attorney General of the United States, who gave it as his opinion "that the condition attached as soon as the second loan was made," "and no longer remained open and executory;" and that the owners of the previous "stock at the time the second was made were the persons entitled to the additional stock for the difference between the price of the first and second loans;" "that the supplemental stock must be issued to them if they are still the owners of the first stock; but, if they have passed it away, that it should be issued in favor of the present owners of the first stock, whoever they may be, to whom the beneficial condition also passed by transfer."

This construction was adopted by the Treasury Department, and, accordingly, instructions were issued from the Comptroller's Office, 30th November, 1814, to certain commissioners of loans, directing that the additional stock in question should "be issued to the persons holding, at the time of application for the additional stock, scrip certificates or funded certificates of stock of the aforesaid loan of ten millions of dollars, and not to those who may have held the said certificates on the 31st August last, the day on which a part of the loan for six millions of dollars was taken, unless they shall also hold them at the time of application for the additional stock;" and further directing that "the original certificate in the hands of the party at the time of such application should be surrendered and cancelled, and, in lieu of it, that there should be issued a new certificate for the same amount, entitled 'funded six per cent. stock of 1814, loan of ten millions of dollars, of 2d May, 1814, on which the supplemental stock has issued;' together with a separate certificate for the amount of the supplemental stock entitled 'supplemental funded six per cent. stock of 1814, loan of ten millions of dollars, of 2d May, 1814.'"

Pursuant to these instructions, the supplemental stock was issued to the persons holding, at the time of application for it, scrip certificates or funded certificates of the original stock; the original certificates were surrendered and cancelled, and new certificates issued in lieu of them; by which acts, the holders of the original stock clearly expressed their assent to, and acceptance of, the final execution of the loan contract, in the manner and form proposed by the Treasury Department.

The petitioner does not state what amount of the said original stock he held on the 31st August, 1814, but he alleges that, "of the difference, between eighty and eighty-eight, supplemental stock to the amount of three hundred thousand dollars was due to him."

The facts collected from the petition and documents referred to present the following question, viz: Whether a general assignment of the scrip or funded certificate of the original stock, after 31st August, transferred to the assignee the right to demand the said supplemental stock?

This question was considered and answered by the Attorney General of the United States in October, 1814; his opinion was adopted by the then Secretary of the Treasury, a gentleman of distinguished professional talents; and, upon the most mature consideration, the committee can discover no principle of law or equity that will warrant a different construction. It might have been competent for the vender of the original stock, by a special contract with the purchaser at the time of sale, to reserve to himself the equitable right to the benefit of the condition expressed in the contract of loan; and it is a fair presumption that, if such intention had existed at the time of sale, the vender would have obtained and preserved some evidence of it. The petitioner, however, does not suggest that any such reservation was made, but insists "that the condition, when vested, could not follow the stock, without striking from the original contract the word *then*, or without a *special* assignment from the "persons who held the stock when the more favorable terms were allowed."

It is true the right to demand the benefit of the condition accrued on 31st August, 1814, to the persons *then* holding the stock, and became attached to the stock in their hands; and, in the opinion of the committee, the benefit of the condition, thus attached to the stock, followed it when sold and transferred, unless separated by the agreement of the vender and purchaser; and the assignee, under a general sale without any reservation, became vested with the full, legal, and equitable right to claim and have the supplemental stock.

If this opinion be correct, the United States, having paid the supplemental stock to the holders of the original stock, and closed the contract with them to their satisfaction, have fully, fairly, and honorably fulfilled the engagement made by the Secretary of the Treasury in relation to the loan of 2d May, 1814; and Jacob Barker has no just claim against the United States on that account.

The petitioner further represents that he is now sued for a large sum of money, on account of certain foreign bills of exchange, which he drew and sold to the agent of the Treasury Department in New York, the amount of which he expected to raise by a sale of stock in England; but, being disappointed, the bills were dishonored, protested, and returned, and that he is unable to pay them. He attempts to connect this sale of the bills of exchange with his loan contract before noticed, and, insisting that a large sum remains due to him from the United States under the condition of that contract, prays that the Attorney General of the United States may be authorized to agree on a case with him, setting forth all the circumstances relating to the loan and to the bills of exchange, to be submitted to the Supreme Court of the United States for their decision, on principles of law and equity, and that the suits now depending against him may be dismissed without costs.

If the opinion which the committee have expressed against the petitioner's right to the before-mentioned supplemental stock be correct, then it follows that the petitioner has no color of even an equitable defence on that account against the demand on behalf of the United States, in the suits brought to recover the amount of the said bills of exchange. It is also to be remarked that a reference to the letter from the Secretary of the Treasury, under date of 21st June, 1814, addressed to the petitioner in answer to his offer to furnish bills of exchange, seems plainly to contradict the allegation of the petitioner as to the alleged connexion between the loan contract and the bills of exchange, as that letter, in the opinion of the committee, shows that the Secretary of the Treasury considered the transaction wholly unconnected with the loan obtained from the petitioner. There is, therefore, nothing to distinguish the suits complained of from any other suits presented on behalf of the United States against a citizen for debts justly due, in which it would be inexpedient for Congress to interfere by a special act. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

TREASURY DEPARTMENT, *February 18, 1820.*

In obedience to a resolution of the Senate of the 7th instant, referring the petition of Jacob Barker to this Department, I have the honor to submit—

1st. A copy of the conditions upon which the loan of the 2d of May, 1814, was obtained.

2d. A copy of the opinion of the Attorney General relative to the terms of that loan, of which the petitioner complains.

3d. A copy of the circular of the Comptroller of the Treasury, in conformity with that opinion.

And, 4th. Copies of two letters from the Secretary of the Treasury; one to the petitioner, and the other to Samuel Flewelling, Esq. relative to the purchase of bills of exchange upon London and Amsterdam, from the payment of a part of which the petitioner now prays to be relieved.

It may be proper to state that no money was raised by loan under the act authorizing a loan of \$25,000,000 subsequent to the 31st of August, 1814, upon terms more favorable to the lenders than the loan of the 2d of May, 1814.

Without determining that the construction given by the Attorney General to the terms of the loan of the 2d of May, 1814, was correct, it was an act of justice to the community to make it known as soon as it was formed. So long as the expectation should be entertained that a loan might be negotiated more unfavorable to the Government than those which had been previously obtained, the price of the stock to which the contingency was attached would be affected by the possibility of its occurring.

From the letter of the Secretary of the Treasury to the petitioner, relative to the bills of exchange which he proposed to sell to the Government, it is manifest that that officer considered the transaction wholly unconnected with the loan obtained from the petitioner. The transaction is expressly declared to be founded upon the principles which uniformly govern the Treasury in the purchase of bills of exchange. Mr. Flewelling is instructed to purchase bills of the petitioner, provided he offers them upon terms as advantageous to the Treasury as they can be obtained from other persons. The solicitude which is manifested in the letter that the drawers and endorsers should be solvent would not have been felt if the proceeds of the public stock intended to be remitted to London had been considered by the Secretary as materially affecting the transaction. If it should be admitted that the Secretary of the Treasury knew that the petitioner relied upon the proceeds of that stock to meet the demand created against him by the sale of the bills of exchange in question, it is not perceived that that circumstance could in any manner change the nature of the transaction. The bills were clearly taken upon the general credit of the parties to them, and not upon any specific fund which they might contemplate as a mean of complying with their engagements.

I have the honor to be your most obedient servant,

WM. H. CRAWFORD.

The Hon. JOHN GAILLARD, *President pro tem. of the Senate.*

Case stated by the Secretary of the Treasury for the opinion of the Attorney General.

Under the authority of the act of Congress of the 24th of March, 1814, a notice was published by the late Secretary of the Treasury, dated the 4th of April, 1814, inviting proposals to a loan of ten millions of dollars, part of the loan of twenty-five millions authorized by the act. (See the document B, annexed to the Secretary's report of the 23d September, 1814.)

On the 2d of May, proposals were presented by sundry persons, which were accepted, in the terms of Mr. Campbell's letter of that date, at eighty-eight dollars in money for each one hundred dollars in stock, with a specified condition. (See document B b.) These persons have carried their proposals into complete effect, and they are entitled to the benefit of the terms of the letter.

On the 25th of July, 1814, another notice was published by the late Secretary of the Treasury, inviting proposals to a loan of six millions, another part of the loan of twenty-five millions. (See document C.)

On the 31st of August, 1814, proposals were presented and accepted, under this second notice, upon the terms mentioned in Mr. Campbell's letter, dated that day, at eighty dollars in money for one hundred in stock.

There remains a considerable sum of the twenty-five millions of dollars authorized to be loaned, for which proposals have not yet been invited, but they probably will be invited soon.

Question 1. Does the specific condition in Mr. Campbell's letter of the 2d of May, 1814, admit the first lenders to the benefit of the terms of the second loan for the whole amount of their subscriptions, or only in proportion to the amount of the second loan, which still leaves a considerable part of the twenty-five millions unloaned?

Question 2. Was the condition absolute, and executed on making the second loan; or does it remain open, subject to all the possible variations of the price of the subsequent loans, and until the whole twenty-five millions has been loaned?

Question 3. To whom is the stock, for the difference between the price of the first and second loans, to be issued—to the contractors, the assignees, or the pledgers of the stock issued on the first loan?

Question 4. If the condition remains open until the whole sum of twenty-five millions has been loaned, ought there to be successive issues of the stock for the difference, or ought there to be only one issue of stock, to be made at the final execution of the authority to borrow the twenty-five millions of dollars?

Answer 1. I think that, looking to Mr. Campbell's letter of the 2d of May, 1814, with a view to its fair construction on behalf of the public creditors, the first lenders are entitled to the benefit of the terms of the second loan to the whole amount of their subscriptions. Its language could scarcely fail to have awakened in them that expectation.

Answer 2. I think that the condition stated in the Secretary's letter attached as soon as the second loan was made; that, on the happening of that event, it no longer remained open and executory, subject to all the possible variations in price which might mark subsequent loans until the whole twenty-five millions should be exhausted.

Answer 3. I think that the owners of the previous stock at the time the second loan was made were the persons entitled to the additional stock for the difference between the price of the first and second loans.

Answer 4. The answer to this question is embraced in the answer to the second question. The arguments from inconvenience are too strong to have it supposed that it could have been the intention of the Government to authorize successive and indefinite emissions of supplemental stock, until the entire loan, divided, perhaps, into several distinct portions, even after the second should be completed. This view of the subject may serve to corroborate the propriety of the second answer, which treats the condition held out to the first lenders as having become absolute the moment the second loan was made.

RICHARD RUSH, A. G.

WASHINGTON, October 22, 1814.

Mr. Dallas takes the liberty of asking the Attorney General, in answer to the third question, to state to whom the supplemental stock must be issued *at this time*, as the Attorney General only states who were entitled to it on the 31st of August, when the second contract was formed.

OCTOBER 25, 1814.

EXPLANATORY ANSWER.

In answer to the third question, I have stated that the owners of the previous stock at the time the second loan was made were the persons entitled to the additional or supplemental stock for the difference between the price of the two loans.

It must, therefore, be issued to them, if they are still the owners of the first stock; but if they have passed it away, I think that the supplemental stock should be issued in favor of the present owners of the first stock, whoever they may be, to whom the beneficial condition has also passed by transfer. It is to be presumed that the market price of the first stock was affected by the second loan to the amount of the difference, and that each new transferee has taken the former under the expectation that such difference would ultimately be made good in his hands. This construction appears to me most congenial with the spirit of the contract, and most conducive to its convenient and practicable execution.

R. RUSH.

OCTOBER 25, 1814.

NOVEMBER 17, 1814.

The Secretary of the Treasury having further asked from what periods the supplemental stock should bear interest, I answer, that I think interest ought to commence upon it from the dates respectively at which interest began to accrue upon the primary stock to which the supplemental is the increase.

R. RUSH, A. G.

Circular to certain Commissioners of Loans.

SIR: TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, November 30, 1814.

I enclose, for your information and government, a copy of a notification, bearing date this day, issued by the Secretary of the Treasury, respecting additional stock to be issued to the subscribers, or those claiming under them, to the loan of \$10,000,000 of the 2d May, 1814.

The additional stock in question is to be issued to the persons holding, at the time of application for the additional stock, scrip certificates, or funded certificates of stock of the aforesaid loan of \$10,000,000, and not to those who may have held the said certificates on the 31st August last, the day on which a part of the loan for \$6,000,000 was taken, unless they shall also hold them at the time of application for the additional stock.

The loan of 2d May, 1814, having been effected at the rate of \$100 in stock for \$88 in money, and the loan of August, 1814, having been made at the rate of one \$100 in stock for \$80 in money, the amount of additional stock which the holders of the stock of May, 1814, are entitled to receive is \$10 on every \$100 of the stock they may now hold. The additional stock thus to be issued is, in conformity with the opinion of the Attorney General of the United States, to bear interest from the same day as the original stock to which it is an appendage. This fact will be ascertained from the face of the original certificate, in all cases where no dividend and transfer on it have been made and declared; and in cases where a dividend and transfer have been made and declared, by having recourse to the books of the Treasury, or to those of the commissioner of loans where the dividend was declared. You will be pleased to take care that no mistakes be made in regard to the commencement of interest on the supplemental stock. Where the dividends have been declared on books other than those of your office, you will, of course, obtain a certificate of the fact as to the time from which the stock originally bore interest, from the commissioner of loans on whose books the dividend may have been declared; or, if declared at the Treasury, from the Register of the Treasury.

Persons possessing a general and regular power of attorney to transfer stock in the ten million loan, and holding the stock, are to be considered as entitled to the additional stock; and where a power is produced authorizing a transfer to a particular person, that person is to be considered as entitled to the additional stock. In every case where the supplemental stock may be applied for, and before it can be delivered, the original certificate in the hands of the party at the time of such application is to be surrendered to you, and cancelled, and, in lieu of it, you will issue a new certificate for the same amount, entitled "funded six per cent. stock of 1814, loan of \$10,000,000 of the 2d May, 1814, on which the supplemental stock has issued," together with a separate certificate for the amount of the supplemental stock, entitled "supplemental funded six per cent. stock of 1814, loan of \$10,000,000 of 2d May, 1814."

On the original certificate thus surrendered there must be an assignment by the proprietor, or his attorney, agreeably to the forms herewith, marked B. You will perceive that the accounts of the old stock are to be closed on your books, and new accounts opened, corresponding with the alteration in the funded certificates hereafter to be issued; a supply of which will be transmitted to you by the Register of the Treasury.

You will make out duplicate abstracts of the certificates of supplemental stock issued by you, agreeably to the enclosed form, marked C; one of which abstracts you will forward to this office quarter-yearly, and file the other in your office.

The separation which is to be made of the original and supplemental stock is done for the accommodation of the holders, to enable them, if they choose, to establish hereafter the identity of the latter, and its connexion with the ten million loan.

Although it is intended that different accounts of the ten million loan are to be opened, yet the whole amount on your books may be included in one dividend.

For such scrip certificates of the loan of \$10,000,000 as may remain to be funded, you will, on application being made to fund them, issue a certificate of "funded six per cent. stock of 1814, loan of \$10,000,000 of 2d May, 1814, on which the supplemental stock has issued," at the rate of between eighty and eighty-eight, or ten per cent. on the amount of the original certificate.

It is proper to apprise you that the Attorney General has given an opinion to the Secretary of the Treasury, setting forth, among other things, that the condition in the letter of the Secretary of the Treasury of the 2d May, 1814, to the subscribers for the ten million loan, "attached as soon as the second loan was made, [the loan of August, 1814;] that, on the happening of that event, it [the contract] no longer remained open and executory, subject to all the possible variations in price which might mark subsequent loans, until the whole twenty-five millions should be exhausted." This opinion has been adopted at the Treasury, and the supplemental stock now authorized to be issued is deemed to be in full of all demands upon the Government for further issues of stocks in the ten million loan, under the contract above mentioned. It is not thought necessary, however, to take any release to this effect from the stockholders on delivering to them the supplemental stock.

I am, very respectfully, &c.

NATHAN LUFBOROUGH.

| | |
|---------------------|-------------------|
| To William Gardner, | Edward Hall, |
| Benjamin Austin, | Thos. Nelson, |
| Chs. Ellery, | Thos. Leh're, |
| Jona. Ball, | Sherwood Haywood, |
| Wm. Few, | Wm. White. |

NOTE.—The words "scrip certificates, or" in the second paragraph, and the whole of the paragraph commencing with the words "for such scrip certificates," were omitted in the letters to the commissioners of loans in Virginia and North Carolina.

DEAR SIR:

WASHINGTON, June 21, 1814.

Your favors of the 17th and 18th instant have been received. You will have been informed by my last that instructions were given directing a portion of the public deposits to be made in the City Bank. It is not recollected that the Farmers and Mechanics' Bank at Albany applied to this Department, since I came into office, to receive a part of the public deposits; and, in fact, the amount of moneys collected at that place is so inconsiderable that a division of it does not seem expedient; nor would the deposit of a part of it be an object of any importance to a bank. The question, however, has not been taken into consideration with the view of finally deciding it, the applications from the bank not having been made.

Instructions have been given to the cashiers named in your letter, and to some others, to receive such payments on account of the loan as may be made in their banks, and credit the same in the manner therein stated, being the only practicable mode in which the object you have in view would be effected without producing irregularity in the Treasury accounts. This will, it is presumed, answer your purpose. A copy is herewith enclosed for your information.

I think it, however, proper to remark to you that it is extremely inconvenient to make unexpected innovations on the mode of conducting the business of the loan; and nothing but a strong desire to facilitate the operations that relate to it would have induced me to accede to such a course on the present occasion.

You request an advance of \$100,000 on account of the money you are desirous to pay for the Government in Europe. You must be aware the Treasury is not authorized to make such advance, except for approved bills actually received. The bills drawn by you on London and Amsterdam have come to hand. Though the usual time for purchasing such bills has not arrived, I am not disposed to consider that circumstance an insuperable objection on the present occasion to purchasing of you now any amount not exceeding that by you proposed, (\$100,000,) and shall go as far to facilitate your moneyed operations, and meet your wishes in that respect, as, in my opinion, is consistent with my duty and the public interest. It is intended to afford you the opportunity of furnishing bills on Europe, if done in proper time, and on the same terms that others would furnish them, to the amount you suggest, not exceeding \$300,000; but the Treasury does not usually undertake to determine the sufficiency of the drawers and endorsers of bills purchased. In the present case it would be impracticable, the endorsers being wholly unknown to the Secretary, and not sufficiently known to any person here, whom he has had the opportunity of consulting on the subject. The purchase must, therefore, be made in the usual way, by a person authorized for the purpose, who will, as heretofore, determine the sufficiency of the endorsers, and the current rate of exchange on England; that on Amsterdam, the Treasury thinks it proper to limit in the instructions given. Mr. Flevelling, cashier of the Manhattan Company, who has usually conducted this business, is instructed, by this day's mail, to purchase of you, if offered, bills to an amount not exceeding \$100,000, and to judge of the sufficiency of the endorsers, the rate of exchange on England, &c. This arrangement will, it is presumed, enable you to effect your object, and is certainly as favorable to you as the Treasury would be justified in adopting. A copy of the letter to Mr. Flevelling is enclosed for your information, and the bills are herewith returned to you.

I trust you will meet with less difficulties than you seem to apprehend in completing your payments on the loan. You cannot doubt my disposition to do whatever appears to me correct, to enable you to effect that object.

I am, sir, your most obedient servant,

G. W. CAMPBELL.

P. S.—Since writing the above, your letter of the 19th instant has come to hand; in reply to which, I must observe that it is impossible for the Treasury, without inconsistency, to go further in ordering *deposits* in the City Bank than it has done. Ample justice has been done that bank; it ought not to expect more; and a due regard to justice and impartiality must be observed, whatever may be the consequences.

JACOB BARKER, Esq.

SIR:

TREASURY DEPARTMENT, June 21, 1814.

It being considered proper to procure bills for the purpose of making remittances to Europe, and Mr. Jacob Barker having proposed to sell to the Treasury bills on London and Amsterdam, I have thought proper to refer him with them to you, (it not being usual to buy bills directly at the Treasury,) in order that you, as agent for the Government, might judge of the credit and solidity of the drawers and endorsers. I request, therefore, that you

will purchase of him, for the use of the United States, if offered to you on the same terms on which they could be had from others, approved bills on London, or on other parts of Great Britain payable in London, or on Amsterdam, for such sums as shall not cost in the whole more than \$100,000. The bills to be drawn at a sight not exceeding sixty days, and to be paid for at the current rate of exchange; but those on Amsterdam, if any such are purchased, at a rate not exceeding forty-two cents a guilder.

These bills are intended for the payment of interest on Louisiana stock payable in London and Amsterdam, and for the expenses of foreign intercourse payable at Amsterdam, in the proportion of about three-fourths for the former purpose, and one-fourth for the latter. On the former, as heretofore, you will be allowed a commission of one-fourth per cent.; on the latter, no commission will be allowed.

You will transmit the bills, your accounts for the purchase, and the vouchers, to this office as heretofore.

I am, very respectfully, sir, your obedient servant,

G. W. CAMPBELL.

SAMUEL FLEWELLING, Esq., *Cashier of the Manhattan Bank, New York.*

16th CONGRESS.]

No. 552.

[2d Session.

SLAVE LOST IN THE PUBLIC SERVICE.

COMMUNICATED TO THE SENATE, JANUARY 29, 1821.

Mr. VAN DYKE, from the Committee of Claims, to whom was referred the petition of Hanson Catlett, a surgeon in the army of the United States, submitted the following report:

That the petitioner states that, during the late war, while ascending the Ohio with his regiment, he lost his negro boy, a slave, who was accidentally drowned, and whom he estimates at the price of \$500.

At that time it was not lawful for officers to take servants from the line of the army, and provision was made by law for compensating the master for his servant if killed in battle. It is obvious that all other contingencies were at the master's risk; and the committee, upon mature consideration, do not feel at liberty to extend the responsibility of the United States in such a case. A report from the Treasury Department is annexed. The following resolution is therefore submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *January 6, 1821.*

I have the honor to acknowledge the receipt of the letter of the honorable Jonathan Roberts, of the Senate of the United States, addressed to you, with the petition of Doctor Hanson Catlett, of the army of the United States, referred by you to this office. The petitioner claims compensation for the value of his negro boy, his private waiter, "lost on a rapid march from St. Louis to Canada, by his falling overboard and being drowned." I can only state on the subject that the claim is one not provided for by law or regulation, and the usage of the service during the late war has not brought any case within my knowledge of such allowance having been made. The case is one, therefore, as represented by the petitioner, resting on the consideration of Congress for its allowance. The papers are returned.

With great respect, your most obedient servant,

PETER HAGNER, *Auditor.*

The Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

SIR:

TREASURY DEPARTMENT, *January 10, 1821.*

I have the honor to return the petition of Doctor Hanson Catlett, with the report of the Third Auditor thereon, from which it appears that, according to the practice and regulations of the War Department, no allowance analogous to that sought by the petitioner has been granted.

I remain, with great respect, your most obedient servant,

WM. H. CRAWFORD.

HON. JONATHAN ROBERTS,
Of the Committee of Claims of the Senate.

16th CONGRESS.]

No. 553.

[2d SESSION.

SEVEN YEARS' HALF-PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 31, 1821.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 18th of January, 1821, was referred the petition of Hannah Richardson, of Newbury, in the State of Massachusetts, widow of Wadleigh Noyes, of said Newbury, deceased, and Moses, son of the said Wadleigh, have had the same under consideration, and report thereon:

The petitioners state that, early in the year 1776, the said Wadleigh Noyes entered as a volunteer in the service of the United States, and, at the commencement of the revolutionary war, served as a private soldier and as a non-commissioned officer in the ninth Massachusetts regiment, under the command of Colonel James Westrope, on the continental establishment, (in which it is believed as they state that he served with honor to himself and fidelity to his country, having been promoted to the rank of lieutenant in the same regiment, on that establishment,) from January 1, 1777, until the 7th of October of the same year, when the regiment in which he served was engaged in a battle with the enemy near Stillwater, and the said Wadleigh was slain.

The petitioners state that afterwards, on the 15th of May, 1778, in and by a resolution of Congress, to which they ask leave respectfully to refer, seven years' half-pay was granted to those officers of the American army who should continue to serve therein during the whole war; and that, by a subsequent resolution, its benefits were extended to the widows of those officers who had died or who should thereafter die in the service; and that in and by the same resolve it was recommended to the Legislatures of the respective States to which such officers might belong to make provision for the same on account of the United States.

The petitioners state that application on their behalf was made to the Government of the Commonwealth of Massachusetts, but their claims were neglected until the time which had been limited for their liquidation had expired. They state that they afterwards, in 1791, petitioned your honorable body for relief, and by a committee to whom their application was referred, were recommended to renew their application to the said commonwealth, where it was presumed that the merits of their claim would be more readily ascertained and suitable relief granted. The petitioners state that they afterwards made application to the Government of Massachusetts, but have failed to obtain any relief, and they now present their case to Congress, and pray that it may be taken into consideration, and such relief be afforded to them as shall be deemed just and reasonable.

This committee further report that, on the 15th of May, 1778, Congress unanimously resolved "that all military officers commissioned by Congress, who now are or hereafter may be in the service of the United States, and shall continue therein during the war, and not hold any office of profit under the United States, or any of them, shall, after the conclusion of the war, be entitled to receive, annually, for the term of seven years, if they live so long, one-half of the present pay of such officers: *Provided*, That no general officer of the cavalry, artillery, or infantry shall be entitled to receive more than one-half part of the pay of a colonel of such corps respectively: *And provided*, That this resolution shall not extend to any officer in the service of the United States, unless he shall have taken an oath of allegiance to, and shall actually reside within, some one of the United States."

That, on the 24th of August, 1780, Congress resolved "that the resolution of the 15th day of May, 1778, granting half-pay for seven years to the officers of the army who should continue in service to the end of the war, be extended to the widows of those officers who have died or shall hereafter die in the service, to commence from the time of such officers' death, and continue for the term of seven years; or, if there be no widow, or in case of her death or intermarriage, the said half-pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any; and that it be recommended to the Legislatures of the respective States to which such officers belong to make provision for paying the same on account of the United States."

On the 10th of May, 1776, Congress resolved "that this Congress has hitherto exercised, and ought to retain, the power of promoting the officers in the continental service according to their merit; and that no promotion or succession shall take place upon any vacancy without the authority of a continental commission."

On the 12th June, 1776, Congress resolved "that a committee of Congress be appointed, by the name of the Board of War and Ordnance, to consist of five members; that it shall be the duty of the said board to obtain and keep an alphabetical and accurate register of the names of all officers of the land forces in the service of the United Colonies, with their rank, and the dates of their respective commissions."

On the 16th of September, 1776, Congress resolved "that eighty-eight battalions be enlisted as soon as possible, to serve during the present war, and that each State furnish its respective quota in the following proportions, to wit: New Hampshire, three battalions; Massachusetts, fifteen battalions, &c.; that Congress make provision for granting lands in the following proportions: to the officers and soldiers who shall so engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy," &c.; "that all officers be commissioned by Congress."

This committee further report that the petitioners have not produced any commission of lieutenant granted by Congress to Wadleigh Noyes; the petitioners do not show that the name of Wadleigh Noyes was reported in the list of officers entitled to bounty land, in pursuance of the resolutions of Congress alluded to; and hence it is inferred that the petitioners are not entitled to, or included within, the provisions of the resolution of Congress of the 24th of August, 1780. But, if this claim of the petitioners could have been included within the provision of the resolution of the 24th of August, 1780, the petitioners' ought to have applied to the Commonwealth of Massachusetts in due time for that relief and benefit for them provided by that resolution; and if, by not making in due time that application to that commonwealth, they have not received the bounty provided for by that resolution, they may ascribe the same to their own neglect; and more especially as it is presumed that the Commonwealth of Massachusetts did amply compensate for several claims of that kind, for which that Commonwealth was afterwards credited by the United States.

In respect to the case of the petitioners, and all others of the same kind, it may be observed and stated that Congress did not assume to pay to such claimants the seven years' half-pay provided for in the resolution of the 24th of August, 1780. Congress recommended to the Legislatures of the respective States to which such officers belonged to make provision for paying the same on account of the United States. This regulation in that resolution, in the early times of the Revolution, was wise and proper, inasmuch as the Legislatures of the respective States

were presumed to have an adequate knowledge of the merits and justice of all such claims, and Congress did only assume to credit the respective States for all moneys by the States respectively paid to such claimants, and not otherwise.

In this case it may be further observed that this claim of the petitioners cannot, in justice, be urged or said to be a debt against the United States. Congress, by the resolutions alluded to, did not assume to pay to individual claimants, but assumed to credit the respective States with all such sums of money as the respective States did pay in pursuance of that resolution. If the petitioners had (if they did not) in due time applied to the State of Massachusetts, and secured payment, the amount by them received would then have been a debt of the United States to the State of Massachusetts, and not otherwise. Congress, by the resolution alluded to, did not request the respective States to pay the debts of the United States. Congress recommended to the respective States to provide for the widows and orphan children of officers described in that resolution, and to them respectively belonging; and that, so far as the respective States did make such provision on account of the United States, the respective States would, on settlement of their accounts with the United States, be credited with the same, and not otherwise.

Congress, on the 16th of September, 1776, "*Resolved*, That the appointment of all officers and filling up vacancies (except general officers) be left to the Governments of the several States;" and "that all officers be commissioned by Congress." If, then, Wadleigh Noyes was a lieutenant in the ninth regiment of Massachusetts, it is presumed to have been known to the Government of Massachusetts; and if he was slain, as the petitioners state, in the engagement at Stillwater, it is presumed that that also was known to that Government, inasmuch as the appointment of all officers and the filling up of vacancies (except general officers) was left to the Governments of the several States; and that Government, with that knowledge, might have made (if it was not done) provision for the widow and son of Wadleigh Noyes, in pursuance of the resolution of Congress alluded to.

The petitioners state, as has been observed, that application was made on their behalf to the Government of the Commonwealth of Massachusetts; that their claims were neglected until the time which had been limited for their liquidation had expired; that afterwards, in 1791, they petitioned Congress (as they state) for relief; and that, by a report of a committee to whom their case was referred, they were recommended to renew their application to the Government of Massachusetts. They state that they afterwards did apply to that Government, and that a resolution in their favor was passed by both Houses; and that afterwards that resolution was returned to the House in which it originated by the Governor of that commonwealth, for reasons, among others to which they refer, stated in a document accompanying their petition.

This committee further report that it does not appear that Congress did, by any resolution, assume or promise to pay claims of individuals of the description of this one set up by the petitioners; that this claim of the petitioners is not within the provision of any resolution or act of Congress; that, if the petitioners have not been relieved, they may ascribe that to their own neglect in not presenting their claim (if they did not) in due time to the Government or Legislature of the State of Massachusetts, to which the said Wadleigh Noyes did belong; that the petitioners do not manifest that they have any just claim against the United States; and, for these reasons, and others alluded to in this report, the following resolution is submitted:

Resolved, That the prayer of the petitioners be not granted.

[NOTE.—See report of the Secretary of War, page 30.]

16th CONGRESS.]

No. 554.

[2d Session.]

MONEY LOST BY A PURSER IN THE NAVY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 5TH OF FEBRUARY, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of James H. Clark, purser in the navy, reported:

That the petitioner represents himself to have been ordered, on the 17th of November, 1815, by Commodore Shaw, then commanding the United States squadron in the Mediterranean, to proceed from Port Mahon to Marseilles for the purpose of purchasing clothing for the crew of the frigate United States. Having arrived at Marseilles, agreeably to said order, he was, on the night of the 3d of December following, robbed of eight hundred and sixteen dollars by his servant, a seaman belonging to the crew of said frigate, who entered his room in his absence and broke open his trunk. The petitioner refers to the petition of Major Hall, of the marines, who was relieved by an act at a former session of Congress, and who was robbed at the same time.

The facts alleged by the petitioner are as satisfactorily established as could reasonably be expected in a case of this nature, and it is true that an act has been passed for the relief of Major Hall, who is alleged to have been robbed at the same time, the money which he had in charge having been deposited in the trunk of the present petitioner; and it is not perceived that there are any strong reasons why the relief granted to Major Hall, if *properly* so granted, should not, in like manner, be granted to the present petitioner; there being no other distinction between the cases than that the robbery was committed by the servant of the latter, and for whose conduct, he, rather than Hall, should be responsible so far as responsibility should attach to either.

If money in the hands of public agents is to be held in any manner at the risk of the Government, the agents should only be indemnified in cases where all prudent care has been exercised on their part; and although the committee will not allege an inexcusable negligence in this case, yet there are circumstances which cannot be entirely overlooked. The petitioner was ordered from Port Mahon to Marseilles for the express purpose of purchasing clothing, for which he appears to have taken the sum of twelve hundred dollars, and four hundred for the expenses of the ship. The amount of the robbery is alleged to be the difference between the sum taken from Port Mahon on the 17th of November, (\$1,600,) and that found in the trunk after the robbery had been committed on the night of the 3d of December; and although the robbery is said to have been committed ten days after their arrival at Marseilles, no deduction is allowed either for the purchase of clothing or expenses of the ship. It is said to have been effected late in the evening, when the whole party were absent from the hotel, the servant (a foreign seaman) only

excepted; that the room of the petitioner was left locked, and, agreeably to the usage of the country, the key placed in the hands of a porter of the house, from whom it was subsequently obtained by the servant.

In regard to the employment of a foreign seaman in the capacity of a servant, and one, too, who is admitted to have been a stranger, having entered on board the ship but about forty days previous to the employment, it is alleged that he was necessarily so employed as an interpreter.

The committee have brought these circumstances to the view of the House that it might the better determine whether, if, under *any* circumstances, the Government should be liable, they are in the present case such as ought to excuse it from that liability.

A belief is entertained by the committee that, except for the circumstance of the bill for the relief of Major Hall having been brought into the House at a period when the proper investigation was precluded by the pressure of more interesting business, very near the close of a session, it would not have been passed, or, at least, that its passage would not have been recommended by the Committee of Claims; and, unless the passage of that bill is to be taken as the rule in all similar cases, it is believed that the prayer of the present petitioner ought not to be granted.

If the principle be established that the Government shall guaranty the safety of money in the hands of its agents, a great relaxation in care on their part will be a certain consequence, which, added to the impracticability of erecting sufficient barriers against frauds that might be attempted, and which would be encouraged by the adoption of such a principle, would seem to render its adoption highly inexpedient. The following resolution is therefore submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 555.

[2d SESSION.

HORSE LOST IN THE PUBLIC SERVICE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 8TH FEBRUARY, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Frederick Coates, reported:

That the petitioner claims the sum of ninety dollars, the value of a horse which (as he states) died of excessive fatigue while in the service of the United States, he being at the time employed as a vidette between the cities of Baltimore and Annapolis.

The necessity for such fatigue as would endanger the life of a horse is not in proof; but, were this objection waived, it is believed that the impracticability of ascertaining whether a horse which may have died shall have died of fatigue, or from some other cause, is such as to render it inexpedient for the Government to assume any responsibility in relation to accidents of that nature. The following resolution is therefore submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

16th CONGRESS.]

No. 556.

[2d SESSION.

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 9, 1821.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Adam Haskins, praying a pension, reported:

That, according to the petition, said Haskins entered the service of the United States as a volunteer in the year 1814; and that, on the 16th day of September of the same year, when returning from Buffalo to Fort Erie with supplies for the army, as he sat rowing, a 24-pound shot struck the seat, blew him up, and wounded him in the hip; that he was removed to the hospital at Buffalo, where he remained until taken to Batavia, and was there, as a sick and wounded soldier, mustered out of the service. The petitioner further states that a lameness, proceeding from the wound in his hip, is only a small part of his affliction, said wound having occasioned an infirmity in his constitution, by affecting his bladder, which has rendered his life a constant scene of misery.

The petition and documents were forwarded to the Department of War, where a pension was refused upon the ground that the proof establishing the wound was not obtained from the captain, or other commanding officer of the petitioner; nor had he obtained certificates from two reputable surgeons or physicians showing the degree of disability under which he was laboring from the alleged wound. The committee are of opinion that the Department of War decided in conformity to the then and still existing laws in relation to invalid pensions; and, while they are conscious of the power of Congress to dispense, in particular cases, with requisitions which they themselves have matured and established as best calculated to attain prescribed objects, they are of opinion that it should be done

with great caution, and only where it has been found impossible or greatly inconvenient to comply with such requisitions. Such is not the present case. No reason is assigned in the petition, or shown by proof, why the evidence of the commanding officer was not obtained; nor does it sufficiently appear that the disease of the bladder, which is the chief cause of the present disability of the petitioner, proceeded from the alleged wound; nor is the degree of that disability sufficiently defined. Wherefore, the committee submit the following resolution, to wit:

Resolved, That the prayer of the petitioner be not granted.

16th CONGRESS.]

No. 557.

[2d SESSION.

PROCEEDINGS UNDER THE ACT FOR THE RELIEF OF JOHN H. PIATT, LATE ARMY CONTRACTOR.

COMMUNICATED TO THE SENATE, FEBRUARY 19, 1821.

SIR:

TREASURY DEPARTMENT, *February 15, 1821.*

In obedience to a resolution of the Senate of the 2d instant, directing "the Secretary of the Treasury to report to the Senate what proceedings have been had in relation to the claims of John H. Piatt, authorized to be liquidated and settled by an act of the 8th of May, 1820, and that he report how, and upon what principles, reasons, and construction of the law, said claimant attempts to support his claim," I have the honor to submit a detailed report from the Second Comptroller of the Treasury, with the documents by which it was accompanied, and a letter from the Third Auditor of the Treasury, with sundry statements marked Nos. 1, 2, 3, 4, 5. These documents exhibit the proceedings which have been had under the said act by those officers.

The Secretary of the Treasury is not authorized by law to interfere with the settlement of the public accounts. The act for the relief of John H. Piatt confers upon him no power of revision. He is, therefore, not informed of the principles, reasons, and construction of the law upon which the claimant attempts to support his claim, further than they are to be inferred from the proceedings which are herewith submitted. It is not his province to decide which of these officers has given to the act for the relief of Mr. Piatt the construction which it ought to have received, or that which it was expected would be given to it by those who gave it their sanction.

I have the honor to be, with great respect, sir, your obedient servant,

WM. H. CRAWFORD.

The Hon. the PRESIDENT of the Senate, *pro tempore.*

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE,

SIR:

February 14, 1821.

In obedience to a resolution of the Senate of the 2d instant, in the following words: "*Resolved*, That the Secretary of the Treasury report to the Senate what proceedings have been had in relation to the claims of John H. Piatt, authorized to be liquidated and settled by an act of the 8th day of May, 1820, and that he report how, and upon what principles, reasons, and construction of the law said claimant attempts to support his claim," the same was referred by the Secretary of the Treasury to the Second Comptroller to report thereon, who has the honor to report:

That, when Mr. Piatt's accounts, with the law passed for his relief, were presented to him by the Third Auditor for revision and settlement, with the Third Auditor's statement and report, he deemed it his duty to review all the papers presented with Mr. Piatt's accounts, to enable him to form a correct opinion of the accounts and the law passed for his relief.

Mr. Piatt claimed payment for his transportation account; for his miscellaneous claims, so called, upon just and equitable terms; for the additional cost of rations above the contract price issued to Indians, distressed inhabitants, and General McArthur's mounted expedition; for interest money, &c.; and for requisitions not authorized by the contract under the decision of the War Department, dated the 27th day of January, 1816; also, for indemnity under the assurances of the Secretary of War, in January, 1815. The petition of Mr. Piatt to Congress was next examined, which prayed for indemnity under the assurances of the Secretary of War, to the amount charged on the books of the Third Auditor, and for which a suit had been commenced against him by the United States. Among the papers was a bill reported to the Senate on the 2d of March, 1820, marked No. 51, authorizing a settlement of Mr. Piatt's accounts upon just and equitable principles, provided the amount declared due should not exceed the amount for which he was indebted to the United States; also, a letter from the claimant, dated the 18th of March, 1820, addressed to the chairman of the Judiciary Committee, to whom Mr. Piatt's claim had been referred. The following is an extract from said letter: "My present exigencies, being sued by the United States and also by individuals for just debts, being now in the hands of the marshal on my parole of honor, with the prospect of all my property being sacrificed in a manner that will leave me without a dollar in the world, compel me, for the sake of keeping myself from want, and to satisfy the just claims which my engagements on account of the Government have brought on me, to accept of a release for what I am now sued for by the United States. By Mr. Monroe's guaranty to me, and my now agreeing to the above terms, the Government will have saved one hundred and ninety thousand dollars on this one requisition. As to my suspended claims for transportation, &c., which arise entirely under the contract, I do not wish them to be considered as having any thing to do with the proposals which I now make, but to remain for an equitable settlement." By which it appears that he asked for indemnity under the head of assurances for the amount stated to be due to the United States; and reserved his transportation accounts, &c. to be settled upon just and equitable principles.

It appears that the bill, first reported in the usual form, was definite, and left no doubt as to its construction; it would not have admitted any allowance beyond the amount for which he was sued. The law passed for his relief

embraced the claimant's case, as expressed in his letter to the chairman of the Judiciary Committee while the first bill was under consideration.

If Congress did not intend to allow Mr. Piatt's claim for more than the amount due, and for which a suit had been commenced against him, why was the original bill in the usual form, plain and distinct, put aside, and one passed directing an equitable settlement of his accounts, including his account for transportation, having a due regard to the settlements and allowances already made, and to the assurances and decisions of the War Department, provided that the amount allowed under the *said assurances* (dropping the word "decisions") shall not exceed the amount then due, and for which a suit had been commenced against him? It is here necessary to observe that the term "assurances" is made use of in consequence of the Secretary of War, in January, 1815, having verbally assured the claimant, as he avers, and supports with testimony, that he should not suffer if he would continue his supplies to the northwestern army; that the Government would do him justice. Whether the assurances were made or not, it was not the duty of the Second Comptroller to inquire; the law recognises the fact.

The decisions of the War Department (so called) were written instructions directed to the Accountant of the War Department, to govern him in the settlement of contractors' accounts, made, however, in the first instance, in Mr. Piatt's case, dated the 27th January, 1816, by the then Secretary of War, successor to the one who made the assurances. An inference may have been drawn, from the circumstance that there was no appropriation made in the law to meet any balance that might be justly found due, that Congress did not mean to allow any; no appropriation was necessary. By the third section of the act entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," it is stated that, in the settlement of the accounts of the War Department for services or supplies prior to the 1st of July, 1815, the expenditures shall be charged to arrearages: this account was for supplies before that period, and is therefore chargeable to that appropriation.

Upon a full view of the papers presented, and of the act passed for Mr. Piatt's relief, the Second Comptroller was convinced that the law contemplated a settlement of the claimant's accounts in the following manner: 1st. To allow him whatever should be found justly due on his transportation account. 2dly. His miscellaneous claims, and his claims under the decisions of the War Department, referred to above, upon just and equitable principles, having a due regard to the settlements and allowances already made. 3dly. Under the assurances of the Secretary of War, as made in January, 1815, provided that the amount allowed under *said assurances* should not exceed the amount then due, and for which a suit had been commenced against the said John H. Piatt. Upon these principles, the Second Comptroller proceeded to revise Mr. Piatt's account, as stated by the Third Auditor, viz:

He is charged:

To general account of arrearages.

| | | |
|---|--|-------------|
| January 1, 1820.—For balance due the United States, on settlements of 24th February, 1818, viz: | | |
| Account as deputy commissary of purchases, - - - - - | | \$46,112 56 |
| Account as contractor, - - - - - | | 2,118 21 |
| | | \$48,230 77 |

For the following provisions erroneously passed to his credit in the above-mentioned settlements, being the amount of a certificate signed by J. Whistler, major at Fort Wayne, 1st May, 1815, stating what provisions had been deposited at that post by the contractor, between the 1st January and 1st April, 1815, not being intended as a voucher on which the contractor could predicate any claim on the Government, he having received abstracts for all the rations issued from the commencement of his contract to its termination, and also for the balance of provisions remaining on hand at the termination of his contract, which, consequently, must include all the provisions brought to the post, (See Major Whistler's letter of the 8th March, 1816, and the certificate referred to in bundle marked E. C. 55,) viz:

| | | |
|--|--|-------------|
| 50,000 rations of meat, at 7 cents, - - - - - | | \$3,500 00 |
| 87,111 rations of flour, at 7 cents, - - - - - | | 6,097 77 |
| 63,360 rations of whiskey, at 5 cents, - - - - - | | 3,168 00 |
| 2,240 quarts of salt, at 4 cents, - - - - - | | 89 60 |
| | | 12,855 37 |
| | | \$61,086 14 |

Credited by general account of arrearages.

For the following allowances made him under the act of Congress passed for his relief, viz:

| | | |
|---|--|------------|
| (A.) For transporting 20,000 rations of flour from Upper to Lower Sandusky, on the order of Lieutenant Carney, per voucher No. 1, - - - - - | | \$525 00 |
| For transporting the public provisions deposited at sundry places, and ordered to be removed by General McArthur, on 24th September, 1814, per voucher No. 2, - - - - - | | 2,175 00 |
| For do. from Fort Winchester to Fort Meigs, under the same order, per voucher No. 3, - - - - - | | 85 50 |
| For do. sundry provisions from Fort McArthur to Upper Sandusky, under the same order, per voucher No. 4, - - - - - | | 375 00 |
| For do. 515 complete rations, from Chilicothe to Urbana, per voucher No. 5, - - - - - | | 55 00 |
| For do. provisions from Chilicothe to Franklinton, per voucher No. 6, - - - - - | | 18 50 |
| For do. 600 rations from Delaware to Scioto block-house, per voucher No. 7, - - - - - | | 15 00 |
| | | \$3,249 00 |

Allowance under the assurance of the War Department.

| | | |
|--|--|-------------|
| For the amount of 849 barrels flour delivered at Lower Sandusky in the months of January and February, 1815, including transportation to Detroit, and beef delivered in the same months at Urbana and Detroit, per remarks herewith, - - - - - | | \$75,976 27 |
| From which deduct the contract price already allowed, per statement No. 3, \$30,225 51 | | |
| Also the sum of \$21,000 allowed him by the Secretary of War on his former settlement, which is chargeable against the above allowance, (see remarks,) - - - - - | | 21,000 00 |
| Also this amount, heretofore allowed him on supplies to distressed inhabitants, from 1st January, 1815, (see remarks,) - - - - - | | 2,080 77 |
| | | 53,306 28 |
| | | 22,669 99 |

By general account of arrearages.

| | |
|--|--------------------|
| For payment made by him as deputy commissary of purchases for a quantity of flour which was damaged in the mill of John Sample, of whom the flour was purchased, and payment refused on the ground of its having been damaged, but for which recovery has been had against him, said Piatt, (allowed by the Secretary of War,) - - - - - | \$459 00 |
| Balance due the United States, - - - - - | 34,708 15 |
| | <u>\$61,086 14</u> |

This statement was overruled by the Second Comptroller so far as to make the allowance for wastage, leakage, &c. 6½ per cent. in addition to the 6 per cent. allowed by the Third Auditor, to make the usual allowance of 12½ per cent. Also, disallowed the charge of \$21,000, and \$2,080 77, under the head of assurances. These items, having been allowed in a former settlement under the decision of the War Department, cannot be chargeable to the head of assurances, as will appear by a letter of the Second Comptroller to the Third Auditor, dated the 7th day of July, 1820.

Statement of the account as settled by the Second Comptroller.

Mr. Piatt is charged to general account of arrearages, for the balance due the United States on settlements of 24th February, 1818, viz:

| | |
|--|--------------------|
| Account as deputy commissary of purchases, - - - - - | \$46,112 56 |
| Account as contractor, - - - - - | 2,118 21 |
| | <u>\$48,230 77</u> |

For the following provisions erroneously passed to his credit in the above-mentioned settlements, being the amount of a certificate signed by J. Whistler, major at Fort Wayne, 1st May, 1815, stating what provisions had been deposited at that post by the contractor, between the 1st January and 1st April, 1815, not being intended as a voucher on which the contractor could predicate any claim on the Government, he having received abstracts for all the rations issued from the commencement of his contract to its termination, and also for the balance of provisions remaining on hand at the termination of his contract, which, consequently, must include all the provisions brought to the post, (See Major Whistler's letter of 8th of March, 1816, and the certificate referred to in bundle marked E. C. 55,) viz:

| | |
|---|--------------------|
| 50,000 rations of meat, at 7 cents per ration, - - - - - | \$3,500 00 |
| 87,111 rations of flour, at 7 cents per ration, - - - - - | 6,097 77 |
| 63,360 rations of whiskey, at 5 cents per ration, - - - - - | 3,168 00 |
| 2,240 quarts of salt, at 4 cents per quart, - - - - - | 89 60 |
| | <u>12,855 37</u> |
| | <u>\$61,086 14</u> |

Credited by general account of arrearages.

For the following allowances made him under the act of Congress passed for his relief, viz:

| | |
|--|-------------------|
| (A.) For transporting 20,000 rations of flour from Upper to Lower Sandusky, on the order of Lieutenant Carney, per voucher No. 1, - - - - - | \$525 00 |
| For transporting the public provisions deposited at sundry places, and ordered to be removed by General McArthur, 24th September, 1814, per voucher No. 2, - - - - - | 2,175 00 |
| For transporting public provisions from Fort Winchester to Fort Meigs, under the same order, per voucher No. 3, - - - - - | 85 50 |
| For transporting sundry provisions from Fort McArthur to Upper Sandusky, under the same order, per voucher No. 4, - - - - - | 375 00 |
| For transporting 515 complete rations from Chilicothe to Urbana, per voucher No. 5, - - - - - | 55 00 |
| For transporting provisions from Chilicothe to Franklinton, per voucher No. 6, - - - - - | 18 50 |
| For transporting 600 rations from Delaware to Scioto block-house, per voucher No. 7, - - - - - | 15 00 |
| | <u>\$3,249 00</u> |

For amount of transportation admitted by the Second Comptroller, per abstract marked W, and vouchers, - - - - - 13,363 89

For amount of miscellaneous claims admitted to his credit by Second Comptroller, viz: For this sum, being the amount of part of 1,076 barrels of flour (damaged) turned over to the contractor by James McCloskey, and which, on a second survey, were found to be totally damaged and unfit for use, - - - - - 3,361 08

For interest paid by him to the Farmers and Mechanics' Bank of Cincinnati on moneys he was obliged to borrow, on account of the failure of the Government to pay his drafts; (*vide* the decision of the Secretary of War, of 27th January, 1816, and the letter of the cashier, of the 23d of February, 1816,) - - - - - 4,707 21

For 45 head of beef cattle, equal to 15,300 rations, which were lost out of the bullock pen, near Detroit, on the 24th of August, 1814, through the misconduct of Indian troops in the United States service, - - - - - 1,071 00

For this sum, being the difference between the cost and the contract price of the provisions furnished at Detroit to the distressed inhabitants, to the Indians, and to McArthur's mounted expedition, - - - - - 25,664 43

For this sum, being the difference between the cost and contract price on 1,292 barrels of flour and 99 barrels of whiskey, deposited at Malden, per order of General McArthur, 23,736 24

For this sum, being for 30 head of beef cattle, which were lost from Fort Gratiot on the 27th of July, 1814, for want of a guard, - - - - - 864 00

59,403 96

Allowances under the assurances of the War Department.

| | | | | |
|--|---|---|---|--------------------|
| For the amount of 849 barrels of flour delivered at Lower Sandusky in January and February, 1815, including transportation to Detroit, and beef delivered in the same months at Urbana and Detroit, per statement B, | - | - | - | \$75,976 27 |
| From which deduct the contract price already allowed him, per statement No. 3, | - | - | - | 30,225 51 |
| Admitted to his credit by the Third Auditor, under this head, | - | - | - | 45,750 76 |
| For this sum admitted to the credit of John H. Piatt, by the Second Comptroller, (<i>vide</i> statement B,) | - | - | - | 2,493 08 |
| | | | | <u>48,243 84</u> |
| Deduct this sum, being an excess beyond the amount authorized by the act to be carried to his credit under the assurances of the War Department, | - | - | - | 13 07 |
| | | | | <u>\$48,230 77</u> |

By general account of arrearages.

| | | | | |
|---|---|---|---|---------------------|
| For payment made by him as deputy commissary of purchases for a quantity of flour which was damaged in the mill of John Sample, of whom it was purchased, and payment refused on the ground of its having been damaged, but for which recovery has been had against him, the said Piatt, (allowed by the Secretary of War,) | - | - | - | 459 00 |
| | | | | <u>\$124,706 62</u> |
| Balance due John H. Piatt, as per contra, | - | - | - | <u>\$63,620 48</u> |

The former contractors for the same district contracted at a higher rate for the ration when the currency of the country was equal to specie, and the credit of the Government good. Liberal advances were made to them; they failed in their supplies in many instances, and left the Government in arrears to a large amount, although liberal allowances were made in the settlement of their accounts.

Mr. Piatt received his contract on the 26th of January, 1814, when the currency of the country and credit of the Government were good. Between the time of his making the contract and the commencement of his issues, the banks generally had stopped specie payments, and the Government funds were exhausted. Notwithstanding this depreciation of the currency and credit of the Government, the contractor, by means of his own funds and that of his friends, continued his supplies to the termination of his contract, without a single failure, to the satisfaction of the Government and the commanding officers of the northwestern army. At the most disastrous period of the war, in the fall of 1814, and winter of 1815, a failure of supplies to that army, at that period, would have been an incalculable misfortune to the country. Finding that his drafts on the Government were protested, and no funds to be obtained to carry on his contract, he came to the seat of Government to throw up his contract, as he alleges he could have done, in consequence of the failure on the part of Government to fulfil their part of the contract. While at the seat of Government, he was induced by the assurances of the Secretary of War, as he alleges, to continue the supplies. In the fall after the termination of his contract, he came to Washington to settle his accounts; his abstracts for provisions issued were found correct, and admitted to his credit. A statement of his account was made out by Mr. Lear, then Accountant of the War Department, in the following words:

"DEPARTMENT OF WAR, ACCOUNTANT'S OFFICE, February 23, 1816.

| | | | | |
|---|---|---|---|------------------|
| By the statement rendered to the Secretary of War, 30th December, 1815, there was an apparent balance due John H. Piatt, according to his own statement, of | - | - | - | \$97,187 87 |
| On account of which he received, 26th December, 1815, | - | - | - | 70,000 00 |
| Leaving a balance of | - | - | - | <u>27,187 87</u> |
| Of the claims produced by Mr. Piatt, he charges, under the head of miscellaneous charges, | - | - | - | 68,591 08 |
| Which, deducted, would leave a balance to his debit of | - | - | - | 41,403 21 |
| Of these charges it has been decided that there is admissible | - | - | - | <u>40,142 83</u> |
| Leaving an apparent balance due by Piatt of | - | - | - | 1,260 38 |
| Of the miscellaneous charges, the following may be considered as coming within the rule of allowance on being further vouched, | - | - | - | 2,546 27 |
| Leaving a balance due Mr. Piatt of | - | - | - | <u>1,285 89</u> |

The above statement is predicated upon the papers lodged by Mr. Piatt.

His claims for additional price of the rations beyond what his contract required; his claim for interest and damages on bills, &c.; his claim for loss in the purchase and sale of packhorses purchased for the mounted expedition; and his claims for losses sustained by requisitions not authorized by the contract, form no part of the above estimate.

TOBIAS LEAR."

From the above statement, made 23d February, 1816, almost nine months after the termination of his contract, it appears that the Government paid him \$70,000 on the 26th December, 1815, and \$20,000 on the 26th February, 1816, without taking into consideration the claims referred to in the above statement. Some difference of opinion exists as to the amount and time when the several sums were paid to him; this point is distinctly settled by a recurrence to the account current, showing the date of each warrant and of each abstract—complete data from which to make an interest account, if required. The amount for transportation could not be considered as an allowance; it was for services performed, and had been once admitted by Mr. Lear. The premiums for negotiating bills on the Government could not be considered as an allowance; the contractor gained nothing by it; it arose from the depreciated state of the currency, the difference of exchange, and the credit of the Government. The Government do not allow interest; yet to the contractor, whether he paid the interest or lost it on his own money, it was the same thing; he was allowed only what he proved that he paid. The allowance of 10 per cent., as a legal consequence of Mr. Piatt's drafts for \$210,000 being protested, was a liberal allowance for damages; but when are taken into view the

consequences of the drafts being protested, the check it would give to his credit, and the difficulty of raising funds from other sources to meet his engagements, the premium is not great or unusual. He suffered a loss of credit; and, being obliged to raise funds otherwise, the admission of premiums actually paid, interest money, and the 10 per cent. damage, did not, in the opinion of the Comptroller, come under the head of assurances for extra cost of provision; they were allowances admitted by the Secretary of War for other considerations.

Some importance has been attached to the balance due from Mr. Piatt as deputy commissary of purchases. It appears, by a recurrence to his account as settled, that it was closed on the 9th of January, 1813, leaving a balance of \$46,112 56 due the United States. In January, 1814, Mr. Piatt left Washington on his return to Cincinnati to prepare for the execution of his contract, which was to commence in June. While at Washington, his agent in the commissary department drew on the Secretary of War for \$75,000, which was first made known to Mr. Piatt on his return to Cincinnati; he immediately advised the Secretary of War of this unexpected draft, and requested it might not be paid; the draft had arrived, and was paid before Mr. Piatt's letter reached the War Department. Except this sum due on his deputy commissary account, which was made by the above-mentioned draft, Mr. Piatt did not receive any advance on his contract. The first warrant was issued, as per his account current, on the 22d day of July, for \$20,000 only, several months after he commenced issuing. This circumstance is mentioned to meet the impression that he had retained a large balance in his hands on his old commissary's account. On such contracts, at that time, large advances were always made before the contract commenced.

If the contractor had thrown up his contract, as contemplated when he came to Washington in January, 1815, the cost of the ration would have been from 45 to 50 cents, as stated by the quartermaster general, Colonel Swearingen, in his official report to General McArthur, who had been directed to ascertain the price for which it could be obtained in the event of a failure. See Colonel Swearingen's letter.

The Second Comptroller duly considered the allowances already made, and the different construction put on the law by the Third Auditor. He would have deferred the decision if he could have found sufficient reason for doing so; the law required him to decide; his convictions were clear as to the construction of the law and the equity of the allowances; the amount of the sum due also had weight with him; the claimant was in an embarrassed situation, with a heavy suit at the instance of the United States hanging over him; delay might operate as a denial of justice, and prove ruinous to the claimant; he therefore executed the law as required to do, and settled Mr. Piatt's accounts according to his best judgment.

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

RICHARD CUTTS.

Hon. WILLIAM H. CRAWFORD, *Secretary of the Treasury.*

Copy of a report made by Colonel Swearingen, Quartermaster General 8th military district, to the Adjutant General of the same, on the subject of the supply of the army stationed at Detroit, dated

Sir:

CHILICOTHE, December 21, 1814.

Agreeably to an order of the 14th instant, from the commanding general of the 8th military district, I have ascertained that, on or about the 1st of this month, there were driven from Urbana, by the contractor, one thousand hogs and upwards; it is supposed that on their arrival at Detroit they will average about 120 pounds. No cattle or flour has been sent since the 15th November last from that quarter, by the contractor or agents, on either Hull's road or by St. Mary's.

I am informed by an agent of the contractor that he will have in deposite at St. Mary's, on or before the 15th January next, for transportation to Detroit, three thousand barrels of flour, exclusive of one hundred now there; that he will have, at the same deposite, on or before the last day of February, one thousand barrels more. He will also have in deposite at Zanes's and Menary's, for transportation by Hull's road, on or about the middle of January, five hundred barrels of flour, exclusive of one hundred and thirty intended for Sandusky, and one hundred barrels now at Menary's. Four hundred head of hogs have left that country to go by St. Mary's, as they were to start so soon as the roads were sufficiently frozen. It is doubtful whether he will be enabled to procure a further supply of hogs, on foot, within a short time; he is, however, purchasing and putting up a considerable quantity of pork at Urbana.

There are deposited at Erie, Pennsylvania, two hundred and twenty-five barrels of flour and ninety-three barrels of whiskey, intended for Detroit; this is the only deposite in that quarter. This deposite was ordered for Detroit, but I presume it cannot be forwarded until the ice should answer for sledding.

The contractor's agent informs me that, so soon as a sufficient deposite is made at St. Mary's, Zanes's, and Menary's, he will be prepared to transport it on sleds to Fort Meigs, thence to Detroit; this being the only means at this season.

The contractor's agents are now engaged actively procuring beef, pork, and flour for the troops on the lines. It is uncertain what quantity they will or can procure beyond what is reported.

I am apprehensive that a special commissary will meet with difficulty on the frontier in making purchases of provisions to supply the troops on the lines. The hogs have generally been purchased and driven off, principally eastward. Beef is scarce, there being none to be had except those stock-feeding. I believe flour may be had, by early application, at the mills on the Miamies, and those waters nearest the frontier. A supply in this way, I apprehend, will cost from forty-five to fifty cents per ration, delivered at Detroit, as the only means of transportation must be by land, which will make flour cost per barrel, delivered, from twenty-eight to thirty dollars; pork and other parts of the ration in proportion. Pork cannot now be had on the frontier for less than four dollars per one hundred pounds, and is selling at some places at four dollars and fifty cents. Flour, I believe, can be delivered at about eight dollars per barrel at St. Mary's and Menary's.

The above statement is founded on the best information I could procure on the frontier, both from those engaged purchasing on the account of the contractor, and from citizens through the country which I passed.

Respectfully, I am, sir, your obedient,

JAS. S. SWEARINGEN,
Quartermaster General 8th district.

Sir: TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE, July 7, 1820.

The Second Comptroller has attentively considered the remarks of the Third Auditor relative to the adjustment of Mr. John H. Piatt's accounts, under the act of Congress passed for his relief, and the principles on which he has brought to Mr. Piatt's debit the charge of \$21,000, and the charge of \$2,080 77.

The first of these charges is for an allowance made by the then Secretary of War, in consequence of Mr. Piatt's drafts on the Government being protested, say ten per centum on \$210,000, as a reasonable compensation for the damages, &c. sustained by the contractor from the want of funds, and the delay of the Government to take up his drafts. The Second Comptroller is of opinion that the charge cannot be now revived and brought to Mr. Piatt's debit, under the head of assurances of the War Department, as recognised by the act of Congress passed for his relief. He has duly considered the object for which the allowance was made, and the time when made and passed to his credit; he therefore disallows the charge as made by the Third Auditor.

Also the charge of \$2,080 77, it having been allowed by the Secretary of War, under his decisions of 17th January, 1816, and passed to Mr. Piatt's credit. He allows an addition of six and a half per centum on the amount of provisions admitted by the Third Auditor, under the head of assurances, for wastage, &c.; this appearing to have been the usual allowance on all occasions. The amount of provisions, as reported by the Third Auditor, with the allowance of six and a half per centum for wastage, admitted by the Second Comptroller, makes an aggregate amount of \$48,243 84; deducting \$13 07, leaves \$48,230 77, the amount for which Mr. Piatt has been sued by the Government, and allowed to be passed to his credit, under the head of assurances, by the proviso of the act passed for his relief; thus closing that item of his accounts.

He stands charged with \$12,855 37, an error discovered in a former settlement of his accounts, and has credit for sundry admissions by the Second Comptroller, under the act passed for his relief, which produces a balance in his favor of sixty-three thousand six hundred and twenty dollars and forty-eight cents (\$63,620 48) due from the United States. Several items of his accounts are suspended for further information.

The alterations of his accounts have been so numerous that it was found necessary to make out a new statement thereof in this office.

Respectfully, sir, your obedient servant,

RICHARD CUTTS.

PETER HAGNER, Esq., *Third Auditor.*

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *February 8, 1821.*

I have the honor to enclose the following statements, in pursuance of the resolution of the Senate of the United States (referred to this office) directing the Secretary of the Treasury to report what proceedings have been had in relation to the claim of John H. Piatt, authorized to be liquidated and settled by an act of the 8th May, 1820.

1st. Copy of the remarks of the Third Auditor as to the principles upon which, in his opinion, the account of Mr. Piatt ought to be settled under the act passed for his relief.

2d. Copy of the statement of the account of John H. Piatt by the Third Auditor, in pursuance of said opinion.

3d. Copy of the statement of provisions purchased by John H. Piatt, on which the allowances under the assurances of the War Department are predicated in said statement of the Third Auditor.

4th. Copy of the report of the Third Auditor to the Second Comptroller, in the usual form, of his view of the account of John H. Piatt, under the act passed for his relief.

5th. Statement of claims in the accounts of John H. Piatt, which were refused allowance by the Third Auditor of the Treasury, on the grounds stated opposite each charge.

The foregoing statements show the proceedings that have been had in this office on the subject of the resolution. Those which have been had in the office of the Second Comptroller I understand will be furnished by that officer.

With great respect, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

No. 1.

Remarks of the Third Auditor on the claims of John H. Piatt, exhibited by him under the act passed for his relief.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *June 14, 1820.*

The following is a copy of the act:

"That the proper accounting officers be, and they are hereby, authorized and required to settle the accounts of John H. Piatt, including his accounts for transportation, on just and equitable principles; giving all due weight and consideration to the settlements and allowances already made, and to the assurances and decisions of the War Department: *Provided*, That the sum allowed under the said assurances shall not exceed the amount now claimed by the United States, and for which suits have been commenced against him."

On the exhibit of the account of the petitioner, reference was had to the petition and accompanying documents, on which the act passed, to ascertain what assurances had been made him by the War Department, and, finding no direct or positive evidence of what those assurances were, a letter was addressed to the Secretary of War, on the 26th of May, 1820, requesting information as to those assurances. The reply of the Secretary, dated 2d June, states "that there is no evidence in his Department of any assurance given to Mr. Piatt other than is contained in the documents which accompany the petition." There being, therefore, no direct evidence of any assurances made by the War Department which were not taken into view in the decisions and allowances heretofore made the petitioner by the Secretary of War, the documents accompanying the petition, and the act, must be resorted to, to ascertain what the assurances probably were, and, by comparing them with the decisions and allowances before made, to ascertain what additional claims the contractor has under the limitations prescribed in the act passed for his relief. Although, as before observed, there is no direct evidence of the assurances made which had not been taken into view by the Secretary of War in the allowances already made to Mr. Piatt, yet, as Congress, by their act, refer to assurances made by the War Department, under a full knowledge of all the allowances already made the petitioner, and of the circumstances under which they were made, it is reasonable to infer that they must have been satisfied that assurances were made not heretofore taken into view in the settlement to the extent they would justify.

The petition and accompanying documents must, therefore, furnish the necessary evidence. In the first place, the petitioner states, in substance, the assurances to have been made in the early part of January to indemnify him for the difference between the cost of the provisions to be thereafter purchased, instead of the contract price, of the amount of which he claims one-half, provided it does not exceed the balance standing against him. This under-

standing of the assurances he is stated to have communicated to several persons. (See letters of Judge McLean, and of General Parker, also depositions of his agent.)

Taking, therefore, as the basis of allowance, the principle laid down, it follows that the contractor is bound to show the quantity of provisions he purchased after the assurance, and their cost. This should be done by producing bills and receipts of the persons of whom such purchases were made. Instead of this proof, he has predicated his claim on the actual amount of provisions issued by him after the 1st January, 1815, the date assumed by him from which the assurances were to take effect, (presumed to be for the sake of even months to charge for,) at Detroit, Malden, Fort Gratiot, Fort Wayne, Fort Meigs, Fort Winchester, Stephenson, and Upper and Lower Sandusky. The rate at which he charges is twenty-five cents additional per ration, amounting to \$189,916 15. The additional price, it is presumed, is predicated on the report made by Colonel Swearingen, then quartermaster general, who, in December, 1814, was ordered by General McArthur to ascertain what the ration could be supplied at in the event of the failure of the contractor, and the establishment of a commissariat to purchase and issue provisions. This, however, can form no criterion of allowance to Mr. Piatt; he must prove what the provisions cost him.

In regard to the quantity of provisions charged by the contractor, it may be observed that the issues after the assurance can form no correct data as to the allowances to be made to the contractor under the assurances as laid down, because it is an undeniable fact that large quantities of provisions must have been on hand, previously purchased; and it appears by Colonel Swearingen's report, before referred to, that at the time (December, 1814) large quantities were on the way to the several posts, also previously purchased: these, of course, cannot be included in the assurance made.

Referring, therefore, to the principle laid down as the basis of allowance, and to the description of vouchers, to establish the quantity and price, I have proceeded to audit the account of Mr. Piatt on the vouchers produced by him, consisting of several receipts for beef and flour stated to have been delivered in January and February, 1815, (although these are not the description of vouchers required, being, in two instances, receipts of his own agents, without the accompanying bills of purchase by them, and being, in each case, deficient in the bill or account of the person from whom the purchase was made) showing the date of purchase; yet as those are all the vouchers which the contractor states he has it in his power to produce at this time, and urges a settlement on that ground, they are received under the act in his favor, taking his deposition to the fact of his having paid the money agreeably to the receipts produced, his agents having satisfied him of their having paid the amount. Here it may be proper to state that any future claims on this head must be substantiated by the bills and receipts of the parties of whom these purchases have been made, as well as such as he may hereafter claim for, in order to a correct settlement of any future account.

The receipts are as follows:

| | |
|---|--------------------|
| Thomas Jones, 1st March, 1815, for 260 barrels of flour, delivered at Lower Sandusky in January and February, at \$22 per barrel, - - - - - | \$5,720 00 |
| Ditto of M. Hazleman, 9th May, 1815, for 224 barrels, delivered at Lower Sandusky in January and February, 1815, at \$22 per barrel, - - - - - | 4,928 00 |
| Ditto of Samuel Newell, 18th May, 1815, for 365 barrels, delivered at Lower Sandusky in February and March, 1815, at \$22 per barrel, - - - - - | 8,030 00 |
| 849 barrels cost - - - - - | 18,678 00 |
| To which add \$6 per barrel for transportation to Detroit, the rate at which public transportation was furnished, - - - - - | 5,094 00 |
| B. and R. Fowler, dated 5th March, 1815, for 50,430 pounds of stall-fed beef, delivered at Detroit, at \$14 25 per 100 pounds, - - - - - | 7,186 27 |
| Patrick Wallace, dated 28th March, 1815, for 127,600 pounds of beef, at \$13 50 per 100 pounds, delivered at Detroit in February, 1815, - - - - - | 17,226 00 |
| John and George Hughes, dated 15th May, 1815, for 129,200 pounds of beef, at Detroit, in January, 1815, at \$13 50 per 100 pounds, - - - - - | 17,442 00 |
| S. P. Hedges, 10th June, 1815, for 103,500 pounds of beef, at Urbana, at \$10 per 100 pounds, - - - - - | 10,350 00 |
| Total amount, - - - - - | 75,976 27 |
| From which deduct the price allowed by his contract, per statement No. 3, - - - - - | 30,225 51 |
| Leaving a balance of - - - - - | <u>\$45,750 76</u> |

arising on the difference of the cost and the price allowed by the contract, as far as vouchers have been produced. Opposed to this, according to the act, that due weight and consideration is to be given to the settlements and allowances already made, I am of opinion that the allowance made by the Secretary of War of \$21,000, being ten per cent. on \$210,000 of bills drawn by the contractor, which were protested, and on which damages were not paid by him, but allowed in consequence of losses sustained by him, and not within the general rule laid down for other contractors' accounts, constitutes an item of deduction from the allowance now made.

The damages here referred to are of a character connected with the extraordinary price he had to pay for his provisions, such as the depreciated bank paper, and the notes of the banks at long dates, which he had to take for his drafts, thereby lessening the value of the medium, and enhancing the price paid for the provisions; it consequently should be deducted from the above allowance. Also the allowance made to the contractor for issues to distressed inhabitants after the 1st January, 1815, because, if he receives a credit for the actual cost of all the provisions he purchased after that date, it will include his losses on the issues to the distressed inhabitants after that time.

Of the debits to be brought to his account, there is one in addition to the balances standing to his debit when his account was reported for suit.

It appears by his account that he has charged the United States with the amount of a certificate given by the commanding officer at Fort Wayne to his agent, in March, 1815, which is included in the credit given him for the issues and deposit at that place on the 1st June, 1815, and is therefore chargeable to his account. (See vouchers E. C. 55, No. 40.)

His charges for transportation, recognised by the act, have also been audited, and such allowances made as the facts and circumstances of the case would justify. (See statement.)

PETER HAGNER, Auditor.

To RICHARD CUTTS, Esq., Second Comptroller.

| To general account of arrearages. | Arrearages. | Total. | By general account of arrearages. | Arrearages. | Total. |
|---|--|--------------------|--|--|--|
| <p>January 1, 1820.—For the balances due the United States by John H. Piatt, on settlements of 24th February, 1818, viz: Account as deputy commissary of purchases, - - - Account as contractor, - - -</p> | <p>\$46,112 56 2,118 21</p> | <p>\$48,230 77</p> | <p>For the following allowances made him under the act of Congress passed for his relief, viz:</p> <p style="text-align: center;"><i>Transportation.</i></p> <p>(A.) For transporting 20,000 rations of flour from Upper to Lower Sandusky, on the order of Lieutenant Carney, per voucher No. 1, - - - For transporting the public provisions deposited at sundry places, and ordered to be removed by General McArthur on 24th September, 1814, per voucher No. 2, - - - For ditto, from Fort Winchester to Fort Meigs, under the same order, per voucher No. 3, - - - For transporting sundry provisions from Fort McArthur to Upper Sandusky, under the same order, per voucher No. 4, - - - For transporting 515 complete rations from Chilicothe to Urbana, per voucher No. 5, - - - For transporting provisions from Chilicothe to Franklinton, per voucher No. 6, - - - For transporting 600 rations from Delaware to Scioto block-house, per voucher No. 7, - - -</p> | <p>\$525 00 2,175 00 85 50 375 00 55 00 18 50 15 00</p> | <p>\$3,249 00</p> |
| <p>For the following provisions erroneously passed to his credit in the above-mentioned settlements, being the amount of a certificate signed by J. Whistler, major at Fort Wayne, 1st May, 1815, stating what provisions had been deposited at that post by the contractor between the 1st January and 1st April, 1815; not being intended as a voucher on which the contractor could predicate any claim on the Government, he having received abstracts for all the rations issued from the commencement of his contract to its termination, and also for the balance of provisions remaining on hand at the termination of his contract, which, consequently, must include all the provisions brought to the post; (see Major Whistler's letter of the 8th March, 1816, and the certificate referred to in bundle marked E. C. 55,) viz: 50,000 rations of meat, at 7 cents per ration, - - - 87,111 rations of flour, at 7 cents per ration, - - - 63,360 rations of whiskey, at 5 cents per ration, - - - 2,240 quarts of salt, at 4 cents per quart, - - -</p> | <p>3,500 00 6,097 77 3,168 00 89 60</p> | | <p>12,855 37</p> | <p style="text-align: center;"><i>Allowance under the assurance of the War Department.</i></p> <p>For the amount of 849 barrels of flour, delivered at Lower Sandusky in the months of January and February, 1815, including transportation to Detroit, and beef delivered in the same months at Urbana and Detroit, per remarks herewith, - - - From which deduct the contract price already allowed him, as per statement marked B, - - - \$30,225 51 Also the sum of \$21,000, allowed him by the Secretary of War on his former settlement, which is chargeable against the above allowance, (see remarks herewith,) - - - 21,000 00 Also this amount heretofore allowed him on supplies to distressed inhabitants, from 1st January, 1815, (see remarks,) 2,080 77</p> | |
| | | <p>\$61,086 14</p> | <p>By balance due the United States, - - - - -</p> <p style="text-align: center;"><i>By general account of arrearages.</i></p> <p>(C.) For payment made by him, as deputy commissary of purchases, for a quantity of flour which was damaged in the mill of John Sample, of whom the flour was purchased, and payment refused on the ground of its having been damaged, but for which recovery has been had against him, the said Piatt, (allowed by the Secretary of War,) - - - By balance due the United States, - - - - -</p> | <p>- - - - - - - - - - - - - - -</p> | <p>\$459 00 34,708 15</p> |
| <p>To balance due the United States, per contra, - - -</p> | | <p>\$35,167 15</p> | | | <p>\$35,167 15</p> |

No. 3.

Statement of provisions purchased by John H. Piatt in the months of January and February, 1815, agreeably to vouchers produced.

| No. of voucher. | Provisions. | Amount. | Total. |
|-----------------|---|------------|-------------|
| 1 | For 260 barrels flour delivered at Lower Sandusky, in January and February, 1815, per receipt of Thos. Jones of 1st March, at \$22 per barrel, - | \$5,720 00 | |
| 2 | 224 barrels flour delivered at Lower Sandusky, in same months, per receipt of M. Hazleman of 9th May, at \$22 per barrel, - | 4,928 00 | |
| 3 | 365 barrels flour delivered at Lower Sandusky, in February and March, per receipt of S. Newell of 18th May, 1815, at \$22 per barrel, - | 8,030 00 | |
| | 849 barrels flour cost - - - - - | 18,678 00 | |
| | To which add \$6 per barrel transportation to Detroit, the rate at which public transportation was furnished, - - - - - | 5,094 00 | \$23,772 00 |
| 4 | For 50,430 pounds beef delivered at Detroit, per receipt of Benj. & R. Fowler, dated March 5, 1815, at \$14 25 per 100 pounds, - | 7,186 27 | |
| 5 | 127,600 pounds beef delivered at Detroit, in February, 1815, per receipt of Pat. Wallace, dated March 28, 1815, at \$13 50 per 100 pounds, - | 17,226 00 | |
| 6 | 129,200 pounds beef delivered at Detroit, in January, 1815, per receipt of John and George Hughes of 15th May, 1815, at \$13 50 per 100 pounds, - | 17,442 00 | 41,854 27 |
| 7 | 307,230 pounds beef. | | |
| | 103,500 pounds beef delivered at Urbana, per receipt of S.P. Hedges, dated June 10, 1815, at \$10 per 100 pounds, - | - | 10,350 00 |
| | | | 75,976 27 |
| | Those provisions, after deducting 6 per cent., the probable wastage in the issue, being delivered at Detroit, where and in its neighborhood it was to be issued, and consisting of articles on which a wastage beyond that amount, under these circumstances, is not likely to occur, and after deducting from such deduction the same rate, say 6 per cent. for wastage on the rations issued under his contract, which the contract price includes, leaves the following result, viz: At Detroit, 166,404 pounds flour, = 147,915 rations, at 7 cts. - \$10,354 05 Wastage, at 6 per cent on the cost of the same, - \$1,120 68 Deduct the same on the contract price, - - - 624 24 <u>499 44</u> | | |
| | At Detroit, 307,230 pounds beef, = 245,784 rations, at 7 cts. - \$17,204 88 Wastage, at 6 per cent. on the cost, - - - \$2,511 25 Deduct the same on the contract price, - - - 1,032 29 <u>1,478 96</u> | 9,854 51 | |
| | At Urbana, 103,500 pounds beef, = 82,800 rations, at 6 cts. - \$4,968 00 Wastage, at 6 per cent. on the cost, - - - \$621 00 Deduct the same on the contract price, - - - 298 08 <u>322 92</u> | 15,725 92 | |
| | | 4,645 08 | 30,225 51 |
| | | | \$45,750 76 |

Personally appeared before the subscriber, Third Auditor of the Treasury Department, duly authorized to administer oaths by the twelfth section of the act of Congress passed 3d March, 1817, John H. Piatt, the within-named claimant, under the act of Congress passed for his relief, who, being duly sworn, doth declare that the receipts exhibited by him on which the within statement is predicated, amounting to \$75,976 27, are just and true; that the payments, as he verily believes, were made by his agents, and have been allowed to them in their settlements with him, they having satisfied him of their correctness, and that they form a correct claim against the United States under the act of Congress passed for his relief, under the assurances of the War Department referred to in the said act, so far as it regards the difference between the cost of the provisions therein receipted for and the contract price.

JOHN H. PIATT.

Sworn to, this 22d June, 1820.

PETER HAGNER, Auditor.

No. 4.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, June 14, 1820.

I certify that I have examined and adjusted the account of John H. Piatt, under the act of Congress passed for his relief, and find that he is chargeable with the following amounts, viz:

To general account of arrearages:

For the balance due the United States by John H. Piatt, on settlements of the 24th February, 1818, viz:

| | | | | |
|--|---|---|---|--------------------|
| Account as deputy commissary of purchases, | - | - | - | \$46,112 56 |
| Account as contractor, | - | - | - | 2,118 21 |
| | | | | <u>\$48,230 77</u> |

For the following provisions erroneously passed to his credit in the above-mentioned settlements, being the amount of a certificate signed by J. Whistler, major at Fort Wayne, 1st May, 1815, stating what provisions had been deposited at that post by the contractor between the 1st January and 1st April, 1815, not being intended as a voucher on which the contractor could predicate any claim on the Government, he having received abstracts for all the rations issued from the commencement of his contract to its termination, and also for the balance of provisions remaining on hand at the termination of his contract, which, consequently, must include all the provisions brought to the post, (see Major Whistler's letter of the 8th March, 1816, and the certificate referred to in bundle marked E. C. 55,) viz:

| | | | | |
|-------------------------|---|---|---|------------------|
| 50,000 rations meat, | - | - | - | \$3,500 00 |
| 87,111 rations flour, | - | - | - | 6,097 77 |
| 63,360 rations whiskey, | - | - | - | 3,168 00 |
| 2,240 quarts salt, | - | - | - | 89 60 |
| | | | | <u>12,855 37</u> |

61,086 14

And that he is entitled to the following credits under the act of Congress passed for his relief 8th May, 1820:

Transportation.—For amount of transportation of provisions to sundry places, under the order of Lieutenant Carney and General McArthur, amounting to - \$3,249 00

Allowance under the assurance of the War Department, for amount of 849 barrels of flour, delivered at Lower Sandusky in the months of January and February, 1815, including transportation to Detroit, and beef delivered in the same months at Urbana and Detroit, (see remarks herewith,) - 75,976 27

79,225 27

From which deduct the contract price already allowed him, as per statement No. 3, - \$30,225 51

Also the sum of \$21,000 allowed him by the Secretary of War on his former settlements, which is chargeable against the above allowance, (see remarks herewith,) - 21,000 00

Also this amount, heretofore allowed him on supplies to distressed inhabitants, from 1st January, 1815, (see remarks,) - 2,080 77

53,306 28

25,918 99

For payment made by him as deputy commissary of purchases, for a quantity of flour which was damaged in the mill of John Sample, of whom the flour was purchased, and payment refused on the ground of its having been damaged, but for which recovery has been had against him, the said Piatt, allowed by the Secretary of War, per statement C, 459 00

26,377 99

Leaving him indebted to the United States this sum, - 34,708 15
as appears from the accounts and vouchers herewith transmitted for the revision of the Second Comptroller thereon.

PETER HAGNER, Auditor.

RICHARD CUTTS, Esq., Second Comptroller.

From which deduct the following items charged by the Third Auditor to Mr. Piatt, under the head of assurances of the War Department, which charges have been reversed by the Second Comptroller, viz:

This amount, allowed him by the Secretary of War on a former settlement, as damages on sundry bills protested for non-payment by the Government, - \$21,000 00

Also this sum, heretofore allowed him on supplies to distressed inhabitants from 1st January, 1815, - 2,080 77

23,080 77

Admitted by the Second Comptroller, viz:

On account of transportation, - \$13,363 89

On account of miscellaneous claims, - 59,403 96

Under assurances of War Department, - 2,480 01

75,247 86Balance due from United States to John H. Piatt, - \$63,620 48

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE, July 7, 1820.

RICHARD CUTTS.

No. 5.

Statement of claims, in the accounts of John H. Piatt, which were refused allowance by the Third Auditor of the Treasury, on the grounds stated opposite each charge, in addition to the allowances made under the assurances of the War Department, by the Third Auditor.

| No. of voucher. | Description of the claims. | Amount. | Auditor's remarks. |
|-----------------|---|----------|--|
| 1 | James Whitaker, for transporting provisions for Ohio militia, on their march from Zanesville to Detroit, two wagons, 52 days, at \$6 per day each. | \$624 00 | No allowances for transportation can be made, unless supported by the commanding officer's declaration that the transportation was furnished to the extent charged; that the contractor had not due notice; and that the sum charged is reasonable; without which it cannot be determined that the United States are liable. |
| 2 | James Johnson, for services of one wagon and team transporting supplies for a detachment of Ohio militia from Urbana to Detroit, 39 days, at \$6 per day. | 234 00 | |
| 3 | Levi Rouze, for services of two light wagons and teams transporting supplies for a detachment of Ohio militia from Cleveland to Detroit, 20 days, at \$3 each per day. | 120 00 | These claims were disallowed for reasons above stated. |
| 4 | Thomas Coal, for services of one wagon and team employed as aforesaid, from Lebanon to Detroit, 48 days, at \$6 per day. | 288 00 | |
| 5 | John Edmondson, for transporting flour collected under the proclamation of Captain Hickman, of December 1, 1814, from the river Thames to Detroit. | 514 69 | Disallowed on former settlement, for the want of evidence that the schooner in which the provisions were shipped actually performed the voyage from below Malden to Detroit, in December, 1814. This evidence not being produced, the claim was again disallowed. |
| 6 | Michael French, for the use of two sleds and horses transporting provisions from Urbana to Detroit, for the detachment of United States troops under command of Lieutenant W. Miller, 30 days, at \$3 each per day. | 180 00 | The time charged appears beyond what was usual, and there is no evidence from the officer commanding the detachment that the contractor furnished the transportation. The account was before suspended for this cause, and cannot be allowed without such evidence. |
| 7 | Edward Townsend, for services of two wagons and teams transporting provisions for Ohio militia from Franklinton to Detroit, 35 days, at \$6 per day each. | 420 00 | This claim was disallowed for same reason stated in the case of James Whitaker, voucher No. 1, referred to in this statement. |
| 8 | William Lusk, for the services of four wagons and teams transporting provisions from Upper to Lower Sandusky, by order of Lieutenant Carney, dated August 5, 1814, 65 days, at \$5 each per day. | 1,300 00 | These claims were disallowed on former settlement of Mr. Piatt's account for want of the certificate of the officer at Lower Sandusky that the transportation was furnished as charged, and the affidavit of the agent of the contractor who paid the money that he actually and <i>bona fide</i> paid the amount charged for transporting public provisions from Upper to Lower Sandusky. The signatures of the witnesses, appearing to be in the same handwriting, must be sworn to. |
| 9 | Joseph Richards, for services of one wagon and team transporting provisions as aforesaid, under said orders, 44 days, at \$5 each per day. | 220 00 | |
| 10 | Samuel Wilson, for services of one wagon and team transporting provisions as aforesaid, and under said order, 44 days, at \$5 per day. | 220 00 | On the settlement of Mr. Piatt's account under the act of Congress passed for his relief, a credit was given him of \$525 for transporting 20,000 rations of flour from Upper to Lower Sandusky, on the order of Lieutenant Carney. |
| 11 | William Newell, for services of two wagons and teams transporting provisions from McArthur's block-house to Lower Sandusky, by order of General McArthur, dated September 24, 1814, 59 days, at \$5 per day each. | 590 00 | These charges were disallowed on a former settlement of Mr. Piatt's account, the vouchers being unsatisfactory, there being no evidence that those provisions were so transported by the certificate of any officer, which has always been deemed to be an essential voucher. The charges were suspended until the difficulties were removed, either by producing the evidence required, or by depositions of credible characters that the provisions were so removed, having been previously deposited by order, and subsequently removed as charged, and the money <i>bona fide</i> paid for that purpose. |
| 12 | William Huston, for services of one wagon and team transporting provisions as aforesaid, under said order, 37 days, at \$5 per day. | 185 00 | On the settlement of Mr. Piatt's account under the act of Congress passed for his relief, he received a credit for the transportation of the provisions remaining on hand from public depositories at Fort McArthur, being 80 barrels, which the order of General McArthur directs to be sent to Upper Sandusky. Estimating the distance between those places at 70 miles, it would take 10 wagons at 8 barrels each, say 75 days, at \$5 per day; the rate charged is \$375. |
| 13 | William Tennis, for services of two wagons and teams employed as aforesaid, under said order, 67 days, at \$5 per day each. | 670 00 | |
| 14 | James Cory, for services of one wagon and team employed as aforesaid, and under said order, 57 days, at \$5 per day. | 285 00 | These two vouchers were rejected, no evidence appearing from any officer of the United States that the transportation was performed; nor is there any receipt for the payment of \$3,093 20 charged on voucher No. 8; and the signature to the receipt on voucher No. 9 being unsatisfactory. |
| 15 | William Bailey, for services of one wagon and team employed as aforesaid, and under said order, 50 days, at \$5 per day. | 250 00 | |
| 16 | William Dickinson, for services of one wagon and team employed as aforesaid, and under said order, 54 days, at \$5 per day. | 270 00 | |
| 8 | Jonathan Ross, for transporting 50,000 pounds bacon from Piqua to Fort Wayne, and 18,220 pounds bacon from Urbana to same place, by order of General McArthur. | 3,093 20 | |
| 9 | Michael Hagerman, for transporting 600 barrels flour from Piqua to Fort Wayne, by said order, at \$8 per barrel. | 4,800 00 | |

STATEMENT—Continued.

| No. of voucher. | Description of the claims, | Amount. | Auditor's remarks. |
|-----------------|---|-----------|---|
| D F. | Amount claimed for part of 1,076 barrels flour (damaged) turned over to the contractor by James McCloskey, and which, on a second survey, is stated to have been found totally damaged and unfit for use. | 3,361 08 | On the former settlement of Mr. Piatt's account, he was refused a credit for the flour stated to have been condemned at the second survey, unless the survey was produced, and evidence accompanying it that the flour so condemned was part of that before received from the United States. |
| U. | Amount claimed for 45 head of beef cattle stated to have been lost out of the bullock-pen, near Detroit, on the 24th August, 1814, through the misconduct of Indian troops in the United States service. | 1,071 00 | This claim was disallowed on a former settlement of Mr. Piatt's account, as not coming within the provisions of his contract. |
| X. | Amount claimed as a difference between the cost and the contract price of the provisions furnished at Detroit to the distressed inhabitants, Indian militia, and to McArthur's mounted expedition. | 25,664 43 | The claim originally made by Mr. Piatt for the purposes here stated was \$28,295 16, on which he received a credit on a former settlement of \$2,630 73, upon the decision of the Secretary of War that the additional price claimed could only be allowed on the provisions issued to distressed inhabitants. Every thing in relation to the extra price of the ration I consider included in the allowance made under the assurances of the War Department, which has been allowed by the Third Auditor as far as evidences of purchases by the contractor, after those assurances were made, have been produced. |
| Y. | Amount claimed as a difference between the cost and the contract prices on 1,292 barrels flour and 99 barrels whiskey deposited at Malden, per order of General McArthur, dated December 26, 1814. | 23,736 24 | This claim was disallowed on a former settlement, the Secretary of War having determined that no additional allowances could be made in this case. Same remark as above. |
| T. | Amount claimed for 30 head of beef cattle which were lost from Fort Gratiot, July 27, 1814, for want of a guard. | 864 00 | This claim was disallowed on a former settlement, the proof being incomplete, and the circumstances stated are not sufficient in themselves to justify the allowance. |
| I T. | Amount claimed for interest paid by him to the Farmers and Mechanics' Bank of Cincinnati on moneys borrowed on account of the Government failing to pay his drafts. | 4,707 21 | This sum is part of \$12,456 60 claimed by Mr. Piatt as a balance remaining in his favor on interest account, and which was disallowed by the Secretary of War on a former settlement. |

16th CONGRESS.]

No. 553.

[2d SESSION.

CONSTRUCTION GIVEN TO THE ACT FOR THE RELIEF OF JOHN H. PIATT, LATE ARMY CONTRACTOR.

COMMUNICATED TO THE SENATE, FEBRUARY 26, 1821.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the report from the Treasury Department in relation to the claim of John H. Piatt, reported:

That, on an examination of the statements by the Second Comptroller and Third Auditor of the Treasury of the settlement of John H. Piatt's account, by them respectively made under an act of last session, the committee are of opinion that neither of them has given that act a correct construction. The Third Auditor finds the sum of \$34,705 due from the petitioner to the Government, and the Second Comptroller finds \$63,620 due to the petitioner, making a difference of \$98,325. The object of the act was simply to give the claimant relief in addition to that obtained in the settlement of his account, theretofore had, to the extent of the sum which he stood debited with on the books of the Treasury. This was explicitly the object of the bill reported by the Committee of Claims. The recommitment of the bill was not had with a view to extend the relief therein proposed, but from a distrust of the propriety of it. The committee, for their own part, were under the impression, at the time the bill passed, it was exactly equivalent to that they had reported. Neither of the accounting officers so construes it. It must be admitted the law is not in terms so explicit as it is at all times desirable a law should be. The committee believe the word "assurances" covers the whole ground of the petitioner's claim. He had had a settlement according to the rules of the Treasury; and his application to Congress was for further allowances, on the ground that when his contract was void by fault of the Government, assurances of additional allowances from the Secretary of War had induced him to continue to execute it. These were claimed on various grounds, that could not be ascertained satisfactorily; and the Committee of Claims, in the bill they reported, assumed the amount of his debit on the books of the Treasury as a liberal allowance in full of all demands; and they have no hesitation in giving it as their opinion that the act of the last session, by fair construction, cannot be made to cover a larger sum. It is always a safe rule, in settling accounts under special statutes, to construe them strictly: the Government is always competent to extend relief, but when the public are injured there is no remedy. The committee are very far from implying any censure on the officers for the discharge of their duty in this case; but they cannot but think that the law ought to have engaged their attention more than the correspondence, and circumstances, and merits of the claimant. The Second Comptroller admits the want of an appropriation suggested the intention of the Legislature as to the extent they designed to give relief. The committee concur in this, though they think the supposition that they designed it to be paid out of the arrearage fund somewhat overstrained. To remove the embarrassment now existing, the committee report a bill.

Sir:

WASHINGTON, February 28, 1821.

Since our conversation last evening, I have been furnished with the report of the honorable the Committee of Claims of the Senate in the case of Mr. John H. Piatt, to which your referred me, and beg leave most respectfully to state that, so far as the same regards the Third Auditor, the honorable committee have misconceived the grounds on which his decision is predicated, as well as the decision itself; in corroboration of which I refer you to his remarks with the documents No. 1, and to the statement made by the same officer of the account of Mr. Piatt, No. 2. The decision of the Auditor does not contemplate a final balance against Mr. Piatt of \$34,705, under the act passed for his relief, as intimated by the honorable committee; on the contrary, he expressly states such to be the result as far as vouchers were produced under the rule laid down by him, and points out what vouchers, in his opinion, are necessary before further credits could be passed. There was no doubt with the Auditor that the law intended to allow Mr. Piatt credits, at least to the amount for which suit was instituted against him, because the law says so in so many words; and, if vouchers had been produced to satisfy his mind to that extent, it would have been done. The balance, therefore, as reported by the Auditor, arises from the want of evidence, and not that the law did not allow more. It will, consequently, occur to you that the question did not present itself to the Auditor, whether the act meant to allow Mr. Piatt more than the sum he was sued for, or not; it was only in case the credits to be passed exceeded that amount that the question could arise; these, it will be perceived, did not exceed \$22,669 99, whereas the amount for which suit was instituted exceeded \$48,000. The decision, therefore, to which the honorable committee refer originated exclusively where it is defended, and in which the Auditor had no agency. The remarks of the committee as to the principles which ought to govern in cases under special statutes, I beg leave to state, have occurred to the Auditor, and have influenced his decisions in the settlement of such accounts.

Before closing this communication, let me ask your indulgence while I further remark that I am entirely insensible of having deserved the remark of the honorable committee, where they say, "But they cannot but think that the law ought to have engaged their attention [meaning the Second Comptroller and Third Auditor] more than the correspondence, and circumstances, and merits of the claimant." Surely, sir, the documents do not establish any such preference over the law on the part of the Third Auditor; if they do, I can only say they are in contradiction to every feeling of my heart when acting in the discharge of my public duties.

Your goodness will excuse the length and freedom of this communication, and I beg you to accept the assurance of my perfect regard.

PETER HAGNER.

The Hon. JONATHAN ROBERTS.

16th CONGRESS.]

No. 559.

[2d SESSION.

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1821.

Mr. RHEA made the following report:

The report of the Committee on Pensions and Revolutionary Claims upon the petition of James Brown, of the State of New York, who claims a pension.

The petitioner states that on the 28th day of May, 1813, a volunteer company was raised at Sackett's Harbor, who volunteered their services to General Brown, commander of the forces at that place, to serve such a length of time as should be required to repel the expected attack of the enemy; that General Brown accepted the services of said company, and ordered them to draw arms and ammunition from the arsenal, which they accordingly did; that, on the 29th of the same month, General Brown ordered the company to join the United States dismounted dragoons, commanded by Major Sewall; and that, in the engagement with the enemy which then ensued, he was wounded in the back and legs. The petitioner states that he was carried wounded off the field, and that after the action was over the said company was disbanded, their services being no longer required.

The facts, as stated, are all satisfactorily proven. The petition and documents were referred to the Secretary of War, who rejected them upon the sole ground that it did not appear that the claimant had been *regularly mustered into the service of the United States*. The statement of Major General Brown, filed among the papers, is, that the petitioner was a *private soldier* in a volunteer company in the service of the United States at Sackett's Harbor, which came into service upon a *call made by him*, and *fought under his command* at the attack on the place by the British army, on the 29th May, 1813; and that the petitioner *was then and there wounded*. It will be recollected as an incident in the history of the late war that the attack upon Sackett's Harbor, at the time stated, was unexpected, and the place not in sufficient force to resist it; whereupon the commanding general brought the militia of the neighborhood into the field, by firing alarm-guns and sending expresses out in every direction. The company to which the petitioner was attached was called for, took the field, and fought, during confusion and alarm, when it would have been folly, nay, madness, to have paraded the troops and performed the ceremony of mustering them into the service. The petitioner was required for the defence of his country by one who had a right to call for him; he obeyed the summons; took the field; fought—having no time for ceremony or parade, or even enrolment—and while fighting was wounded, is now an invalid, and asks the interposition of Congress, under the circumstances, to grant him a pension.

The committee have no hesitation in giving it as their opinion that the case of the petitioner presents a strong case for relief, and that a law should pass affording it.

[17th CONGRESS.]

No. 560.

[1st SESSION.]

GOODS IN CANADA, BELONGING TO A MERCHANT IN NEW YORK, CAPTURED BY THE TROOPS OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Charles Douglass, merchant, of the city of New York, reported:

That the petitioner represents that some time previously to the declaration of the late war against Great Britain, he had a considerable quantity of goods, then purchased and lying in the province of Lower Canada; that, as a citizen of the United States, he wished to secure his property, by transporting it within the American lines, as was usual to be done by those placed in situations similar to his. For this purpose, application was made to Mr. Van Ness, collector at Burlington, Vermont, to know whether the goods would be admitted to an entry by bringing them to Burlington. The collector's reply was, he "would permit them to be entered at the custom-house in the usual mode, by giving a penal bond and a bond for double duties;" which was agreed to by the petitioner, and which, he says, was the universal custom by which citizens of the United States secured their property that appeared to be in jeopardy from the enemy, unless they would take the oath of allegiance, which, as an American citizen, he could not do. His goods, amounting, at invoice cost, to \$12,679, he ordered to be brought to Missisque bay, with an intention of having them transported to Burlington, in Vermont; but while preparations for the purpose were making, Colonel Isaac Clarke, commanding a corps of riflemen then in service of the United States, crossed with his men to Missisque bay, seized the whole of the goods, and, without the formality of judicial investigation, divided them amongst his officers and soldiers. For the loss thus sustained (according to the representations of the petitioner) he asks reimbursement of Congress.

The committee have had no evidence that the goods in question were *bona fide* the property of the petitioner. It seems, indeed, a little surprising that a merchant of the city of New York should, some time previously to the war, have imported goods through the province of Lower Canada, and suffered them to remain there so long as the year 1813. Mr. Van Ness, the collector, who has favored this claim with his certificate, seems careful to remark that he knew nothing of the manner in which Mr. Douglass became possessed of the goods.

On the supposition, however, that he was *bona fide* the owner, it does not follow that Colonel Clarke was bound to know the fact in an enemy's country, or that it could reasonably be presumed he would know it. If, therefore, it was lawful for him to take enemy's property in the country of the enemy, the committee think it would be equally so for him to take the property of our own citizens found in the country of the enemy, and situated as it appears the property of the petitioner was at that time. On the other hand, if it was not lawful to take, when it was thus situated, the property either of the enemy or our own citizens, the committee think the taking of the goods in this instance by Colonel Clarke was an act performed on his own personal responsibility, for which he alone, and not the Government, is liable to the petitioner. The following resolution is submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

[17th CONGRESS.]

No. 561.

[1st SESSION.]

INTEREST AND DEPRECIATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 24, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred a petition from Eli Hart, submitted the following report:

It is alleged by the petitioner, and corroborated by the testimony of John G. Camp, late a deputy quartermaster general, (the only witness in the case,) that, upon the representations of the latter, setting forth that he was destitute of funds, and consequently unable to procure forage, and comply with the other requisitions of the commanding officer, and upon assurances of repayment in thirty days, \$16,000 was loaned to the said quartermaster by the petitioner in the months of October and November, 1814, in such bank bills as were current in New York at their par value; that, for want of funds, the said quartermaster was unable to complete the reimbursement till the 14th of April, 1815; and that \$13,000 was received in treasury notes, upon which the petitioner suffered an unavoidable loss, resulting from their depreciation, which, together with the interest upon the money loaned, amounted to \$1,205 13. For this sum remuneration is claimed.

It is alleged by the petitioner, and concurred in by the quartermaster, that the only possible motive on the part of the petitioner for making the loan was a desire to benefit the public service, which must otherwise have suffered severely. Nothing has appeared in this case to authorize a belief that the facts were any other than such as have been represented. The committee are, however, of the opinion that it would be inexpedient to allow the claim.

In adopting rules applicable to transactions between the Government and the citizens, great care should be taken that they be such as will not create a liability on the part of the Government from which it cannot discharge itself without putting at hazard the rights of that portion of the community through whose pecuniary means all claims must be satisfied. If subordinate agents shall be authorized at their own discretion to negotiate loans or enter into other contracts not properly within the sphere of their official duties, and create thereby a liability on the part of the Government, it is apprehended that the mischiefs which would result from it would far more than counterbalance any advantages that could be derived from allowing the practice. The committee have, therefore,

no hesitation in pronouncing a belief that all transactions between the citizens and the agents of the Government, except such as are strictly within the scope of the ordinary duties of the latter, must be regarded as of an entire private character; and, consequently, they submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

A statement of the loss sustained by Eli Hart in consequence of a loan made to John G. Camp, deputy quartermaster general, for the use of the United States, in the fall of 1814, viz:

| | |
|--|------------|
| Interest on \$16,000 from 1st November, 1814, to 1st January, 1815, 2 months, at 7 per cent. per annum, | \$186 66 |
| Interest on \$13,000 from 1st January to 1st March, 1820, 2 months, at 7 per cent. per annum, | 151 66 |
| Interest on \$5,000 from 1st March to 14th April, 1820, 1 month 14 days, at 7 per cent. per annum, | 42 78 |
| A loss sustained of $4\frac{1}{2}$ per cent. on \$8,000 of treasury notes, | 340 00 |
| A loss sustained of 5 per cent. on \$5,000 of treasury notes, | 250 00 |
| The interest on the amount of depreciation and loss on treasury notes, it being \$590, from 15th March, 1815, to 15th December, 1820, 5 years 8 months, is | 234 03 |
| | \$1,205 13 |

FEBRUARY 12, 1817.

I certify that it appears, from my official abstract of payments as quartermaster general of the ninth district, I paid, on the 14th April, 1815, Major John G. Camp's draft, in favor of Eli Hart, for \$5,000; which payment was made in treasury notes at their par value.

ELISHA JENKINS.

SIR:

NEW YORK, *February 2, 1818.*

We have received your letter of 29th ultimo, inquiring the price of treasury notes on 28th February and 14th April, 1815. On the 28th day of February, 1815, they were at $4\frac{1}{2}$ per cent. discount; and on the 14th day of April, 1815, they were at 5 per cent. discount.

We are, with respect, sir, your obedient servants,

PRIME, WARD, & SANDS.

Mr. ELI HART.

UNITED STATES OF AMERICA, *State of New York, ss.*

By this public instrument be it known to all whom the same doth or may concern, That I, Andrew S. Garr, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify that, on the day of the date hereof, before me personally appeared John G. Camp, who hath subscribed the affidavit hereunto annexed, and, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose to the truth of the several matters in the said affidavit contained.

In testimony whereof, I, the said notary, have subscribed these presents, and I have hereunto affixed [L. s.] my seal of office, the twenty-second day of November, in the year one thousand eight hundred and sixteen.

ANDREW S. GARR, *Notary Public.*

I hereby certify that, in the months of October and November, 1814, I was deputy quartermaster general on the Niagara frontier; that, while acting in this capacity, I found myself destitute of public funds to procure forage, transportation, and other requisitions made upon me by the commanding officer; that, thus circumstanced, I was under the necessity of applying to Eli Hart, Esq. for a loan for the public service, who thereupon advanced to me, in the months above mentioned, the sum of sixteen thousand dollars, on my assuring him that the same should be repaid him in a short time; that in this expectation of being able to repay the money speedily I was disappointed, having it only in my power to return him three thousand dollars of said loan; that the balance thereof was paid the said Hart as follows, to wit: eight thousand dollars in treasury notes, paid by myself, in the month of February or March, 1815, and five thousand dollars by Colonel Jenkins, deputy quartermaster general at Albany, on my draft for that sum; that, at the time the payments were made to the said Hart as above mentioned, treasury notes were in a state of great depreciation, whereby the said Hart must have sustained considerable loss; that I have never paid the said Hart for the loss he hath sustained, nor have I ever paid him any thing as interest for the loan to the public, as I have not judged that it was within the scope of my authority to pay accounts or claims of that description; that, at the time the loan was made, as aforesaid, by the said Hart, on my assurance of speedy repayment, the public service was essentially benefited thereby; and I am of opinion that he is entitled to the same allowance for discount on the treasury notes, and for legal interest, as would be due from me if the loan had been made to me in my private capacity.

JOHN G. CAMP.

Sworn, this twenty-second day of November, eighteen hundred and sixteen, before me,

ANDREW S. GARR, *Notary Public.*

I, John G. Camp, in further explanation of the transaction in relation to the moneys advanced to me by Eli Hart, Esq. for the use of the United States, in the fall of 1814, whilst I was deputy quartermaster general at Buffalo, State of New York, being duly sworn, say: That, to my knowledge, the said Eli Hart never had any contract with the United States, neither was there any dealings or bargain connected with the said loan of money, or am I knowing to any motive the said Hart could have had other than the accommodation of the army of the United States;

and I do believe the said Hart was induced to make the loan from the facts which I stated to him, that I was wholly destitute of funds, and the embarrassments of the army for the want thereof, and from my assurance that the same should be speedily repaid.

I further certify that, at the time the payments were made in treasury notes, bearing five and two-fifths per cent. interest, they could not be exchanged at their par value for bank notes; that all bank notes on banks in the interior of the State were at that time at par with those of the banks in the city of New York; and that all of said loan of money was equal in value, for all the purposes for which it was wanted, to that of specie, and that it was all expended at its par value for the United States.

It is my opinion that Mr. Hart has a just claim for the loss he sustained, by being obliged to take from the Government the treasury notes at their par value.

JOHN G. CAMP.

Subscribed and sworn, this 30th day of November, 1820, before me,

S. G. AUSTIN, *Justice of the Peace.*

17th CONGRESS.]

No. 562.

[1st SESSION.]

SURETY OF A POSTMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 28, 1821.

Mr. FRANCIS JOHNSON made the following report:

The Committee on the Post Office and Post Roads, to whom was referred the petition of Lemuel Fitch, have had the same under consideration, and report thereon as follows:

The petitioner states that, in the year 1805 or 1806, Ivory Holland was appointed postmaster at Richfield, Otsego county, New York, and that he became his bail or security to the United States for the faithful discharge of the duties of the office; that said Holland remained in office until some time in the year 1814, when he was removed; that at the time of his removal, and for some time after, he was abundantly able to pay and discharge the amount now claimed by the Government; that some time in July, 1820, the said Holland died insolvent.

That not until since the death of said Holland was he informed in any way of his being in arrear, and that he has since been applied to for the payment of \$148 65, a balance claimed to be due from Holland; that had he known, within a reasonable time after said Holland's removal from office, of his owing the said money, he could have secured himself against the payment thereof; that the neglect of the agents of the Government to coerce the money from Holland has involved him in the payment, without any prospect of remuneration, and therefore he prays to be exonerated from the demand. The facts as to the time of Holland's removal from office, his solvency at that time, his death, and the insufficiency of his estate to pay his debts, are proved by an affidavit accompanying the petition, and also that he received, during his life, a pension of \$20 per month, in consideration of his services in the Revolution.

The ground presented and relied on for relief is the alleged delay to coerce the demand until Holland became insolvent, and the total ignorance of the petitioner of his being in arrear.

It appears, from the statement of the Postmaster General, that Holland went out of office about the 1st January, 1815; that, in July, 1815, he was drawn on in favor of Joseph Branch, a contractor, for \$150, which draft was returned unpaid in November of the same year. There is no circumstance which goes to show that the petitioner was apprized of this draft, or of the existence of the demand, previous to the death of Holland.

The neglect of the agents of the Government to pursue demands for so great a length of time may tend much to the injury of its pecuniary concerns, and sometimes operate very hard on the securities, but, in the opinion of the committee, it forms no just ground for relief. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 563.

[1st SESSION.]

PROPERTY DESTROYED BY THE BRITISH AT MONDAY'S POINT, IN 1814.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1821.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of William Henderson, of Virginia, reported:

This claim has been before Congress repeatedly, and its merits fully investigated by the committee and by the House. At the session before the last it was rejected after mature deliberation; and, although the committee think it might be sufficient to refer to their former report without making any additional observations at this time, they yet ask indulgence of the House while a brief view is given of the principles by which their decisions have been governed in this case.

It seems to the committee that, by the ninth section of the act of 1816, Congress intended to provide payment only for such losses as should have happened to our citizens according to the modes of regular and authorized warfare. If an enemy, throwing off the habits of civilized life, and assuming those of barbarism, should wantonly burn and destroy the houses or other property of our citizens, the committee have thought the Government of the United States could not indemnify the sufferers for their loss, because, if indemnity were granted in such cases, it would totally derange the usages of civilized warfare; it would tempt—nay, invite—the enemy to perpetrate similar aggressions, whenever and wheresoever he should invade us; it would sanction all his misdeeds of pillage and devastation, and represent him to the world as having performed acts of valor to be imitated and admired, rather than of meanness and cowardice to be reprobated and abhorred. In short, if the principle be once established that an individual shall be paid by his Government for losses he may have sustained in consequence of the wanton destruction of his property by an enemy, the committee are unable to see any point at which it is practicable to stop and withhold further munificence. If you pay for all losses without distinction as to their character, then the extent of your liability is a matter over which you yourself have no control, but is submitted entirely to the discretion of your enemy. If he destroys more, then you are liable to pay more; if he destroys less, then you are liable to pay less. The House will at once perceive the inadmissibility of any rule which would thus subject the resources of the whole nation, the entire revenue of the Government, to the discretion and control of a public enemy, who, acting the part of a furious barbarian, would spread devastation far and wide, as the readiest means of obtaining victory and bringing the war to a conclusion.

These reflections have induced the committee to think that Congress intended to provide payment for such losses only as were known to have happened according to the rules of civilized warfare, and in this opinion they have been frequently sustained by the House. The only question seems to be "*what acts of the enemy are wanton; what losses must be paid for by the United States, and what rejected, as involving a principle of liability which it would be impossible for the Government to meet.*" The rule laid down by writers on the subject is this: "*that all damage done to an enemy unnecessarily; every act of hostility which does not tend to procure victory and bring the war to a conclusion, is a licentiousness condemned by the law of nature.*" From this rule of the law of nature, a barbarian might suppose that assassination, the poisoning of springs, and the massacre of an enemy after he had surrendered, were admissible; but we see that such acts are denounced as odious and detestable. On the other hand, it is a sacred duty, enjoined by the law of nature, to spare an enemy after he has surrendered, and exchange him in the mode pointed out by the practice of nations. This right of protection and exchange attaches to the prisoner so often as he shall be captured, and at the very moment, too, when he shall cease to resist. After the prisoner shall have been exchanged, he becomes released from all the obligations devolved upon him as a captive, and he is at liberty to appear again in the ranks as a soldier, and confront the enemy of his country in open day.

It must be obvious that men are both the cause and principal means of hostility; and if the laws of war are thus careful to preserve human life, when, by destroying it, the war might be speedily closed, in how much greater degree, let it be asked, ought those laws to preserve the property, the goods, and effects of belligerents, respectively? As one party would not have a right to put a prisoner to death, on the ground that he had fought, or that when exchanged he would again join the standard of his countrymen, so he would not have the right to destroy private property, either because it had been used, or might again be used, in the progress of the war. It would indeed seem just as reasonable to put to death every citizen of the country because he had been or might become a soldier, as to destroy private property because it had been or might be used in the war.

The committee think the principles here laid down will stand the test of investigation, and, if applied to the case of William Henderson, the petitioner, will prove that he has no right to the redress he seeks. He states that he was a captain in the service of the United States during the late war, and claims payment for a frame dwelling-house, a kitchen adjoining it, a smoke-house, a new store-house, an old store-house and stable, two large stacks of wheat, about twenty-five bushels of oats, and a large quantity of clover hay, altogether of the value of \$2,765, which were situate at a place called Monday's Point, in Northumberland county, Virginia, and which were destroyed (as the claimant alleges) by the enemy, in consequence of the dwelling-house and new store-house being occupied as barracks by the said company of artillery; also, for household furniture and various other effects, of the value of \$3,280, which were contained in a dwelling-house, store-house, and other buildings, in the aforesaid county, belonging to the heirs of Rodham Davis, deceased, and occupied by the claimant, and which were also destroyed by the enemy (as the claimant alleges) on account of their being deposited in the last mentioned dwelling-house and store-house five boxes of cartridges belonging to the said company of artillery under claimant's command; the whole claim amounting to \$6,045.

In addition to the evidence heretofore produced, several depositions in support of the claim have been obtained since the last session of Congress. In this respect, petitioners have decidedly the advantage of the Government. The testimony in support of their claims is *ex parte*. No agent of Government is at hand to cross-examine witnesses; and the committee think, in all cases, the evidence should be received with great caution. An able and highly distinguished member of the House once remarked that the testimony of claimants was always growing better with the lapse of time, while that of the Government was daily growing worse. But admitting, for argument, that every fact alleged by the petitioner has been proved, the committee are of opinion that his demand should not be allowed. He shows that the troops had been stationed for some time at Monday's Point; that a breastwork was thrown up in front of *his own house*; that the soldiers were without tents, and slept in the dwelling-house and store-house, and cooked in the kitchen; that when the enemy landed on the 3d of August, 1814, himself and company defended the breastwork, till, overpowered by numbers, they were compelled to retreat; that the enemy advanced to the houses and burnt them.

The destruction here complained of was clearly a wanton outrage on the part of the enemy. It is true the dwelling-house and store-house might have been occupied, but the troops of the United States had left them or withdrawn from them before the enemy approached and set fire to them. The civil quality or pacific character of a house attaches to it the instant troops are withdrawn from it, and to burn it under such circumstances is as great an outrage as to put a soldier to death who has surrendered in battle.

This view of the case, deduced from the law of nature applicable to the subject, is fully corroborated by the act of Congress of the 9th of April, 1816. The ninth section is in these words: "That any person who, in the time aforesaid, has sustained damage by the destruction of his or her house or building by the enemy *while* the same was occupied as a military deposite under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage, provided it shall appear that such occupation was the cause of its destruction."

If the language of law is not different from all other language, if the words employed in it are to be understood in their usual and popular signification, then the committee contend that the word *while* means time instant, that which is present, which now exists, and not that which is past or which is to come. If a house, then, be destroyed *while* it is occupied, Government must pay for it; but if destroyed before or after it was occupied, then Govern-

ment is not bound. If an attack be commenced on troops in a house, and they should withdraw from it, then it ceases to be an object of further assault, because its pacific character is restored instantly on the withdrawal of the troops, as much so as to a soldier who has surrendered.

As to the household furniture, and various other effects of the petitioner, contained in the houses and other buildings belonging to the heirs of Rodham Davis, about six miles from Monday's Point, it is evident to the committee that they were not destroyed in consequence of the alleged occupation of said houses, and, therefore, that the claimant is not entitled to relief for this loss.

The committee think claims of this description never would have been urged upon Congress had not the law of April, 1816, been improperly construed in the first instance. In the progress of a war, every house in the country may, at one time or another, become the temporary resting-place, the casual, accidental residence of a soldier; and to destroy them on that account would introduce and legalize the principle of universal devastation. Not only so, but citizens would be afraid to turn out in the service of their country, or to defend their homes and firesides. In the present case, Captain Henderson was defending *his own property*; he was stationed on *his own farm*; and, while there, he thought proper to lie down in *his own house*, and to permit the soldiers to do the same. It would be a monstrous rule which should make it his duty to abstain from the use of *his own property* while he was engaged in the *paramount duty of defending it*. It was to preserve the use that he defended it. A contrary doctrine, which would suspend the use, or the right to use, which attached to Captain Henderson, seems to be predicated upon the supposition that the enemy had some right to use it also, and therefore must be consulted. Another absurd consequence of the rule which is contended for is this: that the day before Captain Henderson was called out in the service of his country he might have used his property with impunity, or without exposing it to the vengeance of the enemy; but the day after, he dare not shelter himself under his own roof, without giving to the enemy a right to destroy it.

The House will see in the rule contended for by the claimants some of the most dangerous tendencies—a tendency to sap the foundations of patriotism; to make it criminal in our citizens to defend their country and protect their property; to invite them to a course of neutrality, if not of an adherence to the enemy, in all subsequent wars. Such results are formidable in the extreme. But if the rule laid down in the law of nature, and prescribed by Congress in the act of the 9th of April, 1816, be supported, then the consequences just pointed out will be wholly obviated. To preserve that rule, and avoid those consequences, the committee submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

CASE OF WILLIAM HENDERSON.

William Henderson, late a captain of a company of artillery in the United States service, claims payment for a frame dwelling-house, a kitchen adjoining it, a smoke-house, a new store-house, an old store-house and stable, two large stacks of wheat, about twenty-five bushels of oats, and a large quantity of clover hay, altogether of the value of \$2,765, which were situate at a place called Monday's Point, in Northumberland county, Virginia, and which were destroyed by the enemy in consequence of the dwelling-house and new store-house being occupied as barracks by the said company of artillery,

- \$2,765 00.

Also for household furniture and various other effects, of the value of \$3,280, which were contained in a dwelling-house, store-house, and other buildings, in the aforesaid county, belonging to the heirs of Rodham Davis, deceased, and occupied by the claimant, and which were also destroyed by the enemy on account of there being deposited in the last mentioned dwelling-house and store-house five boxes of cartridges belonging to the said company of artillery under the claimant's command,

- 3,280 00

\$6,045 00

In support of this claim, the following testimony has been submitted:

Evidence as to the destruction of the property, and the causes of such destruction.

Colonel Hiram Blackwell states that the claimant, some weeks prior to the 3d of August, 1814, was directed by Colonel Downing, commandant of the thirty-seventh regiment of militia, to occupy, with his company of artillery, a situation at Monday's Point; that, after the enemy had landed, the brigade of General Hungerford was called out, and a detachment from the aforesaid regiment was ordered by him to co-operate with the claimant; that he (Colonel Blackwell, then a major) marched with the detachment under his command to Oyster Shell Point, just above Monday's Point, where, after remaining some days, he received orders from General Hungerford to return with the detachment to Northumberland court-house, where the principal part of the regiment was embodied, and to direct the claimant to remain with his company at Monday's Point: with this order he (Colonel Blackwell) complied on the 31st July; that, early in the morning of the 3d August, the claimant was attacked by a strong force of the enemy's barges, and, after a most gallant resistance, was compelled to retreat; that the enemy then landed, set fire to, and consumed all the houses at Monday's Point, and pursued the claimant's command several miles up into the country, and burnt the dwelling-house and store-house occupied by him, the property of the heirs of Rodham Davis, deceased; that the dwelling-house and store-house at Monday's Point were used by the claimant's company at the time of the attack as barracks; that they had been so used, and by the company of Captain Beacham, at intervals of alarm, frequently in 1813, and generally by the claimant's company when the enemy were in the Potomac in 1814, prior to their destruction; that this was done by the orders of the commandant of the regiment, (Colonel Downing, who is now dead,) and was from necessity, the regiment not being sufficiently provided with tents; that he (Colonel Blackwell) has understood, and believes, that a considerable quantity of ammunition, belonging to the claimant's company, was deposited in the store-house and dwelling-house occupied by him at the time of their destruction, and is convinced that the occupation of the houses at Monday's Point as barracks, and of the dwelling-house and store-house as military depots, was the cause of their destruction by the enemy.

General John P. Hungerford states that, on the 3d August, 1814, he had a detachment under his command; that a considerable force from the squadron under the command of Admiral Cockburn landed at Monday's Point, where the claimant, who was also under his (General Hungerford's) command, was stationed, and that the claimant was compelled, after defending the place for some time, to retreat, and was pursued several miles by the enemy, who wantonly burnt and destroyed several houses and other property.

John Fulks, late a lieutenant in the claimant's company, corroborates the testimony of Colonel Blackwell, so far as relates to the occupation of the claimant's dwelling-house and new store-house at Monday's Point as barracks, the attack on the claimant's company there by the enemy, and the destruction of the buildings and other property at that place by them; and he states that, after destroying the same, the enemy pursued the claimant several miles into the country, (who avoided them by suddenly diverging from the main road,) and arrived at his dwelling-house, which they destroyed, together with his store-house, at a distance from the dwelling of about one hundred and fifty yards; granary, distant therefrom about fifteen or twenty paces; kitchen, smoke-house, and corn-house, situate immediately around the dwelling, and so near that the flames must have communicated from one to the other; that, a few days before the conflagration of the said houses, he (Lieutenant Fulks) received from Colonel Downing four boxes of artillery cartridges, with orders from him to deposit them at the claimant's for the use of his company; that he, agreeably to these orders, deposited the same at the dwelling-house of the claimant, which, being situate nearly as far from the water as any part of the country, was deemed a place of security; that he (Lieutenant Fulks) was well acquainted with the houses and other property of the claimant destroyed by the enemy at Monday's Point; that the same consisted of a dwelling-house, with kitchen adjoining it, a new store-house, an old store-house, smoke-house, and stable, and two stacks of wheat; that, in the said dwelling-house were deposited, and consumed therewith, about three tons of clover hay, and about twenty-five bushels of oats; and in the store-houses were also deposited and consumed about seven tons of hay; that the dwelling, kitchen, and smoke-house were situate so near together that the conflagration of the one must necessarily have involved the destruction of the rest; that the store-houses and stable, the nearest of which was about ninety steps from the dwelling-house, were in like manner so contiguous to each other that the destruction of the one by fire must of necessity have occasioned the loss of the other two; that he has understood, and believes, that in the store-house on the place where the family of the claimant dwelt was deposited a box of carbine cartridges for the use of his company; and that he (Lieutenant Fulks) is convinced that the occupation of the houses at Monday's Point as barracks, and the deposite of the military stores in the upper dwelling and store-house of the claimant, were the causes of their destruction by the enemy.

William Dameson, jun. states that he was a private in the claimant's company; that, a day or two before the attack on it by the British, at Monday's Point, he received from Colonel Downing a box of carbine cartridges for the use of the company, with orders to deposit them at the claimant's; that he accordingly took the same to the place where the family of the claimant resided, and deposited them at his store-house in the care of the young man who lived there; and as to the occupation of the dwelling-house and new store-house at Monday's Point as barracks, the destruction of the houses and other property there, and at the place where the claimant resided, by the enemy, he states, in effect, as is before set forth in the testimony of Lieutenant Fulks, and he coincides with him in opinion that the military occupation of the houses at Monday's Point, and the deposite of the ammunition at the claimant's upper dwelling-house and store-house, occasioned their destruction by the enemy.

John Lunsford states that he lived with the claimant in 1814, and attended to his store; that, on the 3d of August in that year, the enemy, after having landed at Monday's Point, and destroyed the houses there, pursued the claimant some distance into the country, but, missing him, marched up to the dwelling-house then occupied by his family, about six miles from the point; that, at the approach of the enemy, he (John Lunsford) was at the dwelling-house, and had barely time to save some of the books and most valuable papers in the store, which was about one hundred and fifty yards from the dwelling-house; that in the dwelling-house were deposited four boxes of artillery cartridges, and in the store-house one box of carbine cartridges, belonging to the claimant's company, which had been deposited there as being a place of security; that the said cartridges were discovered by the enemy, and destroyed or carried off by them; that the dwelling-house, storehouse, kitchen, granary, (which was about fifteen or twenty steps from the dwelling,) smoke-house, and corn-house, were entirely burnt and destroyed, with their contents, by the enemy; that the houses belonged to the heirs of Rodham Davis, deceased; and that he is convinced that the houses and property were destroyed by the enemy on account of the ammunition having been deposited there.

Evidence as to the value of the property destroyed.

Thomas Brann states that he was a sergeant in the claimant's company at the time of the destruction of his houses by the British in August, 1814; that he had long lived near Monday's Point, and was perfectly well acquainted with the houses at that place, the property of the claimant destroyed by the enemy, and, being himself a workman, considers himself well qualified to judge of their value; that the houses consisted of a frame dwelling-house, single story, about twenty-six feet in length by twenty in width, with a kitchen adjoining it, a smoke-house, an excellent new store-house, about thirty-six feet long by sixteen wide, an old store-house, and stable; that the dwelling-house and kitchen, he thinks, at the time of their destruction, were worth \$950, the smoke-house \$150, new store-house \$800, old store-house \$350, and stable \$200; and that the whole of the said houses being of wooden materials except the chimneys and underpinning, he does not conceive the value of the ruins to be any thing, as the expense of separating and cleaning the few bricks which could be again used would, in his opinion, be equal to their value.

John Fulks states that he is of opinion that the dwelling-house and kitchen at Monday's Point, with the contents of the dwelling, were worth at the time of their destruction \$990; that the smoke-house was worth \$150; that the two store-houses and stable, and the contents of the store-houses, were worth \$1,400, and that the stacks of wheat were worth \$225.

William Dameson, jun. states that he was well acquainted with the houses and other property destroyed by the enemy at Monday's Point, and thinks himself competent to judge of their value: that the dwelling-house and kitchen adjoining the same were worth, in his opinion, \$950, the smoke-house \$150, new store-house \$800, old store-house \$350, and stable \$200; that the oats and clover hay consumed in the dwelling and store-houses he thinks were worth \$90, and the stacks of wheat about \$225.

John Lunsford states that he was well acquainted with the property of the claimant contained in and consumed with the houses occupied by him, belonging to the heirs of Rodham Davis; that in the dwelling-house and kitchen were consumed furniture, beds, bedding, clothing, and other articles, belonging to the family of the claimant, worth, in his (John Lunsford's) opinion, at the time of their destruction, about \$1,480; in the store-house, goods worth about \$970; in the granary, 5 hogsheads of tobacco, 100 bushels of corn, about 25 bushels of wheat, a good still and wheat fan, worth, in his opinion, \$690; and in the smoke-house, provisions, &c. to the amount, he thinks, of \$140.

George Miskell states that he was well acquainted with the property of the claimant destroyed at his dwelling-house in August, 1814, by the British, and that he thinks the aforesaid description and valuation thereof by John Lunsford to be accurate and correct.

The claimant states that he has not received from the United States, or from any source whatever, compensation of any kind, or to any amount, for the destruction by the British, on the 3d of August, 1814, of certain houses and other property in Northumberland county, and that he has never received from any officer, or other person, any certificate or other voucher in relation thereto, other than the before-stated evidence.

Summary of facts.

1st. Captain Henderson's buildings at Monday's Point are fully proved to have been occupied as places of military deposite and as barracks in the summer of 1814. The troops under the command of Captain Henderson having been driven from this position by the enemy on the 3d August, the houses, with their contents, were immediately destroyed by them.

2d. The enemy, pursuing Captain Henderson into the country about six miles, arrived at the house in which he resided, the houses being rented by him, which they also destroyed. The dwelling-house and store-houses had deposited in them each a small quantity of military stores, which is supposed to have been the cause of their destruction. All the houses were burnt, with their contents.

3d. The damage sustained by Captain Henderson at Monday's Point is stated at \$2,765; that at his residence in the country at \$3,280; total, \$6,045; the damage at Monday's Point consisting principally of buildings burnt; the damage sustained at his dwelling-house in the country, of household furniture, goods, grain, and other articles; the houses belonging to other persons, viz. the heirs of Rodham Davis, the value of which is not brought into the estimate.

Captain Henderson appears to have been an active, enterprising officer, very zealous in his opposition to the enemy; therefore, he may have been particularly obnoxious to them.

All which is respectfully submitted.

RICHARD BLAND LEE, *Commissioner of Claims, &c.*

OFFICE OF CLAIMS, &c., WASHINGTON, *December 10, 1817.*

The affidavit of James S. Hall, taken the 6th of December, 1820.

This affiant, having been duly sworn, deposes and saith: That he was a private in Captain William Henderson's company of artillery in 1813 and 1814; that he, this affiant, formed part of the said Henderson's command at the time of the attack of the British on Monday's Point on the 3d of August, 1814; that the said command occupied, during the attack, two of the batteries or breastworks which had been there erected, and continued to fire from the same upon the enemy's barges, until some of them commenced landing, when a retreat was effected; that the enemy pursued the said command for several miles, which pursuit was eluded by our party suddenly turning off from the main road, with the loss of a piece of artillery.

This affiant further states that there was a large quantity of clover hay in the new and old store-houses and the dwelling-house at the said point; and that the company being without tents, the men were accustomed to sleep in each of the said houses, the hay affording them excellent lodging. The dwelling-house and kitchen were also used for cooking by our men. This affiant further states that there were no houses at the said point but those belonging to the said Henderson, and that he verily believes the same were burnt by the enemy in consequence of their occupation by our troops. And further this affiant saith not.

JAMES S. HALL.

NORTHUMBERLAND COUNTY, *Virginia, to wit:*

The aforesaid affidavit was sworn to by the affiant James S. Hall, before the undersigned, justices of the peace for the county and State aforesaid, in due form; who also swore that he has no interest, directly or indirectly, in the claim of the said Henderson against the Government of the United States.

Given under our hands, this 6th December, 1820.

SAMUEL CRALL,
RICHARD CLAUGHTON.

The affidavit of Major General Alexander Parker, of the Fourth Division of the Virginia Militia, taken this 6th December, 1820.

This affiant, having been duly sworn, deposes and saith: That he lives in sight of the farm called Monday's Point, the property of William Henderson, which was destroyed by the enemy on the 3d August, 1814; that he advised Captain Henderson to throw up breastworks or fortifications to protect the men in case of an attack by the enemy, (as there always were some of the militia on guard at that post when the enemy's shipping was in the Potomac;) he was requested by Brigadier General Hungerford, who was then stationed at Kinsale, to go with his aid, Major John Tayloe Lomax, with orders to Captain Henderson, then encamped at Monday's Point with his company of artillery, that, should the enemy advance the next day, as was calculated, he should defend the point as long as possible, and then form a junction across an arm of the Yeocomico with his brigade. He was attacked on the next day, to wit, the 3d of August, 1814, and so closely, with an overwhelming force, that he was obliged to retreat through the forest for five or six miles, when he was compelled to abandon one of his cannon, which was got by the enemy; and I am convinced that the houses at Monday's Point being occupied as a military depot (to wit, for the keeping of arms, &c., the men sleeping, cooking, &c.) was the cause of their being burnt by the enemy. And the said affiant further saith that he was, in a few days after that action, put in command of the division, and approved of Brigadier General Hungerford's conduct in the disposition of Captain Henderson's company, and highly approved of the captain and his company's gallant behavior in that affair. And further this affiant saith not.

A. PARKER.

NORTHUMBERLAND COUNTY, *Virginia, to wit:*

The aforesaid Alexander Parker appeared before the undersigned, justices of the peace for the county and State aforesaid, and subscribed and made oath to the truth of the foregoing affidavit, as the law directs; and further swore that he has no interest, directly or indirectly, in the claim of the said William Henderson on the Government of the United States.

Given under our hands, this 6th day of December, 1820.

R. CLAUGHTON,
SAMUEL CRALL.

The affidavit of Pemberton Claughton, taken the 6th day of December, 1820.

This affiant, having been duly sworn, deposes and saith: That he was a major in the thirty-seventh regiment of Virginia militia, Northumberland county, in the years 1813 and 1814; that, after the burning of the United States gun-boat Asp, near Kinsale, by the British, in 1813, Captain William Henderson, whose company of artillery was attached to this affiant's battalion, was ordered to occupy with a part of his command the place called Monday's Point, on Yeocomico river, whenever the enemy made his appearance in the Potomac, this position being consid-

ered the best in the upper part of the county for the annoyance of an invading force. This affiant also directed the said Henderson to throw up breastworks or fortifications at the place aforesaid; and the said Henderson accordingly erected three defences, which afterwards proved of essential service in the attack made by the British at that place. This affiant states that the said orders were given under the direction of Colonel Downing, the commandant of the said regiment, and who is now dead. The fortifications consisted of a breastwork, composed in front of large logs, covered very thickly with earth and sods, and a ditch in the rear; the other two were thrown up on the beach, and composed of a large mound of sand in front, and a ditch in the rear. So much importance did the enemy attach to the first-mentioned battery, that, after obtaining possession of the place, they entirely destroyed it.

This affiant states further that he (this affiant) witnessed the attack on Monday's Point aforesaid, on the 3d of August, 1814, from a position on the opposite side of a large creek. Captain Henderson continued to fire upon the British barges from the two batteries which were manned until some of the enemy were in the act of leaping on shore, when he effected a retreat, with the loss only of an artillery piece. The enemy then landed, and burnt the whole of the houses at the said point, all of which belonged to the said Henderson. This affiant states that the company of the said Henderson, when stationed at the said place, occupied the dwelling-house and new store-house as barracks, sleeping and being sheltered from the weather therein, and cooking in the dwelling-house and kitchen; that such occupation was necessary for the well-being of the said company, who were destitute of tents; that the ammunition and provisions for the use of the said company were kept in some of the said houses; that the whole of such occupation was by authority of this affiant and of Colonel Downing. This affiant states that he was in the habit of visiting frequently the post at Monday's Point anterior to its destruction by the enemy, and that he had, consequently, an opportunity of knowing, by personal observation, whatever he has herein stated. This affiant is well convinced that the houses at the place aforesaid were burnt by the enemy in consequence of the military occupation of the same, and of the gallant resistance he met with from the little band of the said Henderson. And further this affiant saith not.

PEMBERTON CLAUGHTON.

NORTHUMBERLAND COUNTY, *Virginia, to wit:*

The aforesaid affiant, Pemberton Claughton, came before the undersigned, justices of the peace for the county aforesaid, and made oath on the Holy Evangelists of Almighty God that the foregoing affidavit contains the truth, to the best of his knowledge and belief; and that he has no interest, directly or indirectly, in the claim of the said William Henderson against the Government of the United States.

Given under our hands, this 6th day of December, 1820.

SAMUEL CRALL,
RICHARD CLAUGHTON.

The affidavit of James Harrison, taken the 6th day of December, 1820.

This affiant, having been duly sworn, deposes and saith: That he was a private in Captain William Henderson's company of artillery in 1814, and formed a part of his command at the attack of the British on Monday's Point, the 3d of August, 1814; that he (this affiant) assisted in erecting the breastworks at the said place for the protection of the company; that the men remained in the two which were occupied firing on the barges until they came close in, and some were landing; that Captain Henderson was then the last man who left the works. This affiant states that, after orders had been given to retreat, he (this affiant) went into the dwelling-house for some clothes which had been left there, and he had gone but a few paces from the back door when he was fired at by two or three of the enemy. This affiant further states that, as soon as Captain Henderson had retreated a short distance from the works, he halted and formed as many of his men as he could, and returned the fire of the enemy, but eventually was compelled to retreat, the enemy being in close pursuit.

This affiant further states that the houses at Monday's Point consisted of a dwelling-house and kitchen adjoining it, a new and an old store-house, smoke-house, and stable, all the property of Captain Henderson. This affiant states that in the dwelling-house and both the store-houses a considerable quantity of clover hay was deposited; that the company, being without tents, used to sleep in the hay in each of the said houses, and to cook in the dwelling-house and kitchen; that provisions, clothing, arms, and ammunition, belonging to the said company, were also kept in the said houses. This affiant states that the enemy set fire to the same almost immediately on landing, the smoke and flames being distinctly seen by this affiant and the other men; and this affiant is well convinced that the said houses were burnt by the enemy on account of their being occupied by our troops. And further this affiant saith not.

JAMES HARRISON.

NORTHUMBERLAND COUNTY, *Virginia, to wit:*

The aforesaid affiant, James Harrison, came before the undersigned, justices of the peace for the county and State aforesaid, and made oath on the Holy Evangelists of Almighty God that he verily believes the matters and facts stated in the aforesaid affidavit to be accurate and true, and that he has no interest, directly or indirectly, in the claim of the aforesaid William Henderson against the Government of the United States.

Given under our hands, this 6th of December, 1820.

SAML. CRALL,
R. CLAUGHTON.

The affidavit of Daniel Harrison, taken the 6th day of December, 1820.

This affiant, having been duly sworn, deposes and saith: That he has long lived near Monday's Point, and was perfectly well acquainted with the houses at that place, the property of Captain William Henderson, destroyed by the enemy, and, being himself a workman, considers himself well qualified to judge of their value. The said houses consisted of a frame dwelling-house, single story, about twenty-six feet in length by twenty in width, with a kitchen adjoining it, a smoke-house, an excellent new store-house, about thirty-six feet long by sixteen wide, an old store-house, and a stable. The said dwelling-house and kitchen, this deponent thinks, at the time of their destruction, were worth the sum of \$950; the smoke-house, the sum of \$150; the new store-house was worth \$800, the old store-house \$350, and stable \$200. And further this deponent saith not.

DANIEL HARRISON.

NORTHUMBERLAND COUNTY, *Virginia, to wit:*

The affiant, Daniel Harrison, appeared before the undersigned, justices of the peace of the said county, and subscribed and made oath to the foregoing affidavit, according to law; and further swore that he has no interest, directly or indirectly, in the claim of the said William Henderson against the Government of the United States.

Given under our hands, this 6th of December, 1820.

SAML. CRALL,
R. CLAUGHTON.

17th CONGRESS.]

No. 564.

[1st SESSION.

PROPERTY DESTROYED BY THE ENEMY DURING THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 2, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 18th of December, 1821, the petition of Gideon Johnston and accompanying papers were referred, have had the same under consideration, and report thereon:

That the petitioner heretofore presented his said petition to the House of Representatives of the Congress of the United States, and, on the 9th of February, 1821, it was referred to the Committee on Pensions and Revolutionary Claims, and, on the 16th of said month, that committee made a report thereon, as follows:

"The petitioner states that, at the beginning of the American Revolution, at Yorktown, the place of his residence, in Virginia, he enlisted as a soldier; that, in a short time, he was appointed a lieutenant; that he served as a brigade quartermaster, and received, lastly, the commission of a captain; that he held that command during the campaigns in the Carolinas, and at the siege of Yorktown; that in that memorable siege his house was destroyed by the British and American batteries; that its ruin was completed by the British, who wantonly levelled it with the ground; that his furniture was also pillaged by them; that in early life he contemplated this loss as an evil which he ought to sustain in silence; that indigence, oppressed with age, has produced a change of opinion; that he now reluctantly petitions for restitution.

"This committee further report that, on the 3d of June, 1784, Congress resolved (on the report of a committee) that, according to the laws and usages of nations, a state is not obliged to make compensation for damages done to its citizens by an enemy, or wantonly and unauthorized by its own troops; yet humanity requires that some relief should be granted to persons who, by such losses, are reduced to indigence and want; and as the circumstances of such sufferers are best known to the States to which they belong, it is the opinion of the committee that it be referred to the several States (at their own expense) to grant such relief to their citizens who have been injured as aforesaid as they may think requisite; and, if it shall hereafter appear reasonable that the United States should make any allowance to any particular States who may be burdened much beyond others, that the allowance ought to be determined by Congress, but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States.

"By the said resolution it is manifest that Congress did not assume to make any compensation for damages such as those stated by the petitioner, but referred to the several States to grant such relief to their citizens who have been injured as aforesaid as they may think requisite, but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States; that the petitioner ought in due time to have applied to the State of Virginia for indemnification for damages by him alleged to have been sustained; that if he did not, and if he has not been indemnified for damages by him alleged to have been sustained, he may ascribe the same to his neglect to make application to the said State of Virginia; that the petitioner has not stated in his petition any just claim against the United States. The committee, therefore, submit the following resolution:

"Resolved, That the prayer of the petitioner be not granted."

The foregoing appears to be the report of the Committee on Pensions and Revolutionary Claims, to whom the said petition was referred as above mentioned, and the petitioner has again presented his said petition, and it has been referred, as above mentioned, to this committee.

This committee further report that men and things may change, but principles never change; that the revolutionary Congress, after mature deliberation, established the principle stated in their resolution of the 3d of June, 1784, to govern in all cases of damages sustained by individuals similar to those stated by the petitioner in the time of the revolutionary war to have been sustained. The State of Virginia may or may not have settled with and compensated the petitioner for said damages by him alleged to have been sustained; that the United States did not assume to compensate individual citizens for such damages, but did refer it to the particular States, (as in the said resolution of the 3d of June, 1784, is expressly declared,) and not otherwise.

This committee will always maintain the right that every citizen has to petition Congress; but when principles are fixed and established, and, more especially, when the Congress of the Revolution has fixed and established these principles, this committee are of opinion that it is inexpedient, and would be dangerous, to depart from them.

This committee do fully accord and agree with the Committee on Pensions and Revolutionary Claims, whose report is above mentioned and referred to, and have no reason to report different therefrom. This committee are of opinion that the petitioner has not, in this case, any just claim against the United States; and that, if he could have, by any possibility, any claim in this case against the United States, it is long since barred by statutes of limitation; and therefore submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

[17th CONGRESS.]

No. 565.

[1st SESSION.]

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 2, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 15th December, 1821, was referred the petition of Ichabod Keith, of Sullivan, in the State of New Hampshire, have had the same under consideration, and report thereon:

The petitioner states that, in July, 1779, he enlisted into the army of the Revolution, under Captain Webb, of Colonel Shepherd's regiment of the Massachusetts line on the continental establishment, for nine months; that, in the course of his service, while at Fishkill, and on a fatigue party to procure wood for the army, he received a severe wound on his left leg, from a log falling on it; that although the wound afterwards apparently healed, yet for the last fifteen years the leg has been so diseased and weak as to debar him from laboring for his subsistence; and he prays such relief by way of pension as may be deemed proper.

This committee further report that the petitioner, in his affidavit accompanying his petition, states that he enlisted for nine months, from the 21st of July, 1779, to the 21st of April, 1780, and that while he was stationed at Fishkill, he was detached to cut wood for the use of the troops; that, while carrying a log on his shoulder, he fell, and the log came upon his left leg, which it bruised severely, tearing the flesh from the bones for six or seven inches. He states the reasons, in his affidavit, why he did not apply sooner, viz: that he did not intend to apply while he was able to labor for his support; and that afterwards he was told it was too late, and that lately he knew it was not too late; and he states that he is not on the pension list of any State.

This committee further report that it does not appear that the United States had any troops on continental establishment for nine months only after the 29th of July, 1779, and that therefore the petitioner (as he states) may have belonged to a detachment of militia of the State by him mentioned; that the hurt he received on his leg, by a log falling on it, appears to have been accidentally occasioned by his falling while carrying the log on his shoulder, which might have been avoided by proper care and attention; that the reasons assigned by the petitioner for his not making an application for a pension sooner are unsatisfactory and insufficient, and more particularly so as he might have applied to the State to which he belonged, and have been placed on the pension list of that State, upon sufficient testimony being produced that he was so disabled in the actual service of the United States against the enemy, at a time when the authorities of the State could have a better knowledge of the facts than can now be had or obtained, after a lapse of about forty years since the time the petitioner sustained the injury by his falling, and thereby bringing down on his leg a log he was carrying on his shoulder; that the testimony adduced by the petitioner to establish his claim for a pension is altogether insufficient; that to admit claims for pensions, in consequence of such causes of disability, and supported by such insufficient testimony, is inexpedient and dangerous; that the petitioner is not entitled in this case of his (as by him presented) to any pension. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petition be not granted.

[17th CONGRESS.]

No. 566.

[1st SESSION.]

INDEMNITY FOR JUDICIAL PROCEEDINGS AGAINST A COLLECTOR OF THE CUSTOMS.

COMMUNICATED TO THE SENATE, JANUARY 10, 1822.

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the petition of Josiah Hooks, made the following report:

The petitioner states that he was collector of the port of Penobscot, and, on the 20th of September, 1814, in the due execution of his office, he seized twenty-one oxen, one heifer, and one steer, as forfeited to the United States, for an attempt to transport them from the town of Prospect, in said State, to Castine, to supply the enemies of the United States with provisions; which cattle were afterwards duly libelled in the district court of the United States for the district of Maine, and an interlocutory decree [was obtained] that the cattle should be sold at public auction, and the proceeds deposited in the Cumberland Bank for the benefit of whomsoever it might concern. Afterwards a final decree passed that the proceeds should be paid to Josiah Hoit, the claimant; but the judge of the district court certified there was reasonable cause for seizure.

The petitioner further states that afterwards the said Josiah Hoit commenced an action of trespass against him in the court of common pleas of Hancock county, and, on the third Tuesday of June, 1817, the said Josiah Hoit recovered judgment against him for the sum of \$897 82, and \$60 73 for his cost of suit. Upon which, the petitioner [sued] out a writ of review against the said Josiah Hoit, and proceedings were had thereon; that, at the supreme court, held at Castine, on the third Tuesday of June, 1818, upon a special verdict rendered, the former judgment was affirmed, with costs taxed at six dollars and forty-six cents, which judgment he was compelled to pay. He also states that he had expended \$200 in defending himself in those suits, and prays to have the said several sums repaid him.

Your committee are of opinion that the prayer of the petitioner ought to be granted, and beg leave to report a bill accordingly.

17th CONGRESS.]

No. 567.

[1st SESSION.

COMMUTATION AND BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 12th of December, 1821, the petition, with accompanying papers, of John McHatton, have had the same under consideration, and report thereon:

That, heretofore, the petitioner had his said petition presented in the House of Representatives of the Congress of the United States, and, on the 4th day of January, 1821, it was referred to the Committee on Pensions and Revolutionary Claims to consider and report thereon; and that, on the 17th of January, 1821, that committee made a report, which appears to be as follows:

“The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 4th of January, 1821, the petition of John McHatton, have had the same under consideration, and report thereon:

“The petitioner states that he was, in July, 1776, by the State of Pennsylvania, appointed and commissioned a captain, to command a company of volunteers in the service of the United States; that he commanded said company two months, when he was appointed and commissioned, by the said State of Pennsylvania, a captain in the flying camp, in the regiment commanded by Colonel Watts, belonging to the Pennsylvania line on continental establishment, as he states; that he commanded said company until he and his said company were made prisoners of war at Fort Washington; that soon after he was made a prisoner of war, he was, by said State of Pennsylvania, commissioned a captain in the Pennsylvania continental line, and in the regiment commanded by Colonel McGaw; that he was retained a prisoner until about the time Lord Cornwallis surrendered at Yorktown, when he was exchanged, and returned to the army, and was soon after detached as a supernumerary officer, and sent home, and continued in service until the conclusion of the war in 1783. He states that he forwarded by mail two of his said commissions to the War Office, but has understood they were not received, and that he has lost his other commission; and he now prays that the commutation of five years' full pay of a captain be granted to him, and likewise the bounty land he may, as a captain, be entitled to.

“The committee further report that they have had recourse to the Department of the Treasury for information in this case of the petitioner, and the Treasury Department has sent to this committee a report from the Third Auditor in that Department, in which the Third Auditor states that he had reference to such parts of the records of the revolutionary army as have been preserved and are on file in that office, and that he does not find any person by the name of the petitioner, but that he found Captain John McIlhatton, of the flying camp of the Pennsylvania line, and that it appears that the State of Pennsylvania paid his depreciation, amounting to £142 8s., and charged the same to the United States; and that it also appears that he received from the United States the following sums in specie, whilst a prisoner, viz: of Elias Boudinot, \$174³/₈; of S. Beatty, \$101⁵/₈; making \$276³/₈, or 40 cents; that the journal in which the particulars of these payments were stated being destroyed, it is impracticable to ascertain them, nor can it be ascertained how long the officer named continued in service; that reference has been had to the register of final settlement certificates issued to officers serving to the end of the war, which is complete, and also to the list of officers entitled to land, and the name of this officer is not to be found. Whether the petitioner is the same person with the one remarked on, the Third Auditor reports that he cannot state, but should presume, from some of the circumstances stated in the petition, and there being no record of any person of his name, that it is probable that such is the fact.

“The committee further report that, on the 26th of January, 1784, Congress *Resolved*, That half-pay cannot be allowed to any officer, or to any class or denomination of officers, to whom it has not heretofore been expressly promised.’ It does not appear that the petitioner is included in any class or denomination of officers to whom half-pay was expressly promised. In respect to the claim of the petitioner to bounty land, it does not appear that his name is included in the list of officers entitled to land, and [the committee] therefore submit the following resolution:

“*Resolved*, That the prayer of the petitioner be not granted.”

This committee further report that the petitioner has again presented his said petition, with some accompanying papers, one of which is a statement or exhibit of the petitioner, in which he enumerates his services, stating that he was under the command of General Braddock; that he was with Colonel Dunbar, whose regiment had not come up; that he was afterwards on General Stanwick's campaign, then on General Forbes's, then on General Monkton's, and then on Bouquett's campaign; he states he was first a soldier, then a corporal, then a sergeant, then an ensign, and continued in service until peace between the English and the French, and was then discharged. The petitioner then proceeds to state in his said exhibit, as he does in his petition, his appointments and services in the time of the revolutionary war, viz: that he was appointed a captain in July, 1776, by the State of Pennsylvania, to command a company of volunteers of militia, and was afterwards removed to command a company of flying camp, in Colonel Watts's regiment; that he was taken a prisoner at the surrender of Fort Washington; that he was immediately taken by the British to New York, thence to Long Island, and put on board the Jersey prison ship; and [was detained] on Long Island, as he states, until exchanged, just before the surrender of Lord Cornwallis. The petitioner then goes on to state in his said exhibit, appearing to be of the 18th of October, 1821, that, while a prisoner of war, his friends sent him money from Pennsylvania, which supported him; that he paid for his board, as he states, and never received, whilst a prisoner, any money from the United States, either as pay, or to support him; and he further states that he did not receive any since he was made a prisoner, for depreciation, or in any shape whatever, for or on account of his revolutionary services; and he further sets forth, in his said exhibit, that, whilst he was a prisoner, he was sent to New York by Colonels Atly and Miles, who were American prisoners of war, to bring some money from the American commissaries for prisoners; that, with a permit, he went and received a certain sum (he does not remember how much) from, as near as he can recollect, a man of the name of Pintard, but whether he was a commissary himself, or did business as a deputy for Boudinot, who, at that time, as the petitioner states, *kept an office in the city of New York*, [he does not know;] that he was directed to deliver the said money to either of the said colonels, Atly or Miles, which he states he did; but whether the money was sent them by their friends or the public, he does not know; and he states that he never received any of it, nor did he take a receipt when he delivered it; that he does not think the commissary charged the money to him when he received it from his office; that he never had any part of it, and was nothing but an agent to convey it. The petitioner then goes on to state, in his said exhibit, that his father was a Scotchman, and spelled his name McIlhatton, and the name of his family, until after the Revolution,

was spelled in that way, but since that time they had, as he states, spelled it McHatton, as it was shorter; that, in 1783, he removed to Kentucky, and has never been to the east of the Allegany mountain since.

This committee further report that the petitioner, in his said exhibit, states that his father spelled his name McIlhatton, and that the name of his family was spelled in that way until after the Revolution; and it appears by the records in the Treasury Department that John McIlhatton did receive from the State of Pennsylvania the sum of £142 8s. for depreciation, which was charged to the United States; and that whilst he was a prisoner of war he received in two payments the sum of \$276 and some forty cents, as above mentioned. And the petitioner, in his said exhibit, declares that his friends sent him money from Pennsylvania, which supported him; that he paid for his board, and that he never received, whilst a prisoner, any money from the United States, either as pay or to support him; and that he has not received any pay since he was a prisoner, for depreciation, or in any shape whatever, for or on account of his revolutionary services.

This committee are humbly of opinion that the records in the Department of the Treasury are to be taken as conclusive evidence in this case, and in all similar cases; a contrary doctrine would go to destroy all evidence deducible from the records of that Department, and of every other Department of this Government, and also the authenticity of the said records, and would produce consequences highly dangerous to the United States and to individual citizens; and although the petitioner, as he states, did receive a sum of money from Pintard, he, notwithstanding that, must have received the several sums of money as stated in the report of the Third Auditor, which, from the long lapse of time, may have escaped the recollection of the petitioner.

This committee further report that the petitioner states, as in this report above mentioned, that he was made a prisoner of war at Fort Washington, and that soon after he was made a prisoner of war he was, by the State of Pennsylvania, commissioned a captain in the Pennsylvania continental line, and in the regiment commanded by Colonel McGaw; that he was retained a prisoner until about the time that Lord Cornwallis surrendered at Yorktown, when he was exchanged and returned to the army, and was soon after detached as a supernumerary officer, and sent home, and continued in service until the conclusion of the war in 1783.

That, on the 24th October, 1781, a letter of the 19th of that month from General Washington was read, informing the Congress of the Revolution of the reduction of the British army under the command of Earl Cornwallis, on the 19th instant, with a copy of the articles of capitulation. About that time the petitioner states that he was exchanged, and returned to the army, and was soon after detached as a supernumerary officer, and sent home, and continued in service until the conclusion of the war in 1783. In what manner the petitioner could be at home, and in the actual service of the United States until the conclusion of the war in 1783, is not easily understood. "He prays that commutation of five years' full pay may be granted to him as a captain, and likewise a land warrant for the quantity of bounty land to which he may be entitled as a captain."

This committee further report that reference has been had to the register of final settlement certificates issued to officers serving to the end of the war, which is complete, and also to the list of officers entitled to land; and the name of the petitioner does not appear. Hence it is inferred that, if the petitioner was an officer at any time in the line of the army on the continental establishment, he did not serve to the end of the war, and, therefore, is not entitled to commutation of five years' full pay in lieu of half-pay for life, nor to any bounty land. The petitioner states that he was commissioned a captain in Colonel McGaw's regiment. This committee report that, on the 15th of May, 1778, Congress "Resolved unanimously, That all military officers commissioned by Congress, who now are, or hereafter may be, in the service of the United States, and shall continue therein during the war, shall, after the conclusion of the war, be entitled to receive, annually, for the term of seven years, (if they live so long,) one-half of the present pay of such officers." Certain provisions are added to that resolution, which, it is presumed, do not relate to the petitioner. That Congress on the 21st of October, 1780, "Resolved, That the officers who shall continue in the service to the end of the war shall also be entitled to half-pay during life, to commence from the time of their reduction." And, on the 22d of March, 1783, Congress, on the report of a committee, "Resolved, That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years' full pay (as in that resolution is expressed) instead of half-pay promised by the resolution of the 21st of October, 1780." And, on the 31st of December, 1781, Congress, by resolutions, made provision relative to officers of the line of the army, considered as retiring from service on the 1st day of January, 1782, whose names were not returned as directed in one of said resolutions. That this case of the petitioner does not appear to be included within all or any one of the resolutions of Congress alluded to above in this report.

That, on the 24th of November, 1778, Congress "Resolved, That all officers who have been in the service, and, having been prisoners with the enemy, now are, or hereafter may be, exchanged or otherwise released, shall, if appointed by the authority of the State, be entitled, in case of vacancy, to enter into the service of their respective States, in such rank as they would have had if they had never been captured: *Provided, always,* That every such officer do, within one month after his exchange or release, signify to the authority of the State to which he belongs his release, and his desire to enter again into the military service. That every officer so released, and giving notice as aforesaid, shall, until entry into actual service, be allowed half-pay of the commission to which, by the foregoing resolve, he stands entitled: *Provided, always,* That, in case of his receiving any civil office of profit, such half-pay shall thenceforth cease." On the 22d of May, 1779, Congress "Resolved, That all continental officers who are or may be exchanged, and not continued in service, be, after such exchange, considered as supernumerary officers, and entitled to the pay provided by a resolution of Congress of the 24th of November last."

That it does not appear to this committee that the petitioner was continued in service pursuant to the provisions of the said resolution of the 24th of November, 1778; and that, therefore, if a continental officer, he did, by the resolution of the 22d of May, 1779, become a supernumerary officer, which the petitioner states he was; and, therefore, is not, in that character, entitled to commutation of five years' full pay instead of half-pay for life. That the petitioner states he was an officer of the flying camp. On the 26th of May, 1781, Congress "Resolved, That the officers of the flying camp lately returned from captivity be allowed depreciation by their respective States, in the same manner as officers of the line in such States." On the 3d of June, 1776, Congress "Resolved, That a flying camp be immediately established in the middle colonies, and that it consist of ten thousand men; that Pennsylvania be requested to furnish six thousand men of her militia; Maryland, of her militia, three thousand four hundred; Delaware Government, of her militia, six hundred; that the militias be engaged to the 1st day of December next, unless sooner discharged by Congress." That the officers of the flying camp, being of the militia, are not entitled to the commutation of five years' full pay instead of half-pay for life, is manifest; that it appears by the records of the Treasury Department that the petitioner did receive a certain sum of money for depreciation from the State of Pennsylvania, which was charged to the United States; that that depreciation may be presumed to have been paid in pursuance of the said resolution of the 26th of May, 1781.

This committee further report that the petitioner, in his said exhibit, sets forth a statement in the words following, that is to say: "While a prisoner of war, my friends sent me money from Pennsylvania, which supported me. I paid for my board; and I never received, whilst a prisoner, any money from the United States, either as pay or

to support me; nor have I received any pay since I was made a prisoner, or for depreciation, or in any shape whatever, for or on account of my revolutionary services."

In respect to this declaration of the petitioner, the committee observe that, on the 3d of January, 1777, Congress "*Resolved*, That General Washington be directed to propose and conclude with General Howe an agreement whereby those who are or may be made prisoners by the enemy may be supplied with provisions and other necessaries at the expense, or on the credit, of the United States." That, "on the 31st of July, 1778, Congress resumed the consideration of the report of the committee to whom the petition of the prisoners of war on Long Island was referred; whereupon, *Resolved*, That the Commissioners of Claims be directed to examine the estimate of the amount due for clothing and board for our prisoners of war in the hands of the enemy; *Resolved*, That a sum of money, in specie, not exceeding \$26,666 66 $\frac{2}{3}$, be issued to Elias Boudinot, Esq., late commissary general of prisoners, for the discharge of such accounts, for which he is to be accountable." And, on the 30th of July, 1778, "Congress ordered that a warrant issue on the Treasurer, in favor of Colonel E. Boudinot, late commissary of prisoners, for \$15,000, to enable him to discharge some arrears of that department; the said Colonel Boudinot to be accountable." That, on the 6th of June, 1777, Congress resolved "that a commission be granted to Elias Boudinot, Esq. as commissary general of prisoners, the said commission to be dated the 15th day of May last." On the 9th of January, 1779, Congress resolved "that the commissary general of prisoners be furnished with money, from time to time, by the Board of Treasury, for the purpose of subsisting the officers and soldiers of the United States while in captivity and in the actual possession of the enemy, and to accommodate them with sufficient sums, on account, to defray their travelling expenses to their homes or regiments." On the 7th of June, 1779, Congress resolved "that the commissary general of prisoners be authorized, from time to time, to pay, to the order of officers and soldiers in captivity, any sums not exceeding the amount of their pay and subsistence, in order to enable them to assist their families; and that he make monthly returns to the paymaster general of their accounts, respectively."

On the 25th of April, 1780, Congress passed resolutions for the benefit and accommodation of American prisoners of war with the enemy, among which Congress resolved that "the sum of twelve thousand four hundred and sixty-three pounds, like currency, (New York currency,) in specie, equal to thirty-one thousand one hundred and fifty-seven and a half dollars, be advanced to the commissary general of prisoners, which he be directed to distribute among all the officers in captivity; and that the consideration of any farther allowance or comparative preference be postponed to some future period." That, on the 23d of August, 1780, Congress passed a resolution appropriating large sums of money in specie for the use and accommodation of American prisoners of war with the enemy, those at New York inclusive. That, on the 8th of January, 1781, Congress, by resolution, "earnestly recommended to the several States, from New Hampshire to North Carolina, inclusive, to procure and forward to the Treasurer of the United States, or to their commissary of prisoners appointed to reside at New York, by the 1st of March next, for the use of the officers in captivity at that place and on Long Island, and to be charged to the United States," large sums of money, in specie, or bills of exchange on New York, amounting to eighty thousand dollars. The resolutions above mentioned, with other resolutions that might be alluded to, are brought at this late period into remembrance, to show the care of, and attention to, American prisoners of war in captivity with the enemy, which was manifested by Congress, in order that they might be fully supported and provided for during their captivity, and also on their return from captivity. The petitioner states that he held the commission of a captain in time of his captivity, and, from that circumstance, as an officer it may be presumed that he was not ignorant of the ample supplies of money in specie from time to time provided for, and actually remitted to, and put in the power of, the commissary of prisoners at and near New York, for the support of the American prisoners there; and it cannot be presumed that he did not partake and receive his portion of such ample provision for his support; and it may be presumed that a long lapse of years may have obliterated from his memory the bountiful support administered to him by the Congress of the Revolution, and, therefore, that he does not recollect to have received the several sums of money stated on the records of the Treasury Department by him to have been received.

This committee further report that it does not appear that the petitioner was in the actual service of the United States (if he had even been an officer commissioned by Congress) after the time that he was exchanged and released from captivity; that it does not appear that the petitioner is included in any class or denomination of officers to whom half-pay was expressly promised, and, therefore, half-pay for life, or commutation thereof for five years' full pay, cannot be allowed to him; that no sufficient reason has been by him assigned why he permitted a claim of this magnitude to lie dormant from the time he ought to have claimed it, until in January, 1821, when his petition was first presented to Congress; that, if his said claim was just, it was honorable to demand it in due time, and to receive it. Officers of the highest rank and honor in the line of the continental army, who were entitled to commutation, received it; it was an honorable provision for them, made by Congress for their noble and meritorious services in the prosecution of a just war, which delivered the United States from bondage, tyranny, and oppression; that the petitioner has not any just claim to commutation of five years' full pay instead of half-pay for life; that he is not entitled to bounty land as provided for by resolutions of Congress; that if, by any the most remote possibility, the petitioner could have, or can have, any claim in this case, it is long since barred by statutes of limitation. This committee, therefore, report the following resolution:

Resolved, That the prayer of the petitioner be rejected.

SIR:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *January 13, 1821.*

I have the honor to state, in relation to the petition and accompanying documents of John McHatton, who claims to have been a captain in the Pennsylvania line during the revolutionary war, and asks commutation and land, that I have had reference to such part of the records of the revolutionary army as have been preserved and are on file in this office, and I do not find any person by the name of the petitioner, but find Captain John McHatton, an officer of the flying camp of the Pennsylvania line. It appears that the State of Pennsylvania paid his depreciation, amounting to 142l. Ss., and charged the same to the United States; and it also appears that he received from the United States the following sums in specie, whilst a prisoner, viz:

| | | | | | |
|-----------------|---|---|---|---|-----------------------|
| Of E. Boudinot, | - | - | - | - | \$174 79 |
| Of J. Beatty, | - | - | - | - | 101 51 |
| | | | | | \$276 $\frac{40}{90}$ |

The journal in which the particulars of these payments were stated being destroyed, it is impracticable to ascertain them, nor can it be ascertained how long the officer named continued in service. Reference has been had to the register of final settlement certificates, issued to officers serving to the end of the war, which is complete,

and also to the list of officers entitled to land, and the name of this officer is not to be found. Whether the petitioner is the same person with the one remarked upon, I cannot state; but should presume, from some of the circumstances stated in the petition, and there being no record of any person of his name, that it is probable such is the fact. The papers are returned.

With great respect, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. WILLIAM H. CRAWFORD, *Secretary of the Treasury.*

17th CONGRESS.]

No. 568.

[1st SESSION.]

HORSES, ARMS, &c. LOST DURING THE SEMINOLE WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 14, 1822.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the memorial of the General Assembly of the State of Tennessee, reported:

The principle involved in so much of the memorial as relates to the payment by the United States for horses lost in the Seminole campaign, the committee discussed in their report made during the first session of the sixteenth Congress. To that report the committee refer the House, and ask that it may be considered as a part of the report herewith submitted. [See No. 528, page 732.]

Besides the loss of horses, the memorial presents other items as constituting a further demand against the Government, one of which is stated in the memorial as follows: "That, from the examination made, and the proof submitted, it appears that the volunteers entered on the service with their own arms. Many of them being injured by exposure on their march, guns, the property of the United States, were furnished at Fort Hawkins, in the State of Georgia, where those which belonged to the volunteers were left. The troops did not return that way, at the close of the campaign, and have never since recovered their arms; but those they had received at Fort Hawkins were, by orders of the commanding general, when they were discharged, returned to the Government. For these, also, it is thought by your memorialists, it is right and just that they should be paid."

In order to ascertain, as fully as possible, all the circumstances attending this part of the claim, the committee directed inquiries to be made at the War Department. They received for answer statements showing the number of arms furnished by the United States to the mounted gunmen impressed for their use in the State of Tennessee, the number left at Fort Hawkins, and the number returned at the close of the campaign. From these documents, and a statement contained in the memorial, it is ascertained that the United States furnished to the volunteers, by impressment, in Tennessee and at Fort Hawkins, an aggregate number of arms amounting to two hundred and twenty-seven; that, of the arms received by the volunteers from the United States, one hundred and twenty-five were returned and deposited at Columbia, in Tennessee; that the arms belonging to the volunteers, which were left at Fort Hawkins, amounted only to fifty-three, of every description, including twelve rifle barrels, presumed to be without stocks or locks. Instead of a loss, then, the volunteers appear to have had a clear gain of forty-nine stands of arms, now remaining in their possession, or, if returned, no evidence of the fact is to be found in the Department.

Forty cents per day was the compensation granted by law to the troops for the use and *risk* of their horses, *arms*, and accoutrements; and if the above statements from the War Department are correct, it seems that some of the volunteers have been paid for the *use* of arms they did not furnish. The committee are fully persuaded that the facts here submitted were not, and could not have been, before the Legislature of Tennessee; for if they had, that body would have seen at once that, instead of being indebted to the volunteers, the United States have a fair claim against them for the forty-nine stands of arms they have retained, and the payment which was made to them for the use and risk of arms they did not furnish, and which, consequently, they had no right to receive.

As to the claim for the loss of accoutrements, by the inability of the volunteers to preserve and transport them in consequence of the loss of their horses, the committee have to remark, that, before it could be allowed, the prior claim for the loss of horses must be established; that, as they have deemed it inexpedient to pay for the horses, they think it equally so to pay for the accoutrements.

Another item of the claim is set forth in the memorial as follows: "That, at the close of the campaign, by an order issued from Major General Jackson, many of those horses were recovered from the swamps of Florida, and sold, and the proceeds transferred to the credit of the General Government."

The committee have also received from the War Department information on this head, going to show that sixty-nine horses were sold, as stated in the memorial; that the sum received for them was \$2,142 45, which has been placed to the credit of the United States. But this circumstance does not strengthen the demand upon Government. The claim has been urged on the ground that the United States failed to supply forage, but it now seems that the owners (or some of them at least) abandoned their horses, which sold at an average of more than \$30, and therefore were probably not so much exhausted as has been alleged. At any rate, they must have been worth to the owners at least the trouble of preserving them; and the loss in this instance seems to have resulted more from their own imprudent or negligent abandonment of their property than from any act of Government.

Whatever right the United States might assert as being the first finder of the property after it had been abandoned by the owners, the committee would nevertheless think it expedient to refund the money, provided the identity of the claimants, or the rule of distribution and allowance, could be clearly established. It is believed the Government had many horses employed in that campaign, which were as likely to suffer for want of forage as those belonging to the volunteers; and if horses were really abandoned on that account, it would be extremely difficult to say to whom payment should be made, as being the rightful owners. No one of the volunteers could say, for example, that his horse was sold, because, on the very face of the transaction, it must be evident that he had abandoned it, had left it, had parted from it, was not present at the time of sale, and, of course, would be unable to say whether it was his or the horse of his neighbor that was sold, and the proceeds arising therefrom placed to the credit of the United States. Perhaps not one of the rightful owners of the sixty-nine horses would be paid, but the money might be advanced to their neighbors, whose horses had not been sold, and who, therefore, could have no claim to it.

But if the identity of the claimants and the rule of distribution and allowance could be established, the committee think there is still a more urgent reason to determine the rejection of the claim. The Tennessee volunteers received clothing, or pay in lieu of it, to which they were not entitled. In this, it is believed, they might find ample remuneration for any losses they sustained of the character just mentioned. It is true this payment was deducted from the accounts of the officer who made it, at the date of the last information; but it is very certain the volunteers have had, and will continue to enjoy, all the benefit of the allowance, whether or not the paymaster finally receives a credit for the same.

Under all the circumstances of the case, therefore, the committee think proper to submit the following resolution:
Resolved, That the claim of the volunteers engaged in the Seminole campaign, presented in the memorial of the General Assembly of the State of Tennessee, ought not to be granted.

To the Senate and House of Representatives of the United States in Congress assembled: The memorial of the General Assembly of the State of Tennessee respectfully represents:

That, heretofore, a number of the citizens of this State, called upon by the Government of the United States, proceeded against the Seminole Indians residing in the province of East Florida, and, in the prosecution of that campaign, relied upon their Government to extend to them that justice to which they were entitled, and which had been extended to troops similarly situated during the war with Great Britain. These expectations they have not realized; and many of them, from causes they could not control, have sustained losses to an amount greater than any compensation received for their services. Hitherto deprived of remuneration, an appeal is made to the General Assembly of this State that their case be considered, and such report made to the Congress of the United States as justice may seem to demand, in the hope that the relief they merit may be extended.

The General Assembly of the State of Tennessee, therefore, respectfully represent that, in the year 1818, a horde of savages inhabiting Florida committed inroads on our defenceless border settlers, and waged open war against our citizens. To subdue them became necessary, and orders to this effect were issued to Major General Jackson, commanding the southern division of the United States army. He appealed to the citizens of this State, and, with promptitude and alacrity, many of them came forward and embarked in the service of their country. Expedition was essential to success, and hence mounted infantry were required: but the Government not having the means of supplying them with horses at its own expense, they were furnished by the soldier, together with arms and necessary accoutrements.

From the uniform practice of the General Government, arising from the laws they have passed, it is believed that rations for the soldier and forage for his horse have on all occasions, when in service, been supplied. Yet, on the present occasion, this was not done; and for the want of it many of the horses died, or, being so reduced, were left, and with them their accoutrements, for the reason that the soldier, being deprived of his horse, was without the means of transporting them. In asking remuneration, therefore, to the volunteers engaged in this service, no objectionable ground whatever can be perceived. It is right to ask it; justice on the part of the Government to extend it. Service and fidelity was the engagement on the part of the volunteer; remuneration and maintenance of himself and horse for the period of his engagement the contract subsisting on the part of the Government. The soldier's has been complied with; he met the enemy and subdued them. Privations and hardships were endured unparalleled in any previous campaign, and a successful termination given to a war which had assumed a gloomy and menacing appearance. But compliance on the part of the Government remains to be performed. The monthly pay of the volunteers has been discharged; yet in many, very many instances, their horses and accoutrements lost on this campaign have, so far as we are advised, exceeded any compensation received for their services. It is readily conceded that no blame is imputable to any department of the Government for an omission to supply forage for the horses, or indeed rations for the troops. In a wilderness country, supplies were not to be procured; yet what losses and injuries have resulted to the troops from their not being furnished ought surely in justice to be borne by the Government, where, if any, the fault existed, rather than by those whose obligation it was to march where duty and their country called them. Besides, it is but a reasonable and fair presumption that, if forage had been supplied in such a country and at such a season, the expenses incurred in obtaining it would have been fully equal, perhaps greater than the amount due for the horses and other property actually lost.

Under this view, we cannot doubt but that the claims of the volunteers are founded on contract, on justice, and right. There is another consideration, however, disclosed in the investigation, which is calculated to exhibit those claims in even a still stronger point of view. It is, that at the close of the campaign, by an order issued from Major General Jackson, many of these horses were recovered from the swamps of Florida, and sold, and the proceeds transferred to the credit of the General Government. This is no ground of complaint, it is true; being left, they were lost to the owners, and to recover them was right, and to sell them proper, because at so great a distance they could not be conveyed to the owner; yet, when the proceeds of the sales passed to the treasury of the Government, it presents some additional reason why remuneration should be made. No additional reason, however, can be necessary; a subsisting contract between the soldier and his Government is surely enough; and whether that contract be express, or is merely implied from the nature of the engagement and service to be performed, cannot be material. The Government will have too much magnanimity to attempt any distinction on this head, and too much liberality, it is hoped, to receive the service of their citizen soldiers, and withhold what justice claims to be extended.

From the examination made, and the proof submitted, it appears also that the volunteers entered on the service with their own arms. Many of them being injured by exposure on their march, guns, the property of the United States, were furnished at Fort Hawkins, in the State of Georgia, where those which belonged to the volunteers were left. The troops did not return that way at the close of the campaign, and have never since recovered their arms; but those they had received at Fort Hawkins were, by orders of the commanding general when they were discharged, returned to the Government. For these, also, it is thought by your memorialists, it is right and just they should be paid.

When we reflect that at the commencement of the campaign the horses and other property furnished by the volunteers were valued by discreet citizens selected for that purpose by the officer in command, we can perceive no ground to apprehend that any thing like injustice or fraud can be practised by the claimants.

If these are the facts, and this view of the case be correct, your memorialists feel assured that it is only necessary to present those claims to the consideration of Congress to effect their settlement; and, in doing so, we but discharge a duty to these patriotic men who with fidelity have served their country, entertaining at the same time a belief that your honorable body will not withhold that which in justice and right seems to be due.

JAMES FENTRESS, *Speaker of the House of Representatives.*

T. BREWER, *Speaker of the Senate.*

Attest: THOMAS J. CAMPBELL, *Clerk of the House of Representatives.*
 JAMES K. POLK, *Clerk of the Senate.*

SIR:

DEPARTMENT OF WAR, *January 2, 1822.*

In reply to your letter of the 21st ultimo, I have the honor to transmit herewith a letter from the Second Auditor of the Treasury, with its enclosures, (marked A,) one from the Ordnance Office, (marked B,) one from the Quartermaster General's Office, (marked C,) and an extract of one from Colonel Hayne, which furnish all the information on the several points of your inquiry contained in this office.

I return, herewith, the memorial of the Legislature of Tennessee.

I have the honor to be your obedient servant,

J. C. CALHOUN.

HON. LEWIS WILLIAMS, *Chairman of the Committee of Claims.*

A.

SIR:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE, *December 28, 1821.*

I have received your letter of the 24th instant, enclosing a copy of a communication to you from the chairman of the Committee of Claims of the House of Representatives of the United States, and requiring such information as this office will afford in relation to the Tennessee and Kentucky mounted volunteer gunmen who were in the service of the United States during the Seminole campaign.

In reply, I have the honor to state that the accompanying abstracts (marked Nos. 1, 2, 3, 4, and 5) embrace all the information which can be derived from the records of this office on the points designated by the chairman of the committee, viz:

Abstract No. 1 shows the number of volunteers from the State of Tennessee.

No. 2 the number from the State of Kentucky.

No. 3 the number of arms furnished by the United States.

No. 4 the number of arms left by the volunteers at Fort Hawkins; and

No. 5 the number of arms (furnished by the United States) returned by the Tennessee volunteers at the close of the campaign.

It will be discovered that abstract No. 3 does not comprise all the information asked for in the third point of inquiry, as I have no means of ascertaining the number of arms, &c. with which the volunteers furnished themselves. I would beg leave, however, to remark that, as every man was paid for the use and risk of his arms, &c. during the whole period of service, it might be presumed that each one commenced the march completely equipped at his own expense.

With great respect, your obedient servant,

WM. LEE.

HON. JOHN C. CALHOUN, *Secretary of War.*

Statement of the number of Tennessee volunteer mounted gunmen in the service of the United States during the war against the Seminole Indians, from accounts filed in the office of the Second Auditor of the Treasury.

| | Assistant adjutant general. | Assistant inspector general. | Ass. dep. quarter-masters general. | Judge advocate. | Hospital surgeon's mate. | Chaplain. | Forage master. | Assistant forage master. | Military secretary. | Colonels. | Lieut. colonels. | Majors. | Adjutants. | Quartermasters. | Surgeons. | Surgeon's mates. | Sergeant majors. | Quartermaster sergeants. | Captains. | First lieutenants. | Second lieutenants. | Third lieutenants. | Cornets. | Sergeants. | Corporals. | Musicians. | Privates. | Total. | |
|------------------------------------|-----------------------------|------------------------------|------------------------------------|-----------------|--------------------------|-----------|----------------|--------------------------|---------------------|-----------|------------------|---------|------------|-----------------|-----------|------------------|------------------|--------------------------|-----------|--------------------|---------------------|--------------------|----------|------------|------------|------------|-----------|--------|----|
| Brigade staff, - - - | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 10 | |
| REGIMENTAL FIELD AND STAFF. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| First regiment, - - - | - | - | - | - | - | - | - | - | - | 1 | 2 | 2 | 2 | 1 | 1 | 2 | - | - | - | - | - | - | - | - | - | - | - | - | 11 |
| Second do. - - - | - | - | - | - | - | - | - | - | - | 1 | 2 | 2 | 2 | 1 | 1 | 2 | - | - | - | - | - | - | - | - | - | - | - | 11 | |
| NON-COMMISSIONED STAFF. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| First regiment, - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 2 | 2 | - | - | - | - | - | - | - | - | - | 4 | |
| Second do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 2 | 2 | - | - | - | - | - | - | - | - | - | 4 | |
| FIRST REGIMENT. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Captain Chism's company, - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 68 | 82 | |
| Bell's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 48 | 62 | |
| Murdoch's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 38 | 51 | |
| Banton's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 46 | 60 | |
| R.G. Dunlap's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | - | - | 3 | 3 | - | 28 | 36 | | |
| Byrn's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | - | 48 | 61 | |
| Norwood's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 41 | 54 | |
| Kirk's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 48 | 61 | |
| Russell's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | - | 40 | 51 | |
| Hanna's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | - | 1 | 4 | 3 | - | 49 | 60 | |
| SECOND REGIMENT. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Captain Cook's company, - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 68 | 82 | |
| Newton's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | - | 1 | 4 | 4 | 1 | 40 | 53 | |
| Williams's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | - | 1 | 4 | 4 | 1 | 62 | 75 | |
| Hunter's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | - | 3 | 3 | 1 | 47 | 57 | | |
| Watkins's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 52 | 66 | |
| Crawford's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 47 | 61 | |
| Chapman's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 74 | 88 | |
| Evans's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | - | 38 | 51 | |
| Coplinger's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | 1 | 42 | 56 | |
| Andrews's do. - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 | 4 | 4 | - | 40 | 53 | |
| A. Dunlap's life-guards - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | - | - | 3 | 3 | - | - | 45 | 53 | |
| Gordon's spies, - - - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 | - | - | - | - | - | - | 3 | |
| | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 4 | 4 | 4 | 2 | 2 | 4 | 4 | 4 | 22 | 22 | 20 | 12 | 17 | 81 | 80 | 13 | 1,009 | 1,316 | |

No. 2.

Statement of the number of Kentucky mounted volunteer gunmen in the service of the United States during the war against the Seminole Indians, from accounts on file in the office of the Second Auditor of the Treasury.

| | Captain. | 1st Lieut. | 2d Lieut. | 3d Lieut. | Cornet. | Sergeants. | Corporals. | Musicians. | Privates. | Total. |
|--|----------|------------|-----------|-----------|---------|------------|------------|------------|-----------|--------|
| Capt. R. F. Crittenden's comp. of life-guards, | 1 | 1 | - | - | - | 3 | 3 | - | 15 | 23 |

No. 3.

Statement of the number of arms furnished by the United States to the Tennessee mounted volunteer gunmen, when called into the public service in January, 1818.

| DESCRIPTION OF THE ARMS. | | | | Remarks. |
|--------------------------|-----------|---------|----------|--|
| Shot guns. | Pistols. | Rifles. | Muskets. | |
| 73 | 1 brace, | 68 | 1 | Impressed for their use in the State of Tennessee. |
| 9 | 1 pistol, | 3 | - | Impressed for their use in the State of Tennessee. |
| 17 | - | - | - | Impressed for their use in the State of Tennessee. |
| 99 | 3 | 71 | 1 | |

NOTE.—If any other arms than the above were furnished the volunteers, either at Fort Hawkins or elsewhere, the returns made to this office do not show it.

No. 4.

Statement of the number of arms left at Fort Hawkins, in the State of Georgia, by the Tennessee mounted volunteer gunmen.

| DESCRIPTION OF ARMS. | | | | Remark. |
|----------------------|---------|---------|----------------|-----------------------------------|
| Muskets. | Rifles. | Fusils. | Rifle barrels. | |
| 13 | 18 | 10 | 12 | Left in deposite at Fort Hawkins. |

No. 5.

Statement of the number of arms (furnished by the United States) which were returned by the Tennessee mounted volunteer gunmen at the close of the Seminole campaign.

| No. of arms. | By whom returned. | At what time. | Place. |
|--------------|--|---------------|----------------------|
| 125 | William Harris, assistant deputy quartermaster general to the militia, | July, 1818, | Columbia, Tennessee. |

B.

SIR:

ORDNANCE DEPARTMENT, December 27, 1821.

In obedience to your instructions of the 24th instant, requiring information relative to the Tennessee volunteers, for the use of the Committee of Claims, I have the honor to submit the following report:

Upon the first, second, and third points submitted by the committee, there is no information in possession of this department.

In answer to the fourth inquiry, I have to state that, by a return of the public property at Fort Hawkins, made by an officer of this department on the 30th September, 1818, it appears that the following arms were left at that place by the Tennessee volunteers, and for which no receipts were given, viz: thirteen muskets, (British pattern,) eighteen rifles, ten fusils, and twelve rifle barrels.

These arms are supposed to be still in possession of the United States, as there is no evidence in this office of their having been otherwise disposed of.

Under the fifth head, I can only state that the volunteers under the command of Captain W. Harris, at the time of their disbandment in July, 1818, deposited at the town of Columbia, in Tennessee, one hundred and twenty-five stands of arms, which have since been conveyed to, and are now deposited at, the United States arsenal at Baton Rouge.

There is no information in this office relative to the subject embraced under the sixth head.

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

GEO. BOMFORD, Lieut. Col. on ordnance duty.

The Hon. J. C. CALHOUN.

C.

SIR: QUARTERMASTER GENERAL'S DEPARTMENT, *December 27, 1821.*

In compliance with your order of the 24th instant, I have the honor to enclose, herewith, a statement of the number of horses recovered from those lost by the mounted volunteers in the Seminole campaign, and sold by the Quartermaster's Department, the proceeds of which have been credited to the United States.

It is estimated that but a small portion of the horses lost in that campaign were ever recovered. They were abandoned on the road, from their inability to keep up with the army, and at a season when but little sustenance could be obtained in the woods. The inference is strong that most of them perished, and it is believed that a major part of those that survived fell into the hands of the neighboring Indians.

I have the honor to be, sir, your obedient servant,

T. CROSS, *Assistant Quartermaster.*

The Hon. the SECRETARY OF WAR.

Statement of the horses lost in the Seminole campaign which have been recovered by the Quartermaster's Department and sold, the proceeds of which have been credited to the United States.

| | | | | | |
|--|---|---|---|---|-------------------|
| By Major Milo Mason, fourteen horses, | - | - | - | - | \$455 50 |
| By Captain Joel Spencer, fourteen horses, to be credited jointly with one <i>public</i> horse and wagon. Proceeds estimated at | - | - | - | - | 200 00 |
| By Lieutenant A. M. Houston, eleven horses, | - | - | - | - | 623 20 |
| By Lieutenant F. W. Brady, the number of horses not specified, but, from verbal information, they are estimated at about thirty, | - | - | - | - | 863 75 |
| Total sixty-nine horses, | | | | | <u>\$2,142 45</u> |

In addition to the above, there were ten horses delivered by Captain Spencer to Lieutenant H. M. Simons, of the army, who has not yet shown the disposition made of them.

QUARTERMASTER GENERAL'S OFFICE, *December 27, 1821.*

Extract of a letter from A. P. Hayne, Inspector General, commanding, to the Secretary of War.

DEAR SIR:

HEAD-QUARTERS, TENNESSEE, *February 13, 1818.*

I have the honor to inform you that I shall take up the line of march to-morrow morning at daylight. I shall march from this ground with 1,100 effective men, and will be joined on the route by another full company.

I am sorry to inform you that not more than two-thirds of our men are well armed. I shall procure as many arms on the route as I may be able to obtain, and shall state to the individuals from whom they are procured that they will be paid for by the United States, should they not be returned uninjured at the end of the campaign. It may be our fortune to meet the enemy before we form a junction with General Jackson, and, under these circumstances, on the subject of arms, I could not hesitate for a moment.

SIR:

DEPARTMENT OF WAR, *January 8, 1822.*

I have the honor to transmit, herewith, in reply to your letter of the 7th instant, a letter of the Second Auditor, explanatory of his of the 28th ultimo. In addition, I would respectfully call the committee's attention to the extract of Colonel Hayne's letter, by which it appears that about two-thirds only of the volunteers were armed. It is presumed that he impressed arms for the remaining third. In addition to the arms impressed, it is probable some were issued to the volunteers by Lieutenant Keisa, of the Ordnance Department, then at Fort Hawkins, but as he has since died without rendering his returns, there is no knowledge of the fact in the Ordnance Office.

I have the honor to be your obedient servant,

J. C. CALHOUN.

Hon. L. WILLIAMS, *Chairman of the Committee of Claims.*

SIR:

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE, *January 8, 1822.*

In reply to the inquiries of the chairman of the Committee of Claims of the House of Representatives of the United States, contained in his letter to you of yesterday's date, I have the honor to state that abstract C, which accompanied my communication of the 28th ultimo to you, embraces all the arms (one hundred and seventy-four in number) furnished by the United States to the Tennessee mounted volunteer gunmen, as far as can be ascertained from the records of this office; and the presumption, therefore, is, that the one hundred and twenty-five stands which were returned at Columbia at the close of the campaign are a part of the number of one hundred and seventy-four above referred to; for, as I remarked by way of note on abstract C, if any other arms than those therein enumerated were supplied the volunteers out of any of the public arsenals, the returns made do not show it; and that the one hundred and twenty-five stands returned at Columbia, Tennessee, were in addition to the fifty-three left in deposite at Fort Hawkins.

With great respect, your obedient servant,

WM. LEE.

Hon. JOHN C. CALHOUN, *Secretary of War.*

SIR:

DEPARTMENT OF WAR, *December 16, 1820.*

In compliance with a resolution of the House of Representatives of the 12th instant, requiring the Secretary of War to lay before the House "such extracts from the inspection-roll of the army engaged in the Seminole war as will show whether or not the mounted men engaged in that service continued to furnish, at their own expense, horses fit for duty, until discharged; also, whether or not any rule was adopted, or compensation given

said troops for their services, not made applicable and given to all other troops of the same description, employed in the service of the United States," I have the honor to transmit, herewith, a report of the Second Auditor of the Treasury, which contains the information required.

I have the honor to be your obedient servant,

J. C. CALHOUN.

HON. JOHN W. TAYLOR, *Speaker of the House of Representatives.*

SIR: TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE, *December 15, 1820.*

In compliance with the resolution of the House of Representatives of the United States of the 12th instant, (referred by you to this office,) requiring information whether or not the mounted men employed in the Seminole war continued to furnish, at their own expense, *horses fit for duty*, until discharged; and also whether or not any rule was adopted, or compensation given said troops for their services, not made applicable and given to other troops of the same description, employed in the service of the United States, I have the honor to state:

That the rolls on file, with the accounts of the paymaster, are the only documents in my possession that will enable me to answer the first inquiry; and from them it appears that the troops in question were regularly mustered into and out of the public service as *mounted*, and as such received the usual allowance for the use of their horses, and the risk thereof, during their whole tour of duty.

In relation to the second inquiry, it is found they have received from the paymaster who settled with them an allowance for clothing at the rate of thirty-seven dollars and twenty cents per annum, which, being contrary to law, and not given to other troops of the same description, will be disallowed on the adjustment of the paymaster's accounts; and, further, although they have received the customary allowance for the use and risk of their arms, it appears that guns were obtained from individuals for a portion of the troops, on condition of being paid for by the United States should they not be returned uninjured. Of the number thus obtained, one hundred and forty-three stands were not restored to the owners, and the sum of three thousand four hundred and sixty-nine dollars has been paid for them by Captain William Harris, assistant deputy quartermaster.

It may be proper to add that, although not returned to the owners, these guns are now lying at Columbia, in Tennessee, under the direction, and subject to the orders, of the Ordnance Department.

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

WM. LEE.

The SECRETARY OF WAR.

WASHINGTON, *February 23, 1820.*

The undersigned was quartermaster general of the army during the Seminole campaign, and was charged with supplying the necessary forage. From the active nature of that campaign, and its being carried on in a country destitute of grain, it was found impracticable to furnish, except in small quantities from New Orleans, and only at two or three points. Corn was issued at Fort Gadsden for five or six days; at St. Mark's for one or two days, and a very partial issue at Pensacola. I have no returns at this moment to refer to, but I am quite certain the issues did not exceed eight days in eight or ten weeks; and I have no hesitation in saying that the great loss in horses was principally, if not altogether, owing to a want of forage.

GEO. GIBSON.

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *December 14, 1821.*

I have the honor to acknowledge the receipt of your letter of the 10th instant, enclosing the petition of the Legislature of the State of Tennessee, and requiring me to furnish the committee with all the information I possess in relation thereto, and particularly in relation to the arms stated to have been left by the Tennessee volunteers at Fort Hawkins; and whether the horses of the Tennessee volunteers were sold by order of General Jackson, and the proceeds paid over to the General Government. In reply, I have the honor to state that the documents in this office afford no information relative to the subject of the arms of the Tennessee volunteers.

It is respectfully suggested that the information required, if in the possession of the Government, can be had on application to the War Department. That, as it regards the inquiry relative to the horses, I find, on reference to the accounts of the officers employed in the Quartermaster's Department, that sales to the amount of about sixty horses were made, which produced the sum of \$3,230 20, which has been accounted for to the United States; but whether these horses, or what part of them, had belonged to the Tennessee volunteers, is not stated in either of the accounts.

On the subject of the claim of the volunteers for horses lost on the expedition, I can offer no further information from the documents in this office; but respectfully suggest that if reference be had to the office of the Second Auditor, where the accounts of the paymaster who paid those troops are on file, it can be ascertained what allowances of pay and clothing, and allowance for the use and risk of their horses, arms, and accoutrements, have been made to them.

With great respect, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. LEWIS WILLIAMS, *Chairman of the Committee of Claims.*

SIR: TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE, *December 19, 1821.*

In reply to your letter of the 17th instant, enclosing the memorial of the Legislature of Tennessee, and requiring information as to the allowances made the mounted volunteer gunmen from that State while in the Seminole campaign, for the use and risk of their horses, arms, and accoutrements, for pay and for clothing, I have the honor to state that they received an allowance of forty cents per day "for the use of horses, arms, and accoutrements, and the risk thereof," under the act of Congress of the 2d of January, 1795.

That, under the act of the 20th of April, 1818, they received "the highest pay allowed the militia in the service of the United States during the late war with Great Britain," the rates of which are prescribed by the act of Con-

gress of the 12th of December, 1812; and that they received from the paymaster a monthly allowance of \$3 10 in lieu of clothing; but, as no such allowance was authorized by law, the amount thus paid has been deducted from the paymaster, on the settlement of his accounts at this office.

I return the memorial, and am, sir, with great respect, your obedient servant,

WILLIAM LEE.

HON. LEWIS WILLIAMS, *Chairman of the Committee of Claims.*

SIR:

WASHINGTON, *January 30, 1820.*

In reply to your inquiry whether the Government supplied the troops with forage during the Seminole campaign, I can only state, from information which I derived from a source entitled to the utmost credit, that the Tennessee volunteers did not receive, from the time they left Ditto's landing, on the Tennessee river, until their arrival upon the frontiers of Georgia, near half the customary allowance of forage; and I well know that, from that period, during their march to Suwanee, and return from thence *via* St. Mark's and Fort Gadsden to Pensacola, (a distance of near seven hundred miles, which was performed in about ten weeks,) they were not furnished by Government with more than six days' forage.

The detachment of Tennessee volunteers, commanded by Colonel Elliot, joined our army on the morning of the battle of Mickasukey, when a large supply of corn was procured, which served to subsist the troops and forage the horses during our stay there and march to Fort St. Mark's. Colonel Dyer's detachment united with us the day after we left St. Mark's. At Fort Gadsden they had received *three pecks of corn* per horse, which was all that they could procure until the arrival of the army at Suwanee, when a partial supply was obtained. From this period, until the arrival of the army in the neighborhood of Pensacola, the horses had to subsist upon what could be procured in the woods. They became so much reduced and debilitated that the men did not think of riding them, and every day many gave out and were left.

In reply to your second inquiry, whether the loss of the horses by the troops was not attributable to their being unable to procure for them any thing upon which they could subsist, I have no hesitation in declaring it as my opinion, that the loss of the horses in that campaign was attributable to that cause, with the exception of thirty or forty which were lost in the battle of Mickasukey, by an order which the troops received to dismount and charge a body of Indians who had taken shelter in a swamp. The order was instantly obeyed, and, under a hot fire, there was no time to be lost in securing horses. They were left with their private baggage on them. They ran off, and were probably captured by the enemy. Six or eight were, also, probably killed in battle, and as many were lost by their being turned out at night to graze, which rambled off.

General Jackson and his staff preserved their horses, but were under the necessity of purchasing corn at fifty cents a quart from Indians who had packed it on their backs from Mickasukey and Suwanee; yet, notwithstanding, their horses became so much debilitated, that, on the return march, we were compelled to walk the greater part of the distance.

It may perhaps not be unnecessary to remark, that many of the horses which gave out and were left by the volunteers were afterwards collected by the order of the commanding officers at St. Mark's, Fort Gadsden, and Pensacola, sold, and the money applied by the quartermaster's department.

I have the honor to be, sir, with great respect, your most obedient servant,

J. C. BRONAUGH.

The Hon. JOHN H. EATON.

17th CONGRESS.]

No. 569.

[1st SESSION.]

INDIAN DEPREDATIONS AND CRUELITIES IN 1777.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 15, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 28th of December, 1821, the petition of Elizabeth House, widow of Joseph House, late of the State of New York, have had the same under consideration, and make the following report thereupon:

The petitioner states that her husband (Joseph House) was, during a considerable part of the revolutionary war, a private in a company of rangers in the American service; that in the summer of 1777, during the absence of her husband from home, in said service, an attack was made on her dwelling-house by a party of Indians, who burnt, plundered, and destroyed every thing in and about the house, and made prisoners of herself and her two infant children; that she was taken from her then residence in the county of Montgomery and State of New York, to Fort Niagara, a distance of about three hundred miles, through a wilderness, and compelled to perform most of the journey on foot, with her infant in her arms, (her eldest child having been murdered by the Indians on the march;) that, on the journey, the savages treated her and her surviving child with great inhumanity. At Niagara she had a violent attack of fever, which continued for about two months, during the greater part of which time her life was despaired of. From Niagara she was taken to Detroit, remained there a short time, and returned to Niagara, where she was again taken ill of a fever. After her recovery she was sold to Colonel Johnson, of the British army, in whose service she continued for about four years. Her husband, having finally ascertained her place of residence, brought her home. The petitioner also states that her deceased husband never received any remuneration for his losses or any pension from the National or State Government; that she is poor, and prays relief. The petition is supported by the affidavit of the petitioner and the deposition of a single witness, who states that Elizabeth House resided about one mile from him, and that he was absent from home, on a tour of duty, when the attack was made by the Indians as above described; but, from his knowledge of the character of the petitioner, from the general

reputation at the time of her capture and return, and *from his own recollection of the circumstances*, he has no doubt that all the facts disclosed in the memorial are true. This evidence may very properly be regarded as of loose and doubtful character. Your committee, however, consider it unsafe and inexpedient to afford the relief prayed for, even upon the supposition that all the facts stated are true. The sufferings of the petitioner, it is admitted, present strong claims upon our sympathies, but they are common to many others upon whom like cruelties have been practised by the Indians. If the present claim be allowed, others of a similar character cannot, with propriety, be rejected. Allow this claim, and a principle is established which makes the Government responsible for all the outrages which have been or may be committed by a savage enemy upon the persons or property of our citizens—a principle, in the estimation of your committee, destructive to the resources of the nation. The following resolution is therefore recommended for adoption:

Resolved, That the prayer of the petition be not allowed.

17th CONGRESS.]

No. 570.

[1st SESSION.]

LOSS OF THE SHIP AMERICA AND CARGO IN 1812.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 15, 1822.

Mr. NEWTON, from the Committee of Commerce, to whom was referred the petition of Alexander Mactier, of Baltimore, reported:

That the petitioner states that he loaded the ship America with flour, with an intention of sending her to Lisbon on raising the embargo; that he applied to the collector of Baltimore, on the 19th of June, 1812, for a clearance, which the collector refused to give, unless authorized by the Secretary of the Treasury to do so; that the order for clearing the ship was not given until the 13th of July, 1812, on which day a clearance was obtained, and the ship proceeded on her voyage. While pursuing it to her destined port, she was captured. The petitioner states that the vessel was condemned, and that the loss of the vessel, together with the greater part of the cargo, amounted to about \$25,000. This loss he attributes to a refusal of the clearance when first demanded. For his losses he solicits to be indemnified.

This petition is accompanied with no documents. No evidence is offered to substantiate the statements in it.

The committee are of opinion that were the proof complete in every particular, the case (as stated) would not be entitled to legislative interference. If the collector of Baltimore refused to do what the law makes it his duty to do, the judiciary is the proper tribunal to give the relief sought. With this impression, the committee respectfully submit the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

17th CONGRESS.]

No. 571.

[1st SESSION.]

PROPERTY DESTROYED AT BUFFALO BY THE BRITISH.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 23, 1822.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Heman B. Potter, reported:

That the petitioner claims payment for a dwelling-house valued at \$700, and personal effects, consisting of furniture, provisions, &c., valued at \$423 50, said to have been destroyed by the enemy at Buffalo, on the Niagara frontier, and in consequence of a military occupation by the troops of the United States. John G. Camp, late a deputy quartermaster general, testifies "that a dwelling-house owned by Heman B. Potter, situated in the village of Buffalo, was occupied by his order by troops in the service of the United States, as barracks, some time previous to and at the time of its destruction by the enemy, on the 30th December, 1813." Truman Kellogg also states that he commanded a company of militia in the service of the United States, and, in pursuance of an order from William A. Adams, acting quartermaster and aid to Major General Hall, to quarter himself and company in any of the buildings at Buffalo, he went to the house of the claimant, which, having forcibly entered, he occupied with his men till it was destroyed by the enemy on the aforesaid 30th of December. Several other witnesses testify to the value of the house and other property.

For a history of the transactions which immediately preceded the burning on the Niagara frontier, and of the character of the burning, the committee respectfully refer the House to their report presented at the first session of the fifteenth Congress. The rules of the House having made it the duty of the committee to express their *opinion* on the several subjects referred to them, they have, with great care, endeavored to investigate all the material facts, and the laws and usages applicable to the almost infinite variety of cases which have come under their consideration, in the hope that their decisions might be marked with such a uniformity as would facilitate the business of the House, and affect alike the petitioning citizens. In the prosecution of this duty they have had to encounter diffi-

culties to which, it is believed, all must be strangers except such as have necessarily turned their attention to subjects of a like nature. Generally, all the evidence upon which they have had to form an opinion has been taken *ex parte*; evidence which the claimants themselves have thought proper to adduce, and, consequently, such as made in their favor, has been presented, while such as made against them has been carefully concealed. And the committee have been compelled to believe that very many witnesses, whose affidavits they have had to examine, have manifested a much greater zeal to support the *claims* in regard to which they testified, than to establish, literally, the *truth*. The committee certainly intend no reproach by this remark, as they consider it a circumstance in a degree incident to human nature itself, and the remark is made with no other view than to indicate to the House the difficulties which they have to encounter in arriving at conclusions satisfactory to themselves, and to show what appears to them an unavoidable necessity for confining the allowances of the Government within such limits as can, with some degree of certainty, be defined. In deciding upon the claims growing out of the late war, the law commonly called the "claims law" has been taken as a guide in all cases which appeared to come within its provisions; but that law has, like most others, been differently construed by different persons, and perhaps no part of it so much so as the ninth section, which is applicable to the case under consideration, and, generally, to all claims from the destruction of buildings by the enemy while in the service of the United States. By the ninth section it is enacted "that any person who, in the time aforesaid, [the late war,] has sustained damage by the destruction of his or her house or building by the enemy, while the same was occupied as a military deposite under the authority of an officer or agent of the United States, shall be allowed and paid the amount of such damage, provided it shall appear that such occupation was the cause of the destruction." Had the law simply provided that the fact of occupation and destruction should authorize payment, the committee would have found the limits of their inquiries greatly diminished. But the law goes further, and requires that the occupation shall appear to have been the *cause* of the destruction; and hence they have felt it their duty to express an opinion upon the *cause* of the destruction as well as the fact. This inquiry, however, would neither have presented difficulties, nor increased their labors, had they deemed it safe to have relied upon the *opinions* of witnesses; for it is believed that, among the hundreds of claims which it has been made their duty to examine, there has not been one in which the witnesses did not express a decided belief that the destruction was in consequence of the occupation, and, in many instances, where the occupation had been discontinued long anterior to the destruction. While, therefore, the committee have believed (as the Congress appears to have done which passed the law in question) that the occupation was not as a matter of course to be regarded as the cause of destruction, they have felt it their duty to lay the *opinions* of the witnesses out of the question, and look elsewhere for some rule by which to determine the fact made important by the law, viz: the *cause* of the destruction—a rule in regard to the application of which there might be something like certainty, and which would have a tendency, in case of future wars, to diminish the waste of a successful invader.

With these views upon the subject, whenever they have found a building to have been occupied as a military store-house, and in such a manner as necessarily to involve the destruction of the building in that of the supplies, this committee have uniformly regarded the occupation as the cause of the destruction, except in cases of a general conflagration, which forbid the belief that such could have been the real cause. And until the last session of Congress, although the law of 1816 is silent on the subject of barracks, the term "military deposite" only being used, an entire occupation by troops, (not merely transient,) and continued up to the period of the destruction, had been regarded as the cause of it—a conclusion to which the committee had been led in consequence of the term "barracks" having been incidentally used in the explanatory law of 1817, although the latter law was evidently passed with the view of limiting the operation of the former on the subject of buildings. At the last session of Congress, however, the rule originally adopted by the committee on the subject of barracks was reversed by the House. In the case of William T. Nimmo, a citizen of Virginia, it was ascertained that, for several months, there had been a permanent unmixed occupation of a house of the claimant as barracks, and which was continued up to the moment when the American troops were driven off, and the house destroyed; and for the loss of which a bill was reported. To the passage of the bill an objection was urged by a member from Virginia, upon the ground, as the committee understood, that barracks, simply, were not, by the usages of civilized war, a legitimate object for destruction by an enemy. In support of this objection, reference was made to the usage during the late wars in Europe, where the different cities and countries were alternately in the possession of the contending armies, without any application of the devouring element to barracks, not even to such as were the property of the public. It was contended that to remunerate for such losses would, in effect, legalize the destruction, and thus invite a future enemy to make war upon our resources, by respecting the usage. The objection prevailed, and the bill was rejected after a full discussion of the principle. Subsequent to that decision, the committee have felt it their duty to report against an allowance in all cases of an occupation simply as a barracks, and to confine their favorable reports to cases where the buildings have been occupied for a deposite of military supplies; and, in determining, in obedience to the law, whether the occupation was the *cause* of the destruction, they have sought to ascertain the fact whether the deposite was such that its destruction would necessarily have involved that of the building—that having been believed to be the only inquiry which it was practicable to make, with the hope of arriving at a result either certain or satisfactory, and in the absence of which it is believed no rule could be found other than to regard the occupation, however limited, as the cause of the destruction; the law to the contrary notwithstanding.

In the case of an occupation as barracks, notwithstanding the decision of the House referred to, the committee would find no difficulty in recommending an allowance, were a case presented where the destruction had been found necessary to dislodge the troops therein, as, in that case, they would regard the building in the character of a place of defence rather than one of mere convenience. The necessity for observing rules in regard to the application of which there may be some tolerable degree of certainty has induced the committee to bestow the most unremitting attention upon the claims growing out of the late war; for, whatever rules shall be made applicable to these claims, they should be such as can properly be applied in other like cases, in the event of future wars. The fact, also, has been kept steadily in view by the committee, that their decisions must affect the interests of the great body of the community, who necessarily supply the wants of the treasury as well as the rights of the claimants, and the immediate resources of the Government.

In the case of the present petitioner, there is no pretence of any other military occupation than a very limited one as barracks; and hence, in the opinion of the committee, the claim cannot properly be allowed.

The following resolution is respectfully submitted:

Resolved, That the prayer of the petition of Heman B. Potter ought not to be granted.

[17th CONGRESS.]

No. 572.

[1st SESSION.]

PLANTERS' BANK OF NEW ORLEANS FOR ADVANCES.

COMMUNICATED TO THE SENATE, JANUARY 29, 1822.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of the president and directors of the Planters' Bank of New Orleans, reported:

That the petitioners state that, in the autumn of the year 1815, the directors of the said Planters' Bank of New Orleans were informed that J. T. Pemberton, esquire, then paymaster of the United States troops stationed at New Orleans, was unprovided with the necessary funds to pay off several discharged soldiers, and that, being desirous to promote the public service, and to furnish the soldiers with their just pay, did, at the solicitation of Ambrose D. Smith, the deputy paymaster of said Pemberton, advance money for that purpose, upon the pay and receipt-rolls being left with them. They further state that they were informed and assured that the production of the pay and receipt-rolls to the proper Department would be sufficient vouchers to enable them to obtain the reimbursement of the sum so advanced by them to the Government of the United States. They further state that they have made repeated applications to the Treasury Department for the settlement of their accounts, but have been unable to effect the same, in consequence of not having it in their power to produce all the evidence required by the rules and regulations of the Treasury Department. The reasons why the claim has not been settled and paid at the proper Department are fully set forth and explained by the Third Auditor in his letter to the Secretary of the Treasury, and communicated to this committee, which is hereunto annexed.

The committee are of opinion that the conduct of the petitioners was generous and patriotic; and that the liberal advance of funds on their part to discharge the just debts due the discharged soldiers, at the request of the paymaster, who was unprovided with money for that purpose, entitles them to the gratitude of their country and a liberal and equitable settlement of their accounts; they therefore report a bill for their relief.

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *January 3, 1822.*

In the case of the petition and accompanying documents of the president and directors of the Planters' Bank of New Orleans, referred by you to this office, I have the honor to report that the claim of the bank arises, apparently, from having discounted, or, in other words, advanced money on receipt-rolls, setting forth the pay, &c. due to sundry soldiers discharged from the regular army after the late war; application for the reimbursement of which was made to this office, and rejected on the following grounds:

1st. The pay and receipt-rolls should have been accompanied by muster-rolls showing the pay to be due.

2dly. As the bank could not be recognised in the character of a paymaster, a regular power of attorney from each soldier was required, as in cases of individual applications for soldiers' pay by an attorney.

3dly. Certificates from the commanding officer, setting forth the period of enlistment, pay due, &c., and the discharge of the soldier, in order to ascertain whether he was entitled to the balance of bounty or gratuitous pay allowed to soldiers honorably discharged.

The papers produced are receipt-rolls in blank, and pay-rolls, but no muster-rolls. It is believed that there were also certificates of the commanding officer, but those do not now accompany the petition.

If such certificates are in the hands of the petitioners, and are produced, it is believed that, on examination of the rolls in this office, it may be ascertained what pay was due the soldiers; and, where application has been made by them for land, it is believed the difficulty relative to discharges may be obviated by reference to the proper office, where they are probably on file. In such cases, the power of attorney will only then remain to be produced, and the case will assimilate itself to others on which Congress have legislated. The act for the relief of Isaac Minis and others, passed 3d March, 1819, and the act for the relief of Mary Cassin, passed 5th April, 1820, it is believed, were predicated upon similar applications for money advanced to soldiers for their pay after discharge.

The petition and papers accompany the report.

With great respect, &c.

PETER HAGNER, *Auditor.*

The Hon. WILLIAM H. CRAWFORD, *Secretary of the Treasury.*

[17th CONGRESS.]

No. 573.

[1st SESSION.]

CERTIFICATES FOR REVOLUTIONARY SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred the petition of Richard G. Morris, on the 6th of December, 1821, with accompanying papers, have had the same under consideration, and report thereon:

That this case of the petitioner has heretofore been several times presented in the House of Representatives of the Congress of the United States, and referred to Committees on Pensions and Revolutionary Claims, who re-

ported thereon, that is to say: On the 25th of December, 1815, it was referred to the Committee on Pensions and Revolutionary Claims, and that committee, on the 14th of March, 1816, made a report thereon, accompanied with a resolution as follows:

“Resolved, That the prayer of the petitioner ought not to be granted.”

That, on the 11th of February, 1817, it was again referred to the Committee on Pensions and Revolutionary Claims; that that committee do not appear to have considered it. That, on the 4th of December, 1817, it was again referred to the Committee on Pensions and Revolutionary Claims, and it appears that on the 15th of December, 1817, that committee made a report thereon, accompanied with a resolution as follows:

“Resolved, That the prayer of the petitioner ought not to be granted.”

That, on the 21st of February, 1820, the said petition was referred to the Committee on Pensions and Revolutionary Claims, and that committee, on the 25th of February, 1820, made a report thereon, accompanied with a resolution as follows:

“Resolved, That the prayer of the petitioner be rejected.”

This committee further report that the first two above-mentioned reports were ordered to lie on the table of the House of Representatives, and that the last report of that committee was agreed to by the House. And this committee do respectfully request that the said three preceding reports, and the resolutions accompanying them, be taken and made a part of this report; and that, in this report, the said three previous reports above alluded to may be taken, considered, and read, agreeably to their respective dates, as a part of this report, and be considered as inserted verbatim therein, and read accordingly.

This committee further report, that the petitioner, not content with the proceedings heretofore had on his petition, has again caused it to be presented to the House of Representatives, and, on the 6th of December, 1821, it has again been referred to the Committee on Pensions and Revolutionary Claims.

That the petitioner exhibits two certificates, signed with the name of Tim. Pickering; one of which bears No. 3,744, and is as follows: “I certify that there is due from the United States to Henry Morris the sum of three hundred and forty-four dollars, specie, in part for his services, &c. as assistant deputy quartermaster with the Virginia army, from the 14th of November to the 24th of May, 1781; which sum of three hundred and forty-four dollars shall be paid to the said Henry Morris, or order, in specie, or other current money equivalent, by the 24th day of June next; and if not then paid, the same shall afterwards bear an interest of six per cent. per annum until paid. Witness my hand, this 30th day of May, A. D. 1781.” Signed with the name of “Tim. Pickering, quartermaster general,” and countersigned with the name of “R. Claiborne, D. Q. M. Gen.” The other of said certificates appears to be No. 3,746, and is as follows: “I certify that there is due from the United States to Henry Morris the sum of two hundred and twenty-one and a half dollars, for his services as assistant deputy quartermaster with the Virginia army, from the 7th of June to 6th of October, 1781; which sum of two hundred and twenty-one and a half dollars shall be paid to the said Henry Morris, or order, in specie, or other current money equivalent, by the 10th day of November next; and, if not then paid, the same shall afterwards bear an interest of six per cent. per annum until paid. Witness my hand this 12th day of October, A. D. 1781.” Signed with the name of “Tim. Pickering, quartermaster general;” countersigned with the name of “R. Claiborne, D. Q. M. Gen.”

This committee further report, that recourse has been had to the Department of the Treasury for information relative to the said two certificates; and a written report has been, in answer to said application, received from the Secretary of the Treasury, accompanied with a report of the Register of the Treasury, relative to said two certificates; and this committee respectfully request that the said report from the Treasury Department, with the accompanying papers, may be taken as part of this report, and are hereby referred to. In that report the Register of the Treasury states that he has examined the records of the Treasury, without being able to discover any evidence whereby the two certificates in question are recognised as claims unpaid against the United States. He states that the signature of Timothy Pickering, he believes, is genuine; and, for himself, well recollects the signature of R. Claiborne; and that the value of said certificates, with interest to the 1st of January, 1822, amounts to \$1,934 45.

The Register of the Treasury also states that R. Claiborne was a deputy quartermaster of the United States, and, at the same time, a deputy quartermaster of the State of Virginia; that he did exhibit some accounts to Mr. Burrell, the commissioner for adjusting the quartermaster and commissary accounts of the Revolution; but, in consequence of the accounts of the United States being so blended with those of the State of Virginia, it was impossible to make any settlement; and he states that the said certificates comply with the first regulation prescribed by a resolution of Congress of the 23d of August, 1780. The Register further remarks that the only surviving person having any knowledge of the fact, upon application to him for this purpose, states that he has no recollection of any of the certificates of the character of those in question ever having been taken up by the commissioners appointed to settle the accounts between the several States and the United States in the settlement with the State of Virginia.

By so much of the report of the Register as is above mentioned, it appears that there is not any evidence in the Department of the Treasury whereby the two certificates in question are recognised as claims unpaid against the United States; and it appears by said report that Richard Claiborne, a deputy quartermaster, never did settle his accounts with the United States; and that the only surviving person having any knowledge of the fact states that he has no recollection of any of the certificates of the character of those in question ever having been taken up by the commissioners appointed to settle the accounts between the several States and the United States in the settlement with the State of Virginia; hence it is concluded that the certificates in question are not evidence of any just claim against the United States, notwithstanding the name of Timothy Pickering annexed to the said certificates may have been signed thereto by Timothy Pickering himself.

That the Register closes his said report “by advertising to a report made by the accounting officers of the Treasury, the 19th of January, 1795, No. 6,365, in pursuance of an act of Congress passed the 12th of February, 1793, entitled ‘An act relative to claims against the United States not barred by any act of limitation, and which have not already been adjusted;’ in which report one hundred and twenty-four claims had been presented by persons whose names appear in the printed abstract published by order of Congress, and which were deemed by the accounting officers of the Treasury to be inadmissible. The said one hundred and twenty-four claims, thus stated to be inadmissible for reasons assigned in the report, are arranged in fourteen classes. The second class has reference to certificates of the character of those in question, a copy of which is herewith transmitted, and respectfully referred to and submitted;” signed “Joseph Nourse, Register,” and directed to “the Hon. William H. Crawford, Secretary of the Treasury,” and by him transmitted. That the copy of the report of the accounting officers of the Treasury, accompanying the same report from the Treasury Department, and alluded to in that report of the Register to the Secretary of the Treasury, is as follows: “Class 2d.—The five first-mentioned claims of this class are founded on certificates signed also “Timothy Pickering,” and countersigned by Benjamin Day, Daniel Tucker, Christopher Yates, and William Keese. Benjamin Day was an assistant to Richard Claiborne, deputy quartermaster general for the State of Virginia, from whom, it appears, he received a number of blank certificates, but

has rendered no account of their application. The certificate No. 3,733, for which payment is now sought, is dated February 22d, 1790, many years after he was out of office. Tucker, Yates, and Keese were assistants to Hugh Hughes; no account of the transactions of either of them is in the Treasury; it is said their papers were burnt with those of their principal. The sixth is founded on a manuscript certificate, signed Thomas H. Drew, who was an assistant to Richard Claiborne, deputy quartermaster general for the State of Virginia. No document is in the Treasury by which it can be checked. Besides, by the regulations of the 23d of August, 1780, certificates of this description were not considered as binding on the public. The last claim of this class stands in the name of James Price; part of it is founded on a certificate signed 'Timothy Pickering,' and which appears to have been issued by Thomas Hamilton, an assistant to Richard Claiborne, but no return has been made of it. The remainder is for the balance of an account current, certified by William G. Mumford, the 5th day of June, 1785, in which the said Price makes a charge of pay as an assistant commissary of issues at the post of Richmond, from the 1st of April, 1779, to the 30th of November, 1780, and of sundry disbursements, unsupported by vouchers. No documents are in the Treasury by which this account can be checked. It appears, moreover, liable to other objections, amongst which it is found that he has had a settlement for pay as forage-master from the 1st of May to the 31st of December, 1780, a period which embraces a great portion of the time he states himself to have been a commissary."

This committee further report that, by the said copy of the report of the accounting officers of the Treasury, relative to the second class of claims therein mentioned, it appears that Benjamin Day was also an assistant to Richard Claiborne, deputy quartermaster general for the State of Virginia, from whom it appears that he received a number of blank certificates, signed also "Timothy Pickering," but that he has rendered no account of their application. That the cases mentioned in that part of the report of the accounting officers of the Treasury have a strong bearing on this case of the petitioner, inasmuch as the certificates in question may have been issued in blank, as well as those put into the hands of Benjamin Day, his assistant, by Richard Claiborne, deputy quartermaster general, of which no return appears to have been made of their application. Besides, there is not any evidence in the Treasury Department recognising the certificates in question as claims unpaid against the United States, and, so far as can be ascertained at this late period, the only surviving person having any knowledge of the fact states that he has no recollection of any of the certificates of the character of those in question ever having been taken up by the commissioners appointed to settle the accounts between the several States and the United States in the settlement with the State of Virginia; hence it may be inferred that claims bottomed on certificates of the character of the certificates in question were not considered as claims against the United States. Besides, the certificates in question appear to be countersigned by R. Claiborne, deputy quartermaster general, not deputy quartermaster general for the State of Virginia; hence it may be inferred that the certificates in question are also inadmissible, as were the certificates in the said second class above alluded to declared to be inadmissible.

This committee further report that on the 23d of August, 1780, Congress "*Resolved*, That the quartermaster general and commissary general be, and are hereby, strictly enjoined to make monthly returns of their purchases and proceedings to the Board of War, and make monthly returns, to wit, on the last day of every month, to the Board of Treasury, of all certificates so issued as aforesaid." And it does not appear that the certificates in question were so returned; neither is there any testimony on the records of the Treasury recognising them as claims unpaid against the United States; and it will not be presumed that the acting quartermaster general was so ignorant of his duty, or so remiss in the performance of it, as to neglect to render an account of the certificates in question, pursuant to the said resolution of the 23d of August, 1780, if he had known that the said certificates had been issued, or that they were obligatory on the United States; and hence it may be inferred that the certificates in question are also inadmissible, as were the certificates mentioned in the second class, stated in the report of the accounting officers of the Treasury above alluded to, and that the said certificates ought not now to be admitted as evidence of claims against the United States. That not any evidence has been produced to manifest that the appointment of Henry Morris as an assistant deputy quartermaster, or that the pay for his services as stated in the said certificates, was approved by the quartermaster general, as directed to be done by the resolution of Congress of the 15th of July, 1780. That the compensation allowed to said Henry Morris, as stated in the said certificates, for his services as an assistant deputy quartermaster, does not appear to be conformable to the fifth regulation contained in the resolution of Congress of the 23d of August, 1780. That it does not appear by any evidence produced to this committee that the appointment of Henry Morris to be an assistant deputy quartermaster to Richard Claiborne, deputy quartermaster general, was returned to the Board of War by the quartermaster general, pursuant to the said resolution of Congress of the 15th of July, 1780. That it does not appear that the quartermaster general returned Henry Morris as a person employed in the quartermaster's department to the commander-in-chief, or to the Board of War, or that he was qualified to act as an assistant deputy quartermaster under authority of the United States, pursuant to said resolution of Congress of the 15th of July, 1780. The inference from this is, that this claim of the petitioner, bottomed on the two certificates in question, ought not to be allowed against the United States; nevertheless, Henry Morris, may have been an assistant deputy quartermaster to Richard Claiborne, acting as a deputy quartermaster under the authority of the State of Virginia. That on the said 15th July, 1780, Congress "*Resolved*, That Major General Greene be continued in the office of quartermaster general; that he be, and is hereby, directed to make the appointments and arrangements in the quartermaster's department, agreeably to the foregoing resolutions; as soon as possible." That it may here be observed that on 15th July, 1780, Congress, among other things, "*Resolved*, That the quartermaster general appoint one deputy for each State, if he shall judge so many to be necessary, and the same be approved by the Board of War; the person appointed to be approved of by the supreme Executive of the State in which he is to be employed." "That each deputy, whether appointed for one State or more, shall appoint as many assistants as the service may necessarily require, and the quartermaster general may approve; and a return of such appointments shall be immediately made to the Board of War by the quartermaster general;" and in that resolution of the 15th of July, 1780, Congress prescribed the duties of a deputy quartermaster, among which the following are enumerated, to wit: "To execute all orders, either for purchases or other purposes, which he may receive from the commander-in-chief, the Board of War, the quartermaster general, or the commanding officer in the State; to pay all officers in the different parts of the State who shall be necessary to execute the business of the department, and who have been approved of as aforesaid; to apply to the assistant quartermaster general for such sums of money as the service may require, and to distribute the same in such proportion as will best answer the purpose." That if Henry Morris was an assistant deputy quartermaster, acting under Richard Claiborne, deputy quartermaster general for the State of Virginia under authority of the United States, it was a duty of Richard Claiborne to have paid the amount of the certificates in question to Henry Morris, his assistant, pursuant to the command of the said resolution; and for making such payment, and all other payments necessary in the business of the department under his direction, he was directed to apply to the assistant quartermaster general for such sums of money as the service might require; and if the said certificates were not paid, pursuant to the said positive directions, by Richard Claiborne, deputy quartermaster general for the State of Virginia, it may be inferred that the said certificates ought not to be admitted as evidence of claim against the United States,

inasmuch as, if they had so been, they would have been paid pursuant to said resolution. That the regulations prescribed in and by the resolution of Congress of the 23d of August, 1780, require "that the quartermaster general and commissary general shall, themselves, sign all such certificates as are issued in their respective departments." That a certificate ready to be signed, pursuant to the said regulation, is complete without any blank; and the statement of claims enumerated in the second class of certificates heretofore alluded to bears on the certificates in question to show that they ought not to be allowed; and if they were valid and unpaid, no reason is assigned to show why they were not presented to and paid by Richard Claiborne, deputy quartermaster for the State of Virginia; nevertheless, the said certificates may have been claims against the State of Virginia. That the resolution of Congress of the 23d of August, 1780, requires that certificates be signed by the quartermaster general, but does not require that they be countersigned by the deputy quartermaster; but in this case it appears that the said certificates are countersigned "R. Claiborne, deputy quartermaster general;" and Richard Claiborne, deputy quartermaster general, has, by so countersigning the said certificates, changed their character from that required by the said resolution of the 23d of August, 1780; hence it may be inferred that the certificates in question ought not to be admitted as evidence of claim against the United States, inasmuch as they do not appear in the form and character prescribed by the said resolution of Congress, but in a character not authorized by said resolution, and therefore ought to be deemed invalid. That on the 23d of August, 1780, Congress resolved that no certificates issued in the quartermaster's and commissary's departments after the 15th day of September next afford any claim against the United States, unless issued under the following regulations; one of which is, as was before alluded to, "that the quartermaster general and commissary general shall, themselves, sign all such certificates as are issued in their respective departments." This resolution, in justice to the United States, required the quartermaster general to sign not by deputy, but by himself, all such certificates as were issued in his department. This provision, it is believed, intended that the quartermaster general himself shall inspect all accounts, and adjust the same, previous to giving a certificate for the amount appearing due; otherwise the regulation alluded to can have no just meaning in respect to the Treasury of the United States. It appears by the report above alluded to that blank certificates signed "Timothy Pickering," it is presumed, were in the hands of Richard Claiborne, deputy quartermaster general, and of some of his assistants; and the certificates in question may have been of that character, and therefore were not returned as required by resolutions of Congress. That that part of the report of the accounting officers of the Treasury above alluded to shows that blank certificates were also in the hands of some, if not all, of the assistants of Richard Claiborne, deputy quartermaster general; and it is presumed that they filled them up as they thought proper, and also countersigned them, which the said assistants were not authorized to do. That in the fifth regulation stated in the resolution of Congress of the 23d of August, 1780, reference is made to the year 1775. On the 29th of July, 1775, Congress by resolution fixed the pay of their officers, and, among other things, "Resolved, That a quartermaster be paid \$18 33 $\frac{1}{3}$ per month." In this case the petitioner claims \$344 in specie, or other current money equivalent, for services performed by Henry Morris, assistant deputy quartermaster with the Virginia army, from the 14th November to 24th May, 1781, being six months and ten days, as stated in certificate No. 3,744. The amount of pay monthly is not stated, but a sum in gross, which amounts to more than \$50 per month, and may be nearly three times as much as was allowed to a quartermaster by the resolution of the 29th of July, 1775; and hence it would appear that the equitable intent of the regulation above alluded to was infringed, inasmuch as both payments were to have been made in specie: the same is applicable to the other certificate. It is also remarkable that the \$344 is stated to be in part pay for the services of Henry Morris, assistant deputy quartermaster, in the time mentioned in certificate No. 3,744; what that other part of his pay for his services performed in the said time stated in the said certificate, to which the sum of \$344 is allowed to him in said certificate as an addition, is not stated; and it is strange that the certificate for that part of the pay for his said services performed in the said time is not also produced and claimed for; no reason is stated by the petitioner why it is not produced, and hence may an inference be made not favorable to the claim of the petitioner, and going to show that it ought not to be admitted against the United States. On the 23d of October, 1782, Congress "Resolved, That the pay per month of the officers in the quartermaster's department, including their pay in the line of the army, shall be as follows: quartermaster general, &c., assistants in the quartermaster's department, each, \$30 per month." That this allowance of pay corresponds with the fifth regulation stated in the resolution of Congress of the 23d of August, 1780, in the just construction thereof, in reference to the year 1775, as declared in the resolution of Congress of the 29th of July, 1775. That the fifth regulation stated in the resolution of Congress of the 23d of August, 1780, is as follows: "The articles so purchased shall be enumerated in such certificates, with the rates and prices thereof, and the prices shall be reasonable when the present circumstances of our affairs are compared with the cost of articles of like quality, or services performed, in the year 1775, or when compared with the allowance by Congress to the United States as expressed in the resolution of the 25th of February last." That the particular service of, or the quantity of pay per month allowed to, Henry Morris, as assistant deputy quartermaster, is not stated, whereby an estimate of the reasonableness of the pay allowed in addition to the other part of the pay allowed to the said Henry Morris, assistant deputy quartermaster, for the same services in the same time by him performed, might or could have been made; that the amount of that first part of pay allowed to Henry Morris, assistant deputy quartermaster, for his services alluded to, is not stated; hence it is inferred that the claim of the petitioner ought not to be allowed. That it appears by the records in the Treasury Department that Richard Claiborne was a deputy quartermaster of the United States, and at the same time a deputy quartermaster of the State of Virginia; that he did exhibit some accounts to Mr. Burrell, the commissioner for adjusting the quartermaster and commissary accounts of the Revolution; but in consequence of the accounts of the United States being so blended with those of the State of Virginia, it was impossible to make any settlement. That it may here again be observed that Richard Claiborne did not countersign the said certificates as a deputy quartermaster of the United States, but as a deputy quartermaster; meaning, it is presumed, deputy quartermaster of the State of Virginia. In this point of view the certificates in question are not evidence of any just claim against the United States. That it also appears by the records of the Treasury Department that Richard Claiborne, deputy quartermaster of the United States, has not settled his accounts with the United States, and that, therefore, the certificate in question ought not to be admitted as evidence of claim against the United States; for Richard Claiborne, deputy quartermaster for the State of Virginia, may have received from the assistant quartermaster general money sufficient to have paid them.

That Henry Morris is stated to have been an assistant deputy quartermaster to Richard Claiborne; he is therefore presumed to have been well acquainted with the rules and regulations prescribed by Congress for the quartermaster's department, and, if he did not apply to his principal for payment, there is not any reason assigned for that neglect. Richard Claiborne, if acting as deputy quartermaster of the United States, was, by the resolution of Congress heretofore alluded to, directed to pay him, and it was a duty enjoined on him so to do; and it was incumbent on and a duty that Henry Morris, if an assistant deputy quartermaster to him, acting under authority of the United States, owed to himself, to have called on his said principal for payment; and, if he did not, the petitioner ought not now to have a claim admitted against the United States, which, if it has not heretofore been settled and paid, is

to be ascribed to the neglect of Henry Morris himself, who is stated to have been an assistant deputy quartermaster under Richard Claiborne, and is presumed to have fully known all the regulations of the quartermaster's department.

That Henry Morris is stated to have lived until the year 1810, and he, being stated to have been an assistant deputy quartermaster, is presumed to have been well acquainted with all the rules and regulations of that department, and that it was his duty to have applied to his principal if he was an officer in the staff of the army of the United States, or to the proper officer, for payment of said certificates, if they were just, against the United States. Mr. Timothy Pickering was for several years an officer of this Government, and afterwards was for several years a member of Congress, and in all that time it does not appear that the said certificates were presented, or any demand made for payment thereof. The petitioner states that they were mislaid by his father; but it appears that his father lived about thirty years after the year 1780, and it will not be presumed that he would neglect all that time a claim of such magnitude if he had deemed it proper to pursue it; besides, it cannot be presumed that a man will be so ignorant of his own business, and so careless, as to have mislaid the evidence of a claim of such importance, if he considers it right and just. This committee further report that they concur in opinion with the several committees who heretofore have reported on this case, and have not any reason to reverse the decisions made by them; and further, that it is inexpedient to make any provision by law for this claim of the petitioner; that the petitioner has not in this case a just claim against the United States; and furthermore, that if, by any possibility, the petitioner could have had any claim bottomed on the said certificates produced to this committee, it is long since barred by statutes of limitation; and therefore they submit the following resolution:

Resolved, That the prayer of the petitioner be rejected.

SIR: WASHINGTON, December 25, 1821.

I am directed by the Committee on Pensions and Revolutionary Claims to submit to you the petition and accompanying papers of Richard G. Morris, to obtain such information as can be had in the Treasury Department relative thereto. This case has often been before Congress, and referred to committees, and reported against. The committee request to be informed whether the accompanying certificates are recognised on the records of that Department? of what value are said certificates, if genuine? who was R. Claiborne, whose name appears countersigned to said certificates; was he a deputy quartermaster, as the letters annexed to his name import; and, if so, did he finally settle all his accounts? Does it appear that a valuable consideration on behalf of the United States was received for said certificates? with any other information relative thereto.

I have the honor to be, with high respect, your obedient servant,

JOHN RHEA.

Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

SIR: TREASURY DEPARTMENT, January 7, 1822.

I have the honor to return the papers which were transmitted by you with the petition of Richard G. Morris, together with the report of the Register of the Treasury, which contains all the information in possession of the Department relative to the case of the petitioner.

I remain, with respect, your most obedient servant,

WM. H. CRAWFORD.

The Hon. JOHN RHEA,
Chairman Committee on Revolutionary Pensions, &c.

TREASURY DEPARTMENT, REGISTER'S OFFICE, January 7, 1822.

The Register has the honor to report to the Secretary of the Treasury, in answer to the questions propounded by the honorable the chairman of the Committee on Pensions and Revolutionary Claims, on the petition of Richard G. Morris, of the State of Virginia, representative of Henry Morris, praying the payment of two certificates, viz: No. 3,744, in favor of Henry Morris, for \$344, and No. 3,746, in favor of Henry Morris, for \$221 45, signed by Timothy Pickering, quartermaster general, and countersigned by R. Claiborne, deputy quartermaster of the State of Virginia—

1st. Whether the accompanying certificates are recognised on the records of the Treasury Department?

The Register, in reply to this question, begs leave to report, that he has examined the records of the Treasury, without being able to discover any evidence whereby the two certificates in question are recognised as claims unpaid against the United States.

2d. Of what value are said certificates, if genuine?

The Register, in reply to this question, confirms the opinion given in the documents accompanying said petition, by the most respectable characters, that the signature of Timothy Pickering to each of these certificates is the genuine signature of said Pickering; and the Register, for himself, well recollects the signature of R. Claiborne. The value of said certificates, with interest, calculated to the 1st January, 1822, is \$1,934 45, viz:

| | | |
|--|---|------------|
| One certificate for \$344, with interest from the 29th June, 1781, say, principal | - | \$344 00 |
| Interest to the 1st day of January, 1822, | - | 836 00 |
| | | \$1,180 00 |
| One certificate for \$221 45, with interest from the 10th November, 1781, say, principal | - | 221 45 |
| Interest to the 1st January, 1822, | - | 533 00 |
| | | 754 45 |
| Making | - | \$1,934 45 |

3d. Who was R. Claiborne, whose name appears countersigned to said certificates; was he a deputy quartermaster, as the letters annexed to his name import; and, if so, did he finally settle all his accounts?

The Register, in reply to this question, begs leave to report, that R. Claiborne was a deputy quartermaster of the United States, and, at the same time, a deputy quartermaster of the State of Virginia; that he did exhibit some accounts to Mr. Burrell, the commissioner for adjusting the quartermaster and commissary accounts of the Revolution; but, in consequence of the accounts of the United States being so blended with those of the State of Virginia, it was impossible to make any settlement.

4th. Does it appear that valuable consideration, on behalf of the United States, was received for said certificates? with any other information relative thereto.

The Register, in reply to this question, begs leave to remark that, by the regulations of the quartermaster's department of the 23d August, 1780, the certificates in question have the aspect of having been issued under the general provisions in relation to the department of the quartermaster general, predicated upon a letter from Colonel Pickering, quartermaster general, and respectfully referred to in page 170, vol. 6, of the journals of Congress. The said certificates comply with the first regulation.

1. They express the special service performed.

2. They are given for specie value.

3. They are signed by the quartermaster general, though the said regulation does not require certificates to be signed by a deputy.

4. They bear an interest, (a provision also made by said regulation,) provided not paid at the time limited.

The Register further remarks that the only surviving person having any knowledge of the fact, upon application to him for this purpose, states that he has no recollection of any of the certificates of the character of those in question ever having been taken up by the commissioners appointed to settle the accounts between the several States and the United States in the settlement with the State of Virginia.

The Register begs leave to close this report by adverting to a report made by the accounting officers of the Treasury the 19th January, 1795, No. 6,365, in pursuance of an act of Congress passed the 12th of February, 1793, entitled "An act relative to claims against the United States not barred by any act of limitation, and which have not already been adjusted;" in which report one hundred and twenty-four claims had been presented by persons whose names appear in the printed abstract, published by order of Congress, and which were deemed by the accounting officers of the Treasury to be inadmissible.

The said one hundred and twenty-four claims thus stated to be inadmissible, for reasons assigned in the report, are arranged in fourteen classes. The second class has reference to certificates of the character of those in question, a copy of which is herewith transmitted and respectfully referred to. [See No. 66, page 172.]

Respectfully submitted.

JOSEPH NOURSE, *Register.*

HON. WM. H. CRAWFORD, *Secretary of the Treasury.*

17th CONGRESS.]

No. 574.

[1st SESSION.]

MONEY ADVANCED TO A DEPUTY COMMISSARY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 30, 1822.

SIR:

TREASURY DEPARTMENT, *January 28, 1822.*

In obedience to a resolution of the House of Representatives of the 21st February, 1821, referring the petition of James Morrison to the Secretary of the Treasury, I have the honor to report that, from the petition and evidence, it appears that the petitioner claims, in the settlement of his accounts with the United States, two credits, one of \$10,000, and the other of \$289 99, which have been rejected by the proper accounting officers.

In support of his claim to the credit of \$10,000, the petitioner alleges, first, that the receipt for that amount by Thomas Buford, deputy commissary general, bearing date the 21st December, 1812, (in which he acknowledges to have received of the petitioner, as deputy quartermaster general, the sum of \$10,000, for which he promises to account with him,) is a good and sufficient voucher for the credit which he claims; and, secondly, that the money was in fact advanced to Thomas Buford by Thomas H. Pindall, an assistant deputy quartermaster general, for whose acts he is not responsible; and that, if the receipt which was taken without his knowledge is not a legal voucher in his favor, so as to charge Buford with the amount, it is sufficient to charge Pindall, who alone is responsible for the transaction.

By the accounting officers it has been alleged—

1st. That the transaction with Buford was a private individual affair.

2dly. That by no law or regulation an officer in the quartermaster's department was authorized to advance public money to one in the commissariat; and that no special authority for making such advance has been produced by the petitioner.

From an examination of the evidence, I am not prepared to say that the transaction was of a private nature. Had it really been considered a private transaction, unconnected with the public funds and the public service, the official rank of the parties would probably not have appeared in the receipt. It is, however, manifest that the receipt is not in the form which would have been given to it had it been the intention of the parties at the time to have exhibited it as a voucher against the United States.

The second objection is strictly legal, and clearly justifies the accounting officers in rejecting the receipt as a voucher between the petitioner and Mr. Buford. It does not, however, appear very clear that it ought not to have been considered by them as evidence of an official act of Thomas H. Pindall, assistant deputy quartermaster general, which ought to affect him, and not the petitioner. Thomas H. Pindall appears to have considered himself as an agent of the petitioner in this transaction. He states, in his letter of 23d December, 1812, to the petitioner, that he had been induced to lend him (Buford) \$10,000, for which he had taken his receipt, to be redeemed in any manner the petitioner might think best. But to this letter the petitioner replies, "It is true Colonel Buford is a public agent, and, as such, his bills ought to be duly honored; but when you get back your money, keep clear of him." He does not at the moment when he is informed of the transaction consider it his, but, with feelings highly creditable to him as a citizen, he approves of the conduct of Mr. Pindall in supporting the credit of an agent of the Government, and, at the same time, cautions him to avoid further connexions of this kind with Mr. Buford.

Upon a full examination of the case, I have no hesitation in saying that, in equity, the petitioner ought to be allowed this credit in the settlement of his accounts. The only ground of doubt in the case is the delay which oc-

curred in giving to the accounting officers notice of the receipt of Colonel Buford. Much inconvenience and eventual loss have fallen upon the Government, by the failure of its officers, during and immediately after the late war, in rendering their accounts and vouchers. The state of the public accounts at that time, it is true, afforded some pretext for such delay. But, if such delays were the result of a belief that their accounts could not be immediately taken up and examined, it was no excuse for not rendering their accounts current. These accounts, if rendered, would have shown the receipt of \$10,000 by Colonel Buford when his accounts were under examination. An investigation of the subject at that time would probably have prevented the contest which now seems to be inevitable between the United States and Colonel Buford, if the \$10,000 in question shall be charged to him; and between him and Thomas H. Pindall, if it shall be charged to the latter gentleman. The omission of the petitioner in this case, however, it is respectfully conceived, ought not to subject him to the loss which the rejection of this credit may throw upon him. His conduct in this respect has been that which most generally prevailed at the time.

There is no well-founded objection to the equity of his claim for \$289 99 for interest paid by him for sums obtained upon his individual credit for the public service.

I have the honor, &c.

WM. H. CRAWFORD.

To the Hon. the SPEAKER of the *House of Representatives*.

[17th CONGRESS.]

No. 575.

[1st SESSION.]

EXTRA PAY CLAIMED BY AN ASSISTANT MARSHAL FOR TAKING THE FOURTH CENSUS IN VIRGINIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1822.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Nathaniel Childers, of the State of Virginia, reported:

That the petitioner alleges that the marshal for the eastern district of Virginia found great difficulty in procuring assistants to take the fourth census of the United States, particularly for the counties of Norfolk and Elizabeth City; that, in order to prevent a failure of the object of the law in the county of Norfolk, he consented to become the assistant marshal, and to take the census therein, receiving his appointment on or about the 1st of June, 1821, with an express understanding between him and the marshal that he was to have all the opportunity of an increased compensation provided by law for those who encountered difficult sections of the country.

The petitioner further states that he was amused with such promises till the service was nearly completed, when he was informed by the marshal that he had prevailed upon the district judge to allow twenty-five per cent. on the one dollar per hundred allowed by law, but that it was to apply generally, which placed those who had few or no difficulties to encounter on the same footing with himself. This the petitioner considers a grievance, and prays Congress for relief.

In company with the petition, sundry documents have been referred to the committee. The correspondence of the marshal, Mr. Pegram, with the Secretary of State, goes to show that the petitioner has probably been mistaken as to the extent of the promises he received. He was appointed on or about the 1st of June. In Mr. Pegram's letter to the Secretary of State, of the 17th of May, 1821, when speaking of the difficulty of procuring assistants, he says: "I have had a conversation with Judge Tucker on the subject of tendering the additional pay allowed by law, but he appears decidedly opposed to making the allowance." In reply to this, on the 23d of May, the Secretary of State says: "The fourth section of the act of the 14th of March, 1820, provides that where, from the dispersed situation of the inhabitants in some divisions, one dollar will not be sufficient for one hundred persons, the marshals, with the approbation of the judges of their respective districts or territories, may make such further allowance to the assistants in such divisions as shall be deemed adequate compensation. The question of further allowance, therefore, is, in every instance, as regards the census, entirely between the marshal and the judge."

When the marshal is seen to act thus circumspectly on the 17th of May, when the Secretary of State is seen to answer him so decidedly on the 23d of the same month, it appears hardly probable to the committee that the marshal would, so early as the 1st of June afterwards, promise his assistants greater compensation than was allowed by law.

In a letter to the Secretary of State of the 11th of June, when speaking of the twenty-five per cent. allowed by the judge, the marshal says: "It is a much smaller increase than I should have proposed, in many instances at least, had there been any hopes of getting the judge's approbation, who was not, and could not be made, so sensible of the vast extent of the duties and labor the assistants had to encounter."

The committee have had no doubt, from the evidence before them, that the present petitioner performed his duty faithfully; that he may have encountered many difficulties; but the same can be said, to a greater or less extent, of many other assistants, if not every one throughout the United States. All of them, however, must have known that the law under which they acted provides for an increase of compensation, by referring the question to the judges of their several districts or territories, who, it was thought, would be most competent to decide, and for that purpose were invested with a sort of chancery jurisdiction. The claim of the present petitioner has been so referred, and so decided; and the committee think that decision should be final. Applications for relief would be without end, and the provisions of the law would be useless, if it is to be supposed that the judge in whom confidence has been placed was ignorant of his duties, or that he has failed to discharge them in the manner contemplated. Under all the circumstances of the case, therefore, the committee submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[17th Congress.]

No. 576.

[1st Session.]

PRIZE-MONEY FOR CAPTURING A BRITISH GUNBOAT, AND BURNING A VESSEL OF WAR ON THE STOCKS, IN 1814.

COMMUNICATED TO THE SENATE, FEBRUARY 5, 1822.

Mr. PARROTT made the following report:

The Committee on Naval Affairs, to whom was referred the petition of William Vaughan, have duly considered that subject, and report:

The petitioner states that, during the late war, an expedition, in two open boats or gigs, commanded by Lieutenant Gregory as senior officer, and himself as second in command, proceeded from Sackett's Harbor, by order of Commodore Chauncey, and, on the 19th of June, 1814, on the St. Lawrence, captured the British gunboat Black Snake, (or No. 9,) mounting one 18-pounder, and manned with eighteen men, chiefly royal marines; that the gunboat was of a force superior to that under Lieutenant Gregory, and was carried by boarding; that, in proceeding up the St. Lawrence with his prize, Lieutenant Gregory was discovered, and pursued by a superior force. After taking out the prisoners, he scuttled and sunk the prize, and arrived at Sackett's Harbor the next morning with all his prisoners.

The petitioner further states that, on the 2d of July, 1814, another expedition, under Lieutenant Gregory and himself, was ordered by Commodore Chauncey to the Canada shore, where they succeeded in burning a vessel of war of the enemy on the stocks.

He prays that prize-money may be granted to the officers and seamen composing the said expeditions, for the capture and destruction of the gunboat, and for the destruction of the vessel of war on the stocks.

The facts set forth in this case are fully supported by the official correspondence of Commodore Chauncey, copies of which accompany the petition.

The committee are of opinion that Lieutenant Gregory, his officers, and men, in these enterprises against the enemy, displayed the greatest gallantry and good conduct, and merit the approbation of their country. They do not think that any prize-money should be allowed them for burning the vessel on the stocks, and therefore recommend that that part of the prayer of the petitioner be rejected; but they consider them entitled to an allowance of prize-money for the capture and destruction of the gunboat, in the same proportion, according to the value and force of the captured vessel, as has been heretofore granted for similar services; and, for that purpose, report a bill.

[17th Congress.]

No. 577.

[1st Session.]

DAMAGES ON A PROTESTED BILL OF EXCHANGE.

COMMUNICATED TO THE SENATE, FEBRUARY 6, 1822.

Mr. BARTON made the following report:

The Committee of Claims, to whom was referred the petition of James Weir, of Kentucky, with the accompanying documents, have considered the same, and report:

That it appears from the record of a suit in the circuit court of Fayette county, in Kentucky, between the Bank of Kentucky, plaintiff, and Lewis Saunders and the petitioner, defendants, and from a case agreed between those parties in that suit, that James Taylor, district paymaster of the United States, drew a bill on the paymaster of the United States at Washington, of the following tenor: "Newport, Kentucky, September 2, 1814. Exchange for \$4,709. Sir: After ten days' sight of this, my third of exchange, (first and second of the same tenor and date not paid,) please pay to Lieutenant William D. Hayden, paymaster of the twenty-eighth regiment United States infantry, or order, four thousand seven hundred and nine dollars, on account of the subsistence of the army of the United States for the year 1814. For this sum I am to be charged and held accountable, as per advice of equal date with this. I am, respectfully, sir, your most obedient, James Taylor, deputy paymaster." Addressed to "Robert Brent, Esq., paymaster United States army, Washington city." That the bill was endorsed and sold by Saunders to the Lexington branch of the Bank of Kentucky, (but whether as security for Hayden, as alleged by the petitioner, or otherwise, does not appear,) which presented it for payment, and that was refused by the paymaster general. The bill was duly protested for non-payment, and returned. Saunders paid the principal, interest, and charges, but disputed the claim of ten per centum damages allowed by the laws of Kentucky on protested bills of exchange. He, however, gave his note to the bank for the damages, with the petitioner as his endorser and surety, subject to the opinion of the judiciary whether that bill was a bill of exchange, within the statutes of Kentucky, relative to such damages. The court of errors and appeals decided that, as among the parties negotiating it, it was such a bill, and the petitioner paid the damages, amounting to \$1,470 90, with interest from 5th February, 1816. Weir alleges that the paymaster general offered to pay the bill in treasury notes, which was refused.

The committee have no other evidence of the origin of this claim, nor is the original bill produced. The petitioner alleges that Saunders has become insolvent since he became his security, and prays the Government to pay him the sum so paid for Saunders, with interest and costs, amounting, as is said, to \$2,196, but exhibits no authority from Saunders to claim or receive the sum.

The committee do not admit that an officer of Government, by drawing negotiable bills on Government, and putting them in circulation, can subject the United States to those damages which may be allowed by State laws,

among individuals, on protested commercial paper; nor do they deem it necessary to give an opinion on that point, because they are of opinion that there is no privity between Weir and the Government in this transaction, and that his remedy is against Saunders, or the assignees of his estate, who may seek their redress of Hayden, and he of Taylor; for, even if the damages were payable to Saunders, it is believed they ought to be paid to his assignees, if he be insolvent, to be distributed among his creditors ratably, and not the whole sum to any one of them. The committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 578.

[1st SESSION.]

REVOLUTIONARY PENSIONERS.

COMMUNICATED TO THE SENATE, FEBRUARY 8, 1822.

SIR:

WAR DEPARTMENT, *February 7, 1822.*

In conformity with the resolution of the Senate of the United States of the 29th ultimo, directing the Secretary of War to lay before that body certain information concerning revolutionary pensioners, he has the honor of reporting that the number of persons placed on the pension roll, by virtue of the act entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war," passed on the 18th of March, 1818, amounts to 17,730, of which number 11,392 have been continued under the act of May, 1820, and 2,369 dropped therefrom under said act; and the number of original claims which have been admitted since the act of the 1st of May, 1820, amounts to 679.

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

J. C. CALHOUN.

To the Hon. the PRESIDENT of the Senate of the U. S.

17th CONGRESS.]

No. 579.

[1st SESSION.]

DIFFERENCE BETWEEN THE PRICES OF THE FIRST AND SECOND LOANS UNDER THE ACT OF MARCH, 1814.

COMMUNICATED TO THE SENATE, FEBRUARY 11, 1822.

Mr. VAN DYKE, from the Committee of Claims, to whom was referred the memorial of Jacob Barker, of the city of New York, reported:

That the case now presented by the petitioner is the same which is set forth in his memorial preferred to the Senate at the second session of the sixteenth Congress, to which he refers, together with the report of a committee made thereon, unfavorable to his claim. The only new matter produced in support of his claim is contained in the copy of a letter from A. J. Dallas, then Secretary of the Treasury, addressed to N. Lufborough, then Acting Comptroller, dated 22d November, 1814, and the copy of a letter from the said Acting Comptroller to the Secretary of the Treasury, dated the 24th of the same month, 1814, which, in the opinion of the committee, do not materially affect the question arising upon the facts and documents before communicated.

The committee have examined and considered with attention the allegations of the petitioner, with the documents by him exhibited, and the report made against his claim at the second session of the sixteenth Congress, and the documents from the Treasury Department therein referred to, and which are to be taken as part of this report.

It is believed that the contract and terms of the loan of 2d May, 1814, were publicly known, and it is reasonably to be presumed that purchasers of said stock looked to the special terms as part of the consideration in their purchases.

The fact of the supplemental stock being issued to the holders of the original stock at the time of application for it was known to Jacob Barker at the time when it was issued. If the persons to whom he transferred his original stock after 31st of August, 1814, received under that transfer more than he intended to sell, and more than they had a right to demand, they became, in equity, trustees of the supplemental stock for his use, and it would be competent for him to call on those persons in a court of equity to account with him for the same, or he might recover its value in a court of law as money received for his use. If, then, his claim be legal and equitable, as he alleges it to be, he is not without remedy; and he might long since, by resorting to his legal remedy, have obtained a decision of this question between him and the persons to whom he sold his original stock after the 31st of August, 1814.

The petitioner, in his last memorial, discloses the fact that, on the 20th April, 1820, he took the benefit of the insolvent laws of the State of New York, and that, under those laws, all his property passed to an assignee for the benefit of his creditors. This fact is deemed conclusive against the right of the petitioner to demand, even if the United States were now liable to pay any money under the said contract, but which is not admitted.

The committee concur in the opinion expressed in the report made to the Senate at the second session of the sixteenth Congress upon this claim, [see No. 551, page 771,] and recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

TREASURY DEPARTMENT, *January 30, 1822.*

I have the honor to return the petition of Jacob Barker, with the documentary evidence which was transmitted with it.

To the request contained in your letter, that I will furnish any information or remarks in relation to the claim which I may deem proper, I have the honor to state that nothing of importance occurs to me at this moment which is not contained in my report on the same subject made to the Senate on the 18th of February, 1820, [see No. 551, page 773.] In that report it is taken for granted that the stock of the ten million loan must, from the nature of the condition attached to it, have commanded a higher price in the money markets of the Union than the other descriptions of the public debt to which no such condition was attached. The principal claim for relief set forth in the petition rested wholly upon this ground. It however now appears, by the letter of the 21st of November, 1814, of the petitioner to the Secretary of the Treasury, furnished by himself, that this stock was not more valuable in the principal money markets than any other description of stock. In that letter he asserts unequivocally that, so far from that stock being more valuable than other stock, there never has been, to his knowledge, a quotation in any newspaper or price current of the price of the stock in the ten million loan. If such be the fact, what injury has the party suffered? Certainly none, so far as he intended to dispose of the stock in question, which, from all the petitions which he has presented on the subject, seems to have been the object he had in view.

The other ground of claim, viz: for the supplemental stock which was issued to others on the stock which he had transferred between the date of the supplemental loan and the time the supplemental stock was issued, does not appear to be supported by the two letters from the Treasury Department upon which he seems to place much reliance. The reason upon which the Department decided to issue the supplemental stock to the then holders of the original stock cannot be affected by the contents of those letters.

In the petition under consideration, the petitioner asserts that, upon the stock sold by him subsequent to the date of the second or supplemental loan, he retained to himself the benefit of the condition attached to that stock. In his first petition he asserts that the sale and transfer of the stock subsequent to that event (the date of the second loan) did not transfer the benefit of the condition. This assertion, it is presumed, is nothing more than an inference drawn by the petitioner of the legal consequences of such transfer. It is possible that the assertion in his present petition, that he retained to himself the benefit of the condition attached to the stock, is also nothing more than an inference of the same kind, although the expressions used would justify a different conclusion. In either event, however, it is presumed that the petitioner, if correct in his assertions or inferences, has a legal remedy against the persons who received supplemental stock to which he was by law entitled, and may recover it from them as money had and received to his use.

It is understood that the petitioner has succeeded in several of his suits against the United States, owing to a defect of notice of the non-acceptance and non-payment of his bills. This defect of evidence was owing to the war in which the United States were then engaged with the nation where the bills were negotiable. It is also notorious (for the petitioner himself admits the fact) that at the time he drew the bills, and at the time they were refused acceptance and payment, he had no funds in the hands of those upon whom he drew, unless the stock which he remitted for the purpose of raising funds is to be considered as money.

I remain, with respect, your most obedient servant,

WILLIAM H. CRAWFORD.

Hon. N. VAN DYKE, of the *Committee of Claims of the Senate.*

To the honorable the Senate and House of Representatives in Congress assembled: Your petitioner, Jacob Barker, of the city of New York, respectfully sheweth:

That the Secretary of the Treasury, in behalf of the United States, made contracts with your petitioner and sundry other individuals, on the 2d of May, in the year 1814, for a portion of the \$10,000,000 loan, being part of the \$25,000,000 authorized by the act of the 24th of March, 1814, the condition of which loan was expressed in the following words: "Eighty-eight dollars in money for each hundred dollars in stock; and the United States engage, if any part of the sum of \$25,000,000 authorized to be borrowed by the act of the 24th of March, 1814, is borrowed upon terms more favorable to the lenders, that the benefit of the same terms shall be extended to the persons who may then hold the stock, or any part of it, issued for the present loan of \$10,000,000."

Your petitioner further represents that, on the 31st day of August following, a contract was made by the United States for a further portion of the \$25,000,000, for which the paper of the banks at Baltimore and in the District of Columbia was received at par after they had suspended payment, and while their paper was selling at a very great discount, and one hundred dollars of stock issued for each eighty dollars of such paper. That on the 30th of November of the same year, the Comptroller, by direction of the Treasury Department, issued a circular to certain commissioners of loans, in the following words: "The additional stock in question is to be issued to the persons holding, at the time of application for the additional stock, scrip certificates, or funded certificates of stock of the aforesaid loan of \$10,000,000, and not to those who may have held the said certificates on the 31st of August last, the day on which a part of the loan for \$6,000,000 was taken, unless they shall also hold them at the time of application for the additional stock."

Of the difference between eighty and eighty-eight, supplemental stock to the amount of \$300,000 was due to your petitioner; and, for the purpose of receiving the stock to which he was justly entitled, he repaired to Washington soon after the second contract was made, and remained there till after the said circular of the 30th of November issued, and was unceasing during that period in his applications for an order for the supplemental stock to issue to the person who, according to the books of the commissioners of loans, held the original stock on the 31st day of August, the day on which the more favorable terms were allowed. No others claimed it, nor could they with the least propriety, as a sale and transfer of the stock subsequent to that event did not transfer the benefit of the condition which attached on the happening of that event, or, in other words, the allowance of more favorable terms. No notice was taken of that condition in the original stock certificates, but the whole claim rested on the terms of the original contract.

These applications were rejected, and the course complained of pursued by the Treasury Department, which, to the great injury of your petitioner, placed the supplemental stock in many instances in the hands of persons who were not entitled to it; which injury was very much increased by the attempt made by the Treasury Department to deprive the proprietors of the \$10,000,000 loan of all further benefit of the condition attached thereto, when nearly one-half of the \$25,000,000 remained uncontracted for, and when its value in the market had depreciated about twenty per cent. below the contract price, by setting forth in that circular the following declaration:

"It is proper to apprise you that the Attorney General has given an opinion to the Secretary of the Treasury, setting forth, among other things, that the condition in the letter of the Secretary of the Treasury of the 2d of May, 1814, to the subscribers for the \$10,000,000 loan, attached as soon as the second loan was made, [the loan of August, 1814:] that, on the happening of that event, it [the contract] no longer remained open and executory, subject to all the variations in price which might mark subsequent loans, until the whole \$25,000,000 should be exhausted. This opinion has been adopted at the Treasury, and the supplemental stock now authorized to be issued is deemed to be in full of all demands upon the Government for further issues of stock in the \$10,000,000 loan under the contract above mentioned. It is not thought necessary, however, to take any release to this effect from the stockholders on delivering them the supplemental stock." And to give effect to this exercise of power, all the original certificates of stock were ordered to be cancelled, and new ones issued, bearing on their face the following declaration:

"Funded six per cent. stock of 1814, loan of \$10,000,000 of 2d of May, 1814, on which the supplemental stock has issued."

The only possible object in cancelling the old and issuing the new stock was to give publicity and effect to the determination to deprive the holders of stock in the \$10,000,000 loan of all further benefit from the condition in question, as no part of the operation of calling in the old stock and issuing the new stock was requisite for any other purpose. The books of the commissioners of loans established who held the stock on the 31st of August. Those books are the evidence always relied upon by Government in making their quarterly payments of interest, and the condition when vested could not follow the stock without striking from the original contract the word "then," or without a special assignment from the persons who held the stock when the more favorable terms were allowed.

After such a promulgation by the officers of Government that the condition was at an end, no person would give a cent more for this stock than they would for stock in other loans which had not that condition attached to it. Your petitioner was therefore compelled to sell at a very great loss, when, by the terms of the contract, he cannot but believe the proprietors of the \$10,000,000 loan were entitled to the full benefit of the promised indemnity against depreciation, so long as any portion of the \$25,000,000 remained uncontracted for: otherwise, if Government had contracted for a single \$1,000 the day following the date of the contract for the \$10,000,000 loan at eighty-seven and seven-eighths, the condition would have been at an end, although the residue of the \$25,000,000 loan had been subsequently taken at fifty; and, in such cases, the holders of the stock in the \$10,000,000 loan would have only been entitled to supplemental stock for one-eighth of one per cent. To attempt to prove the absurdity of such a construction would be presumption in your petitioner to trouble your honorable body with a single remark.

Being deprived of the benefit of the contract by the act of an officer of Government, when nearly one-half of the \$25,000,000 remained uncontracted for, and when the market price of the stock had fallen twenty per cent. below the contract price, was, in the opinion of your petitioner, a measure which no state reasons could justify without indemnity to the individuals for the injury it inflicted, and especially to your petitioner, as it was distinctly understood by the Government when he contracted that he relied on sales of stock to enable him to fulfil his engagements; and the manifest meaning of the condition attached to the \$10,000,000 loan was, that no original contractor for any part of the \$25,000,000 loan should be enabled to undersell the contractors of the \$10,000,000 loan, without loss, which was defeated by the receipt at par of bank paper which had depreciated more than twenty per cent. for the stock issued under the second contract, the parties to which could purchase with sixty dollars specie as much of such paper as would procure them one hundred dollars stock, by which means they could come into the market, and sell the stock at ten per cent. profit, while the contractors for the \$10,000,000 loan were necessitated to sell their stock at ten per cent. loss, although both selling at the same time and at the same price; therefore your petitioner begs leave to express the opinion that the second contract, although nominally made at eighty, should have been considered to have been made at no more than the eighty depreciated paper would have commanded specie.

Your petitioner begs leave further to represent that, when he contracted with the Secretary of the Treasury, on the 2d of May, 1814, for a portion of the \$10,000,000 loan, it was distinctly understood between your petitioner and the then Secretary, although not mentioned in the written contract, that your petitioner was to send a portion of that stock to London for sale on his own account, and that the Government was to receive from your petitioner at that place, in December following, \$300,000 of the money expected to be obtained for the stock; that, in pursuance of such understanding, bills were furnished to that amount; that he commenced sending stock to meet the same, which the London merchants to whom it was sent declined negotiating, it being considered treason to deal in the stock of a nation with which they were at war; that, as soon as your petitioner was advised of this difficulty, he made every exertion in his power to provide for the payment of the bills, notwithstanding which a portion of them were returned, which would not have been the case had the order for the supplemental stock issued on the 31st of August, as by the terms of the contract your petitioner thinks it ought to have done, and for which your petitioner was very pressing in his application. On the return of those bills your petitioner was required to pay the amount thereof, with twenty per cent. damages, and fifteen per cent. for the depreciation of paper money, for the recovery of which suits were instituted on bills of exchange, for which the Government paid \$133,323 04. These suits have been resisted by your petitioner, because he considered specie the only standard by which contracts could be tested under existing laws, and because he conceived damages should not be required by Government when they withheld from him at the same time stock confessedly due to a much greater amount, and for which delay interest only was allowed; and because, when they received the bills, they knew that your petitioner relied on a sale of stock in London to meet them, which sale was prohibited by the laws of that country; and because he considered himself entitled to a different construction of the loan contract from that given to it by the Comptroller's circular.

Your petitioner is now advised that, however well-founded his claim may in equity be to an allowance for an erroneous construction of the terms of the loan contract, it will not avail in a defence at law on the returned bills, inasmuch as your honorable body are the only tribunal who are authorized to do him justice in the premises: to you he therefore appeals with the more confidence. Whether it was expedient or not on the part of the Government to agree to the terms of the contract, cannot, in the opinion of your petitioner, become a question as to the honorable fulfilment of those terms; but as many persons ignorant of the circumstances of the case have undertaken to question the policy of that measure, your petitioner begs leave to state that his conduct in relation to the whole transaction was marked with candor and liberality, to which he is confident that every member of the then cabinet will bear testimony. As to the condition which has been considered objectionable, it did not originate with your petitioner; its principle appears to have been fully adopted by the contracts made for the two previous loans; and, as evidence that the terms of the contract were not favorable to your petitioner, he begs leave to state that, immediately after the bargain was concluded, he proposed to the principal dealers in stock at Philadelphia, Boston, and New York to share the contract with him on the terms allowed by the United States; all of whom, with a very trifling exception, declined the offer, on the ground that he had made a very bad bargain. The difficulty of raising money at this gloomy period was great, beyond any thing ever known within the recollection of your petitioner; to overcome which no exertions were omitted on his part, and they were so far crowned with success, that he paid

into the treasury of the United States, during the late war, more than \$5,000,000; the principal part of this was done at a time when it was in the greatest need of such assistance, and when all other resources authorized by law had proved inadequate to the necessities of the nation, and after a public invitation to all the money-lenders and dealers in the country had failed to bring forward offers from other persons for the whole \$10,000,000 (advertised for) on any terms.

In confirmation of what your petitioner has herein set forth, he begs leave to refer your honorable body to the Comptroller's circular of the 30th of November, 1814, a copy of which is hereunto annexed, which contains the constructions complained of.

Your petitioner begs leave further respectfully to represent to your honorable body, that, ever since the return of those bills, he has been extensively engaged in foreign commerce, which, although it has yielded a great revenue to the Government, has been disastrous in the extreme to your petitioner, inasmuch as he finds himself reduced to poverty, and totally unable to pay the said bills, or even the costs which have arisen thereon, to the amount of near \$20,000, without he can procure an allowance for the grievances hereinbefore detailed. Therefore, your petitioner humbly prays that your honorable body will authorize the Attorney General of the United States to agree on a case with your petitioner, setting forth all the circumstances relating to the loan and to the bills of exchange, and the same to be submitted to the Supreme Court of the United States, to be decided by them upon the same principles of law and equity as would apply to transactions, under like circumstances, between individuals; and that they will cause to be dismissed, without costs, all suits which are now pending in relation to this business, and which the Attorney General of the United States shall not deem necessary either for the ascertaining the extent of the claims of the parties, or for preserving their liability; or grant your petitioner such other relief as your honorable body may deem proper.

And, as in duty bound, your petitioner will ever pray.

JACOB BARKER.

To the honorable the Senate of the United States: The memorial of Jacob Barker, of the city of New York, respectfully sheweth:

That, having read the report [See No. 551, page 771,] made to your honorable body by the honorable Committee of Claims on his petition to Congress, and its accompanying documents, he perceives that they differ in opinion from your memorialist as to the supplemental stock on the ten million loan having passed by a transfer of the original stock subsequent to the 31st of August, 1814; that they consider that your memorialist did not furnish sufficient evidence to establish a connexion between the bills of exchange and the loan contract; and (if he understands the report) that they also consider that the persons who accepted of the supplemental stock for the difference between eighty-eight and eighty thereby terminated all further claims, and the persons so accepting were perfectly satisfied that the Government had fulfilled the engagement made by the Secretary of the Treasury, in relation to the loan of the 2d of May, 1814, without further noticing the injury done by adopting paper in lieu of specie as the standard of calculation, or by the delay in issuing supplemental stock from the 31st of August to the 30th of November.

With all due deference to the opinion expressed by your honorable committee, your memorialist begs leave to rely on the correctness of his own construction, that the supplemental stock did not pass by a transfer of the original stock subsequent to the 31st of August, 1814, and to request that your honorable body will take the words of the original contract of the 2d of May, 1814, into further consideration; and, if it did not so pass, it is manifest that the acts of the persons who wrongfully received it could not impair the rights of those who ought to have received it. The certificates of stock did not carry on their face the condition, nor had they any reference to it, other than to identify the holder.

As further evidence of the connexion between the loan contract and the bills of exchange, he begs leave to refer your honorable body to a letter herewith handed, which he wrote to the honorable Secretary of the Treasury during the negotiation for that loan; which letter has a memorandum on it in the handwriting of the then Secretary, and also of one of his clerks; which memorandum your memorialist refers to merely as proof that the payment in London was part of the original plan proposed. This letter was returned, and another one written, omitting the subject of the payment in England, under a verbal promise that the same opportunity should be afforded to make the payment there as though it formed a part of the written agreement. This letter, together with the fulfilment of this understanding on the part of the Secretary, establishes, in the opinion of your memorialist, that your memorialist, at least, did always consider them as having a connexion. He also begs leave to hand herewith a copy of a letter from the then Secretary, written in answer to an application which your memorialist personally made to him, to receive from your memorialist, and transmit to London for sale on his account, United States stock for the amount payable there. This letter, although it declines the proposed offer, goes far to prove that the honorable Secretary felt under some obligations to receive the money in London; and, from the various circumstances attending this negotiation, your memorialist does not know how any other conclusion could have reasonably been formed than that your memorialist relied on a sale of stock in London to meet the bills in question.

The other part of the report, however, is the most material, and, in fact, is the all-important part of the case; and here your memorialist begs leave to state that your honorable committee are mistaken in supposing that all the persons who received the supplemental stock were satisfied that the same was a fulfilment of the condition, or that they had intentionally, by such receipt, released the Government from all further obligations. Your memorialist was at that time the largest proprietor of this stock, and received more of the supplemental stock than any other person; and he, so far from being satisfied, remonstrated with the Secretary of the Treasury against his decision, and complained to the President of the United States, to the Attorney General, and the Comptroller; in consequence of which, the original plan of the Treasury Department, viz: to publish that they had decided that the parties would not be entitled to any further benefit from the condition in question, although a portion of the twenty-five million loan should be borrowed on more favorable terms, and to require releases from the parties, was abandoned; and it was agreed that the notice which had been sent to the editors of the National Intelligencer for publication should be withdrawn, and that a distinguishing mark should be put on the stock to enable the parties to identify it, in case any further allowance should be found to be due. Agreeably to this understanding, Secretary Dallas went in person to the office of the National Intelligencer, on a Sunday morning, in the latter part of November, 1814, and withdrew a notification that he had sent the previous day for publication, of which notification your memorialist presumes a copy may be found on the books of the Treasury Department; and, by comparing it with the notification published in the Intelligencer of the 6th December, 1814, the difference between the two will, in the opinion of your memorialist, conclusively prove that the main question was to be left open, and not (as had been originally intended by the Secretary) closed by the receipt of the ten per cent. supplemental stock. As an

additional evidence of this fact, your memorialist begs leave to call the attention of your honorable body to that part of the Comptroller's circular of the 30th November, 1814, which directs a distinguishing mark to be put on the stock to enable the holders to establish its connexion with the ten million loan; and also to the closing sentence of that letter, which directs that no release from further benefit be required from the persons receiving the said supplemental stock. The notification of this last determination also contained principles at variance with the opinion of your memorialist; and he, being determined at all times to insist on his rights, sent for publication some objections thereto, which appeared in the National Intelligencer of the 7th of December, 1814, the day following the publication of the Treasury decision. A copy of the letter of your memorialist, published on that occasion, and of two letters to the Secretary on the subject, are presented herewith; to which your memorialist begs leave to refer your honorable body as evidence that he was not satisfied that the Government had fulfilled its engagements, and that he did all he could to resist the decision. And here he begs leave to remark, that if he did not do enough to preserve his rights, it was because he did not know how to do it; and to express the hope that, even if the parties had executed a formal release, (which is not pretended,) the Congress of the United States would not enforce it, provided it had been unreasonably required of the parties, or given from a mistaken view of the merits of the case. If, however, all the circumstances of the case do not prove conclusively that the persons receiving the supplemental stock neither acknowledged themselves satisfied, nor in any degree released the Government from their original obligations, there must be some principle in relation to contracts and the rights of one party over the other which your memorialist has never known.

Your memorialist respectfully solicits your honorable body to take the whole of his case into consideration, and that you will grant him relief.

And your memorialist, as in duty bound, will ever pray, &c.

JACOB BARKER.

To the honorable the Senate and House of Representatives in Congress assembled: The petition of Jacob Barker, of the city of New York, respectfully sheweth:

That your petitioner represented to your honorable body, at late sessions of Congress, that the Treasury Department had put a construction on the contract for the ten million loan at variance with the letter and spirit of the said contract, by which great injustice was done to your petitioner; which representation was referred to the Committee of Claims of the honorable the Senate, who reported, among other things, "that the supplemental stock was issued to the persons holding, at the time of application for it, scrip certificates, or funded certificates of the original stock. The original certificates were surrendered and cancelled, and new certificates issued in lieu of them; by which acts the holders of the original stock clearly expressed their assent to, and acceptance of, the final execution of the loan contract in the manner and form proposed by the Treasury Department." Since that time your petitioner has been furnished, from the books of the Treasury Department, with a copy of a letter, dated 22d November, 1814, from the then Secretary of the Treasury to the Comptroller, and of a letter from the Comptroller to the Secretary of the Treasury, dated 24th November, 1814, which are hereunto attached, and to which your petitioner respectfully craves the attention of your honorable body, with a confident belief that they will fully establish the important fact that there was a distinct understanding between the Government and your petitioner that the acceptance of the supplemental stock of ten per cent., the surrender of the original certificates, and the acceptance of the new certificates, were not to be considered a final execution of the loan contract, unless it should appear that your petitioner never had other or greater rights; but that the same was left open and unimpaired by such acceptance, and was considered at the Treasury a fit and proper subject for your honorable body to pass upon. Why else did the Comptroller, in his said letter of 24th November, 1814, say, "their rights [the holders of the stock] will still remain with themselves, and their remedies with Congress?" In the absence of this evidence, the Committee of Claims came to a conclusion very different from that which your petitioner believes would have resulted from their deliberations had these letters been before them. Therefore, your petitioner humbly prays that his past representations may be received as a part of this petition, and that the whole may receive that attention which the importance of the case and the principles of justice require.

Your petitioner always complained that the Treasury Department, by stripping the stock of the privileges originally vested in the ten million loan by positive condition, (which privileges made it more valuable than any other United States stock in the market,) reduced its value to a par with all other United States stock, and thereby inflicted on him a very severe loss, to which, together with the injury of his credit occasioned by the unnecessary multiplication of suits, he ascribes the ruin and embarrassment that all his affairs were subsequently thrown into, as, at that period, it was very difficult, if not impossible, to make large negotiations with ordinary stock. Although confident in the opinion that the measures of the Treasury had ruined the superior value of the stock in the market, your petitioner had not, until within a very few months, the means of establishing the fact that the motive of the officers of the Treasury in adopting the measures complained of was to reduce the market price of the stock. This evidence, your petitioner believes, appears so perfect in the tenor of the letter from the Comptroller to the Secretary of the Treasury, that he thinks no one will doubt the fact after reading the said letter. The question, then, which presents itself is, whether the Government had a right thus to deprive the stock of its superior value in the market over all other stock, by stripping it of its superior privileges? If they had this right, your petitioner has no cause to complain of this branch of the business, however severe or injurious the operation was to him; but if, on the contrary, they had no such right, the propriety of remunerating him for the injury done cannot be questioned. Whether this exercise of power was from a supposed necessity of the case, or from a mistaken view of the rights of the parties, the claims of your petitioner on the justice, liberality, and consideration of your honorable body, are equally strong. All that your petitioner asks is, that the same principles of justice so zealously contended for in the Comptroller's letter in behalf of new purchasers of the stock be applied to the holders of the stock when more favorable terms were allowed for a portion of the twenty-five million loan than were originally allowed for the ten million loan. Your petitioner begs leave to call the attention of your honorable body to the fact that, when his stock was thus deprived of all further benefit of the condition, one-half of the twenty-five million loan remained uncontracted for; that the market price was under seventy dollars in money for one hundred dollars in stock; that the original contract stipulated that, if more favorable terms were allowed for *any* part of the twenty-five million loan, the benefit of the same terms should be extended to the then proprietors of the stock in the ten million loan; and that your petitioner was at that time proprietor of stock in said loan to the amount of \$2,951,605 32, and that, in addition thereto, he had previously sold \$544,498 25, retaining to himself the benefit of the said condition.

If further evidence than has hitherto been furnished is necessary to prove that, in testing the rights of your petitioner, dishonored and depreciated paper was substituted by the Treasury for specie, the only currency known to your laws, such evidence is to be found in Mr. Dallas's annual report to Congress, dated December 6, 1815;

by which it appears that he refused to accept specie, which was offered for the public loan, under seventy-five dollars in money for one hundred dollars in stock, preferring the dishonored and depreciated paper of the District of Columbia at ninety-five dollars of such paper for one hundred dollars in stock; and the same document proves, also, that the twenty-five million loan was, when only about half exhausted, laid aside, and new loans made under a subsequent law, which was a manifest departure from the intention and spirit, if not from the letter, of the contract made by your petitioner with the Secretary of the Treasury on the 2d May, 1814, as it destroyed or defeated all further effect of the condition; and surely, if it had not been intended to give it a full and fair effect, the condition should not have been granted.

Your petitioner begs leave further to represent that, although many of the suits commenced against him by the United States have terminated in his favor, there are many yet undecided; that he is totally unable to pay the expense of their defence; that even a successful defence of twenty-nine suits, where the plaintiffs are protected by their prerogatives from cost, would, in most cases, prove very injurious, if not ruinous to the defendant; and that the hardship of having to defend so many suits, when only two would have equally well established the rights of the parties, (had the stipulations proposed by the counsel for all the defendants been acceded to by the district attorney,) is too apparent to require further remark. This multiplication of legal proceedings is very injurious to the interest of the United States as well as to your petitioner, because it wastes the funds that would otherwise be left to pay the judgments, if they should be pronounced in favor of the United States; and, if otherwise, furnishes the district attorney with at least a pretext for a large claim for costs on the treasury. Such a claim has been preferred by Mr. Fisk, the late district attorney, who, by virtue of his office, collected moneys from other sources for account of the United States, from which he insists on a right to deduct his costs in these suits; in consequence whereof, a suit has been threatened against him by the Treasury Department.

So anxious is your petitioner to have the business settled, that he will conform to any terms within his power which your honorable body may think proper to sanction, even if they require the surrender of all his claims under the loan contract for the extinction of the bills of exchange which have not yet been decided on; which bills, after deducting the commissions of twelve thousand five hundred dollars due to your petitioner on the loan contract, cost the Government only fifty-five thousand seven hundred and sixty-eight dollars and seventy cents; whereas, if the loan contract should be settled on the same principles of equity as regulate contracts between individuals, there would, according to his belief, be a balance due to your petitioner of more than two millions of dollars, to the surrender of which the assignee of your petitioner would probably assent. A powerful reason for this consent to surrender so large a claim on the part of your petitioner is to be found in his inability to protect his endorsers, in case the pending suits should result unfavorably, which would implicate the orphan children of his late friend, and also of his late brother.

All the property your petitioner possessed passed on the 22d of April, 1820, under the insolvent law of the State of New York, to an assignee, who has applied it to the payment of custom-house bonds, for the liquidation of all which it was barely sufficient. Your petitioner was left pennyless, with a large family to support, which increases his anxiety to be put at liberty to provide for them.

It has been urged that Mr. Dallas was a man of great capacity, and fully competent to decide on the rights of your petitioner. On reference to the language of that gentleman, it will appear, although he acquiesced in the measures complained of, that he did not take the responsibility of the decision on himself with that confidence which marked the other parts of his official conduct; and that in his letter of the 22d November, 1814, he expressed himself in favor of the course insisted on by your petitioner, at the same time declaring himself to be new in office, and therefore not perfectly acquainted with its details. All men being fallible, Mr. Dallas may have been mistaken, or there may have existed state reasons for adopting measures so injurious to your petitioner. The condition gave to him a monopoly of the market for the sale of stock. The necessities of the Government may have induced the Treasury Department to deprive your petitioner of such monopoly, in order that the Government might use it to supply their very pressing wants; in which case, your petitioner would not complain any more than he would had a general of your army demolished his house that he might occupy its site with the cannon necessary for the defence of a city besieged. In such a case no one would object to the house being paid for from the public chest; and your petitioner considers his claim equally good for remuneration, for an invasion of a right, equally clear and equally sacred.

Your petitioner respectfully solicits your honorable body to take the whole of his case into consideration, and that you will grant him relief.

And your petitioner, as in duty bound, will ever pray, &c.

JACOB BARKER.

NEW YORK, *December 22, 1821.*

SIR:

TREASURY DEPARTMENT, *November 22, 1814.*

I have just received your second note of this day's date, relative to the execution of the contracts for the ten million loan.

Pursuing the principle that the construction given to the contracts by the Attorney General is to be carried into effect, without impairing the rights or embarrassing the remedies of the creditors—I mean that the supplemental stock shall issue in such form and manner as, on the one hand, to avoid any appearance of acknowledging at the Treasury that the contracts remain open, and, on the other, leave the creditors every proper facility to establish hereafter the identity of the supplemental stock, and its connexion with the ten million loan—although I am not yet, perhaps, master of all the details of office, I presume the best mode of accomplishing the object which I have stated will be to leave the certificate of original stock as it now stands, and issue a new certificate for the supplemental stock only.

I am, &c.

A. J. DALLAS.

N. LUFBOROUGH, Esq., *Acting Comptroller.*

SIR:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *November 24, 1814.*

I take the liberty of enclosing, for your approbation, forms of certificates proposed to be printed and issued to the holders of stock in the ten million loan, pursuant to the opinion of the Attorney General enclosed to me in your letter of the 19th instant.

These forms have become necessary in order to carry into effect that part of your letter to me of the 22d of this month which requests that every proper facility may be afforded to the holders of certificates in the above-mentioned stock, "to establish hereafter the identity of the supplemental stock," (now about to be issued to them,) and its connexion with the ten million loan. The designation, in writing, on the face of the certificates to be issued for

the supplemental stock is made for no other purpose than that of enabling the holder, if he chooses, to preserve its identity and its connexion with the primary stock. The manuscript addition made on the face of the certificate intended to be issued in lieu of the original stock of the ten million loan now in circulation is intended: 1st. To guard the public against imposition, by preventing more supplemental stock from issuing in any case than is actually due; and 2d. To give notice to subsequent purchasers of the stock that the stipulations contained in the contract between the Secretary of the Treasury and the original subscribers to the loan had been fulfilled, or, in other words, that every thing relating to that contract, so far as respected the stock in existence, was deemed at the Treasury to be settled and closed. There is nothing in this that can have a tendency "to impair the rights or embarrass the remedies" of the public creditors under the ten million loan for further issues of supplemental stock.

No exaction is made from them of any release whatever of their rights or claims in this respect. Their rights will still remain with themselves, and their remedies with Congress. The notification on the face of the certificate is nothing more than the simple statement and exhibition of a fact which does exist, and which ought to be known as well to the subsequent purchasers of the stock as to those who now hold it, namely, that the supplemental stock stated on the face of the certificate to have been issued was deemed at the Treasury to be a full and complete execution of the original contract on the part of the Government, so far as regarded the amount of stock to be issued under that contract. This information is already in possession of the agent of the present holders of the stock, or a great portion of it. To keep it from subsequent holders, who might purchase, too, under the impression that still further benefits are to attach to the stock, might subject the Treasury, and with great reason, to imputations which it has hitherto been free from, and which it never will, I trust, be justly liable to. I have deemed it to be my duty to be thus particular in explaining to you the causes for my making the certificates of stock in the forms you see them, and I hope this will be the last time I shall have occasion to trouble you on this very unpleasant business.

With, &c.

NATHAN LUFBOROUGH, *Acting Comptroller.*

To the Hon. the SECRETARY OF THE TREASURY.

17th CONGRESS.]

No. 580.

[1st SESSION.

DEFAULTING POSTMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1822.

Mr. FRANCIS JOHNSON made the following report:

The Committee on the Post Office and Post Roads, to whom was referred the petition of Amos Muzzy, of the State of New York, have had the same under consideration, and come to the following report thereon:

The petitioner states that, in the year 1800, he was appointed a deputy postmaster; that he performed the duties of the office about eight years, when he resigned, indebted to the Government for moneys received in said office, which he promised from time to time to pay as soon as he could, but that misfortunes have interposed and prevented him from doing so; that suit has been brought and judgment obtained against himself and his security, both of whom are insolvent. He states that he was a revolutionary soldier, and served his country faithfully, and prays to be released from imprisonment, as a *ca. sa.* has issued, and the marshal threatens to imprison him. A petition from sundry inhabitants of Attica, in New York, stating the insolvency of the petitioner, and praying for his relief, accompanies the application of the petitioner.

The committee do not conceive that the petitioner having served his country with fidelity in the revolutionary war entitles him to claim an exemption, either in his person or property, from the debt thus created by a breach of public trust and confidence; that his having been a patriot of the Revolution ought rather to have been an inducement to the example of a strict performance with public engagements than an apology for the breach of them. But the committee, believing that imprisonment for debt is, in general, an unprofitable proceeding, and at best of doubtful policy; that while the dishonest and fraudulent debtor may be justly punished for withholding what he has concealed, and placed beyond the grasp of his creditors, the honest and unfortunate man dwells in confinement without having committed crime in intention or in deed, an unprofitable victim to the unfeeling creditor, and to that law whose wisdom and justice have not desecrated the distinction between misfortune and crime—they therefore report a bill for the relief of the said petitioner and his security, Benjamin White, which is respectfully submitted.

17th CONGRESS.]

No. 581.

[1st SESSION.

SURETIES OF A PAYMASTER IN THE ARMY.

COMMUNICATED TO THE SENATE, FEBRUARY 12, 1822.

Mr. HOLMES, of Maine, from the Committee of Finance, to whom was referred the petition of Edmund Kinsey and William Smiley, sureties of Henry Phillips, late a paymaster in the army of the United States, reported:

That the petitioners state that they were sureties of said Phillips on a bond in the penal sum of \$7,000, and another in the penal sum of \$10,000, conditioned for the performance of his duty—the first as paymaster of the

sixth United States regiment, and the last as paymaster for the districts of Pennsylvania and New Jersey; that Phillips, by his will, made the petitioners his executors, and, on the 22d March, 1815, died insolvent; that the United States obtained judgment against these petitioners on the bonds, to the amount of \$15,601 82; that the petitioners, unable to pay their debts, have since assigned their property for the benefit of their creditors, and that they have been discharged under the insolvent laws of Pennsylvania; and that, from circumstances which they particularize, they shall never be able to pay this debt to the United States.

It appears from certain certificates and declarations that the condition of the petitioners is substantially as stated; but your committee are, nevertheless, of the opinion that to grant the prayer of the petitioners would be impolitic and dangerous, and is unnecessary. The petitioners have never been committed to prison, and, should this be the case, the President has power to discharge them. To relieve sureties further than this would eventually make suretyship a matter of form, and subject the United States to great loss and embarrassment. They therefore recommend the following resolution:

Resolved, That the prayer of the petition ought not to be granted.

17th CONGRESS.]

No. 582.

[1st SESSION-

SERVICES AND SUPPLIES FOR THE ARMY OF THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 25th January, 1822, were referred the petition and accompanying papers of James B. Eldridge, of Hamilton, State of New York, have had the same under consideration, and report thereon:

The petitioner states that he is son and heir of James Eldridge; that, in the lifetime of his father, he requested the petitioner to overhaul a large quantity of papers which were of ancient date, and among them found the said bill of appraisal, which he had frequently heard his father complain of the loss of, and that he supposed it to have been lost when he was on his retreat with his family from Fort Miller, near Saratoga, in the State of New York, to Williamstown, in the State of Massachusetts; which retreat was in consequence of the incursions of the Indians and Tories; that, immediately on the said bill being found, he, James Eldridge, applied to the Legislature of the State of New York for payment, and was afterwards informed that his claim was rejected on the ground that it was a demand against the United States; that his father, being in low circumstances, ceased, in his lifetime, to do any thing with his said claim, and that since his father's death he has been induced to present the same, trusting to the justice of his claim, and to the liberality and promptitude of Congress to remunerate those persons whose time and resources were expended to gain our independence. The petitioner then alludes to the said bill of appraisal, and states "that he has been informed, and verily believes, the greater part of the property named went directly for the use of the American army, when they were retreating before the British army commanded by General Burgoyne, and that remuneration has not been made for the same; and he prays that such remuneration may be made to him as shall be deemed fit;" that, to this petition, it appears an affidavit has been made by the petitioner, on the 7th January, 1822, before John S. Stown, styling himself justice of the peace; that the petitioner also exhibits a paper purporting to be a petition of his father to the Legislature of the State of New York, in which the then petitioner states "that he was employed in rendering services and affording support thereto, [meaning the American army,] which services and necessaries are particularly mentioned in the schedule to this petition" annexed; "that your petitioner having mislaid the evidence thereof, he was deprived of the benefit of the certificate until lately, when the same was found, and is now submitted;" that "he never received any compensation whatever for the services rendered and articles furnished, either from the United States, from this, or any other State; and he prays that provision may be made for satisfaction of his claim as upon a full investigation thereof shall seem proper."

That the petitioner exhibits a statement or schedule of articles stated to be furnished (without stating at what time) to the American army during the war for independence, and of services performed by his said father (as is stated) in the year 1776; and that, in the year 1777, he, James Eldridge, was under the necessity of removing his family, and leaving his farm, and left thereon several articles which (as he states) were used by the American army in their retreat from the northward; that the petitioner also exhibits a paper, which is presumed to be that which he names a certificate of appraisal, dated on the 8th of July, 1778, in which are enumerated the articles hereafter named, viz: wheat, grass, hay, oats, Indian corn, potatoes, damage to his house, bonds; and it is stated in said certificate that the same were destroyed partly by our army, and partly by the British; and said certificate appears to have annexed thereto the names of Cornelius Ivandenbogh and Charles Moore, to which certificate appears to be annexed a writing purporting to be an affidavit of Charles Moore, dated the 5th of March, 1812.

This committee further report that this claim of the petitioner appears, like many other claims, to be bottomed on papers stated to have been lost or mislaid, and afterwards said to be found by overhauling a large quantity of papers of ancient date; that no sufficient reason is assigned why James Eldridge, the father of the petitioner, did not examine in due time his large quantity of papers, and find the papers alluded to; that, on the 21st of October, 1777, a letter was read in Congress from General Washington, giving an account of a capitulation, signed on the evening of the 14th, for the surrender of General Burgoyne and his army. The petitioner intimates that the greater part of the property named went directly for the use of the American army, when they were retreating before the British army commanded by General Burgoyne; that James Eldridge, in his petition to the Legislature of New York, states that during the revolutionary war he resided at Fort Miller, in the now county of Washington; that the American army were encamped at that place, and that he, the petitioner, (James Eldridge,) was employed in rendering services and affording support thereto; which services and necessaries are (as he states) particularly mentioned in the schedule to

this petition annexed; that the first enumerated articles in the said schedule appear to be the same as those stated in the certificate of appraisal; that the residue appears to be for services and articles done and furnished, and left in the years 1776 and 1777; that the petition and papers accompanying are deficient in respect to particular dates of time; that it appears strange how an appraisement could have been made in July, 1778, of articles a long time previously taken and used or destroyed. The certificate of appraisal states that the articles therein enumerated were destroyed partly by the American army, and partly by the enemy; the now petitioner states that he believes the said articles were taken and used (the most part) by the American army, when retreating from the British army under command of General Burgoyne; and James Eldridge, in his petition, states he lived near Fort Miller, that the American army encamped near thereto, and the said articles were used for their support. How these things were, does not clearly appear.

That Congress from time to time provided for settlement of public accounts (on the 27th of February, 1782, Congress resolved that five commissioners be appointed for the settlement of accounts) under the direction of the Superintendent of Finances. On the 3d of June, 1784, Congress, on a report of a committee, "*Resolved*, That such compensation as the commissioner may think reasonable be made for wood, forage, or other property of individuals, taken by order of any proper officer, or applied to or used for the benefit of the army of the United States, upon producing to him satisfactory evidence thereof, by the testimony of one or more disinterested witnesses."

"That, according to the laws and usages of nations, a State is not obliged to make compensation for damages done to its citizens by an enemy, or wantonly or unauthorized by its own troops; yet humanity requires that some relief should be granted to persons who, by such losses, are reduced to indigence and want; and, as the circumstances of such sufferers are best known to the States to which they belong, it is the opinion of the committee that it be referred to the several States (at their own expense) to grant such relief to their citizens who have been injured as aforesaid as they may think requisite; and if it shall hereafter appear reasonable that the United States should make any allowance to any particular States who may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States."

That the father of the petitioner, if he had any just claim against the United States for or on account of supplies by him furnished to the army of the United States, or for services by him performed to the United States, ought to have applied to the proper officer or commissioner appointed to adjust and settle such accounts; and it may be presumed that such application and settlement may have been made if the petitioner's father had any such settlement to make for articles by him furnished, or services performed in the time of the revolutionary war; and, if he did not, it was his own neglect in not making application in due time for that purpose; that, for damages alleged by the petitioner, or in the petition of his father to the Legislature of New York, to have been sustained by injuries done to the plantation or farm of the petitioner, Congress did not assume to make compensation to individual citizens for such damages, but referred such sufferers to the States to which they respectively did belong, as provided for and directed in and by the resolution heretofore alluded to; that more than forty years have passed away since the time that this claim of the petitioner is represented to have originated; that it is inexpedient, and would be dangerous, at this late period, to allow such claims; that the petitioner, in this case, does not appear to have any just claim against the United States; and, furthermore, that this claim, and all similar claims, are long since barred by statutes of limitation; and this committee, therefore, submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

17th CONGRESS.]

No. 583.

[1st SESSION.]

BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1822.

Mr. EUSTIS made the following report:

The Committee on Military Affairs, to whom was referred a resolution instructing the committee to inquire into the propriety of allowing to Charles Swift, a private in the late war, his bounty land, beg leave to report:

That the said Charles Swift was enlisted on the 13th day of February, 1815, after the close of the late war, and was discharged on the 1st day of April, 1815, without having ever joined the army of the United States, or any corps thereof; therefore, your committee submit the following resolution:

Resolved, That it is not expedient to allow Charles Swift his bounty land.

17th CONGRESS.]

No. 584.

[1st SESSION.]

WAGON AND HORSES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 29th January, 1822, were referred the petition and accompanying papers of Daniel Stone and others, have had the same under consideration, and report thereon:

The petitioner, Daniel Stone, of the county of Loudoun, (styling himself executor of Anthony Wright, lately deceased,) states that the United States stand justly indebted to the estate of the said Anthony Wright in the sum of £28 10s., with interest thereon from 10th January, 1781, for a wagon and horses, the property of the said Anthony Wright, which was pressed by the quartermaster into the public service during the revolutionary war; that the claim of the petitioner's testator was liquidated and settled by George Emery, the quartermaster, as will appear by his certificate, dated 10th January, 1781, which, as the petitioner states, is hereunto annexed, duly proved and authenticated; and he prays that the said claim, principal and interest, may be paid to him, and such other relief in the premises as may be right and just.

That the petitioner exhibits a writing, on paper, which is supposed to be that by him named a certificate, as follows: "I hereby certify that I have this day settled Mr. Anthony Wright's account against the United States, and that the sum of £28 10s. is due him from said States, he having this day given me a receipt for that sum. Given under my hand this 10th day of January, 1781;" which writing appears to be signed with the name "George Emery, Q. M.," and on the back of said paper appears a writing purporting to be an affidavit relative to the handwriting of said Emery.

The committee further report that the certificate exhibited is of a suspicious character; the certificate in question states that he, George Emery, this day (that is, the 10th January, 1781,) settled Mr. Anthony Wright's account against the United States, and "that the sum of £28 10s. is due him from said States, he having this day given me [that is, George Emery] a receipt for that sum;" that it appears on said certificate that George Emery's name is signed thereto with a Q. M., meaning thereby that he (George Emery) intended to be considered a quartermaster. That it appears on the face of said certificate that the consideration given by said Anthony Wright for the said certificate was a receipt given by him to George Emery for the amount mentioned in said certificate; that the said receipt, stated in said certificate to have been given for that amount by Anthony Wright to George Emery, quartermaster, goes to show that Anthony Wright, after date of said certificate, had not any just claim against the United States, although he may have had a claim against George Emery for the amount, in consequence of the receipt by him given to George Emery; that it cannot be understood how Anthony Wright in his lifetime, or his representatives since his decease, can have a just claim against the United States for £28 10s., when he (Anthony Wright) appears by said certificate to have given a receipt to George Emery for that identical sum; for if the United States were indebted to Anthony Wright for that sum, as stated in said certificate, Anthony Wright did wrong against himself to give such receipt, and no reason can be assigned why George Emery, a quartermaster, (if he was one,) did give a receipt to Anthony Wright for that sum of money, unless he paid the said amount to Anthony Wright at the time of the date of said certificate, or previously; or unless he, George Emery, quartermaster, intended to use said receipt to obtain money thereby to pay to Anthony Wright, or for some other purpose. These considerations go to show that this claim ought not to be admitted against the United States. The petitioners, in their petition, state that the certificate in question was given to Anthony Wright for a wagon and horses pressed into the public service by the quartermaster in time of the revolutionary war; but the certificate in question states that it was given, not for a wagon and horses, but on settlement of account. In this case the variance is deemed conclusive against the certificate in question, and that it ought not to be admitted against the United States, and justice in this case is against the petitioners; for it cannot be presumed that a quartermaster, acting on oath, would press into the service of the United States a wagon and horses of the value of £28 10s. only, and that, if he did so, it was a bad bargain to the United States.

This committee further report that, in this case, they have had recourse to the Treasury Department for information relative to said alleged certificate, and report has been made to this committee by the Secretary of the Treasury, including a report to him from the Register of the Treasury, stating that "there is in the Treasury no record of certificates of the character of the one referred to;" that the validity of it "is altogether questionable, so far as respects the Treasury records;" that "£28 10s. Virginia currency, equal to \$95, and with interest thereon for forty-one years and one month, at six per cent., \$234 17, amounts to \$329 17;" that "the name of George Emery does not appear on the Treasury books, nor is there in the Treasury any further evidence of his being a quartermaster than what the certificate itself exhibits."

That the Register of the Treasury, in his report to the Secretary of the Treasury, and by the Secretary of the Treasury communicated to this committee, further states that "the resolution of Congress of the 23d of August, 1780, to which the above refers, enacts that no certificates issued in the quartermaster's and commissary's departments after the 15th day of September, 1780, afford any claim against the United States unless issued under the following regulations, viz:

"1st. That they be for services performed or articles purchased within their respective departments.

"2d. The quartermaster general and commissary general shall sign all such certificates as are issued in their respective departments.

"3d. All such certificates shall be given for specie, or current money equivalent.

"4th. All contracts or purchases made, for which certificates shall be given, shall be made for specie value.

"5th. The articles so purchased shall be enumerated in such certificates, with the rates and prices thereof.

"6th. That certificates issued under and agreeably to the foregoing regulations shall bear an interest of six per cent. per annum from the time stipulated until paid.

"The certificate in question is not in conformity with the second, fifth, and sixth of said regulations."

That "this claim appears to be of the character of those embraced in the fourteenth class, as arranged in the report of the accounting officers of the Treasury of the 19th of January, 1795."

That, by the report of the Secretary of the Treasury alluded to, it appears that the certificate in question is not in conformity with the second, fifth, and sixth of the regulations prescribed in the resolution of Congress of the 23d of August, 1780, for it is not signed by the quartermaster general; and because the services performed, or the arti-

cles for which it was given, with the rates and prices thereof, are not enumerated in the said certificate; and because said certificate does not show on the face thereof that the said money shall bear an interest of six per cent. per annum: and hence it is inferred that the certificate in question is not admissible against the United States, and, having been issued after the 15th day of September, 1780, affords no claim against the United States. And this committee do refer to the said report of the Secretary of the Treasury, and request that it may be taken as part of this report; and this committee do also refer to that part of the said report of the accounting officers of the Treasury which is denominated the fourteenth class of claims enumerated in that report. That it does not appear, by any resolution of Congress, that George Emery, quartermaster, was authorized to liquidate and settle accounts, and to give certificates thereof against the United States, in January, in the year 1781, or at any other time.

This committee further report that the certificate in question appears to be dated in January, 1781; that more than forty years have passed away since the date thereof, and it does not appear that the said certificate has been exhibited for payment previous to January, 1822, and no reason is assigned why it was not heretofore presented, if it had been considered to be evidence of a just claim against the United States. This committee are, for the reasons stated in this report, and others that might be adduced, of opinion that this claim is inadmissible, that it ought not to be allowed, and that the petitioners have not any just claim in this case against the United States; and, furthermore, that if, by any possibility, any claim against the United States could be bottomed on the certificate in question, it is long since barred by statutes of limitation; and therefore submit the following resolution:

Resolved, That the prayer of the petitioners be not granted.

SIR: TREASURY DEPARTMENT, *February 12, 1822.*

I have the honor to return the petition of Daniel Stone and others, together with a report of the Register of the Treasury, which contains all the information in the possession of the Department that relates to the case of the petitioners.

I remain, with respect, your most obedient servant,

WM. H. CRAWFORD.

The Hon. JOHN RHEA,
Chairman Committee on Pensions and Revolutionary Claims.

TREASURY DEPARTMENT, REGISTER'S OFFICE, *February 12, 1822.*

The Register has the honor to report to the Secretary of the Treasury, in answer to the questions propounded by the honorable the chairman of the Committee on Pensions and Revolutionary Claims, on the petition of Daniel Stone, praying the payment of a certificate issued the 10th of January, 1781, by George Emery, quartermaster, in favor of Anthony Wright, for £28 10s.

1. "Is the enclosed paper, with the name of George Emery signed thereto, recognised on the books of the Treasury as evidence of a claim outstanding against the United States?"

The Register begs leave to state, in answer to this question, that there is in the Treasury no record of certificates of the character of the one referred to.

2. "Of what validity or value is said paper?"

The certificate in question is given for £28 10s. As to the validity, it is altogether questionable, so far as respects the Treasury records.

| | | | | | |
|--|---|---|---|---|---------|
| £28 10s. Virginia currency, equal to | - | - | - | - | \$95 00 |
| Interest from the 10th January, 1781, (the date of the certificate,) to the 10th February, 1822, | | | | | |
| say 41 years and 1 month, at 6 per cent. per annum, | | | | | 234 17 |

Amounts to \$329 17

3. "Who was George Emery, whose name appears signed to said paper, with the addition of the letters Q. M.?"

The Register begs leave to state, in reply to this question, that the name of George Emery does not appear on the Treasury books; nor is there in the Treasury any further evidence of his being a quartermaster than what the certificate itself exhibits.

4. "Does the said paper correspond with the regulations prescribed in the resolution of Congress of the 23d of August, 1780?"

The resolution of Congress of the 23d of August, 1780, to which the above refers, enacts that no certificates issued in the quartermaster's and commissary's departments, after the 15th day of September, 1780, afford any claim against the United States, unless issued under the following regulations, viz:

1st. That they be for services performed or articles purchased within their respective departments.

2d. The quartermaster general and commissary general shall sign all such certificates as are issued in their respective departments.

3d. All such certificates shall be given for specie, or current money equivalent.

4th. All contracts or purchases made, for which certificates shall be given, shall be made for specie value.

5th. The articles so purchased shall be enumerated in such certificates, with the rates and prices thereof, &c.

6th. That certificates issued under and agreeably to the foregoing regulations shall bear an interest of six per cent. per annum from the time stipulated until paid.

The certificate in question is not in conformity with the second, fifth, and sixth of the foregoing regulations.

5. "To what class of claims does the said claim, as mentioned in the said paper, belong, (if to any,) in the several classes of claims contained in the report of the accounting officers of the Treasury?"

This claim appears to be of the character of those embraced in the fourteenth class, as arranged in the report of the accounting officers of the Treasury of the 19th of January, 1795.

Respectfully submitted.

JOSEPH NOURSE, *Register.*

Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*

[17th CONGRESS.]

No. 585.

[1st SESSION.]

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1822.

Mr. McLANE, from the Committee on Naval Affairs, to whom was referred the petition of William Thompson, reported:

That the petitioner shipped as a seaman, in the year 1819, on board of the United States revenue cutter Louisiana, Jairus Loomis, Esq., commander; that, on the 30th of July, of the same year, in consequence of various acts of piracy committed by some piratical vessel between the harbor of Mobile and Florida Point, it became necessary to send a vessel in that direction for the protection of the property and persons of the citizens of the United States; and the Secretary of the Navy having no public vessel at that time of a suitable description, the said Jairus Loomis, by orders from the Secretary of the Treasury, was directed to proceed with the cutter Louisiana to execute this service; that the vessel sailed in consequence of these orders, and, on the 10th of August, 1819, had an engagement with the piratical schooner Bravo, in which the petitioner was severely wounded in the back by a musket ball, and is thereby disabled.

The facts are fully substantiated, though the case is considered by the Navy Department not strictly within the existing law, and the petitioner applies to Congress for a pension.

The committee are satisfied that the case is clearly within the spirit, if not the letter, of the law granting pensions; and, if the cutter was not co-operating at the time with the naval force, she was performing a service which regularly belonged to that force; and they therefore report a bill for the petitioner's relief.

[17th CONGRESS.]

No. 586.

[1st SESSION.]

PAY AND BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1822.

Mr. EUSTIS made the following report:

In obedience to a resolution of the House of Representatives of the 28th January, the Committee on Military Affairs have inquired into the expediency of allowing to Samuel Corliss, a sergeant in the eleventh regiment of infantry, his additional pay and bounty land, and submit the following report:

It appears, from the documents accompanying the resolution, that Samuel Corliss enlisted on the 30th March, 1813, for five years, and was discharged on the 10th January, 1815, in consequence of his procuring a substitute, which substitute deserted on the 5th January, 1817.

The committee are of opinion that although said Corliss appears to have been honorably discharged, for the reason above stated, yet, inasmuch as the term of service was not completed, either by himself or his substitute, it would be inexpedient to grant him the extra pay and bounty in land. They therefore respectfully ask of the House to be discharged from the further consideration of the aforesaid resolution.

[17th CONGRESS.]

No. 587.

[1st SESSION.]

PROPERTY DESTROYED DURING THE INVASION OF LOUISIANA BY THE BRITISH IN 1814-'15.

COMMUNICATED TO THE SENATE, FEBRUARY 20, 1822.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Jumonville de Villiers, of Louisiana, reported:

That, during the late invasion of Louisiana by the British, after the enemy had landed near the city of New Orleans, in order to prevent him from bringing up his cannon and other ordnance to the city, General Morgan, commanding the Louisiana militia, caused the levee to be cut through at or near the plantation of the petitioner, on or about the 24th December, 1814, whereby the greater part of the petitioner's plantation was inundated, and remained so until after the departure of the invading army from the State.

In consequence, the petitioner suffered great losses in the destruction of his sugar cane standing on the plantation, and of the cane plants in the ground, and in expenses of repairing the levee, appraised at \$19,250 by certain citizens of Louisiana.

The committee are of opinion that this injury done the petitioner was done in the necessary operations of war, and that the United States are not liable for the individual losses sustained by that inundation; and therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[17th CONGRESS.]

No. 588.

[1st SESSION.]

PROPERTY DESTROYED DURING THE INVASION OF LOUISIANA BY THE BRITISH IN 1814-'15.

COMMUNICATED TO THE SENATE, FEBRUARY 20, 1822.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Antoine Bienvenue, of the State of Louisiana, reported:

That the claim of the petitioner is for damages done to his dwelling-house, out-houses, and other property, and for property destroyed and taken away during the invasion of Louisiana in the late war with Great Britain.

It appears, from the evidence referred to the committee, that, during that invasion, between the 23d December, 1814, and the 19th January, 1815, the Americans had erected several batteries on the right bank of the Mississippi—one opposite the plantation of the petitioner, about six miles below the city of New Orleans.

The enemy, having advanced up the river, and occupied the plantation of one Chalmet, was dislodged by the American batteries firing the houses, &c., and compelled to fall down the river to the plantation of the petitioner, of which he took possession, and made a stand, using the houses and other edifices as protection from the American fire.

In this situation, the enemy exerted himself to keep possession of the position, and the Americans to dislodge him from it; and red hot shot was used, by order of the commanding officer, from the batteries, to destroy the edifices and every thing on the plantation calculated to afford protection, aid, or comfort to the enemy, whereby the petitioner's dwelling-house was several times fired by the Americans, and extinguished by the enemy; and some stacks of rice being fired, communicated to a number of negro cabins standing near, and consumed them; and much damage was done to the petitioner's property of various kinds, as well by the Americans as the British, and personal property to a large amount was destroyed or taken away, and lost to the petitioner.

It does not appear from the evidence that any part of that property was taken into possession or used by the American army, except thirty or forty spades, taken by order of the commanding officer, to cut the levee, stated to have been worth fifty or sixty dollars, and to have been lost to the owner, but the loss is not satisfactorily proved; with the exception of which, the committee cannot perceive any thing in the petitioner's case to distinguish it from the common misfortunes of war, to which individuals are liable, nor any thing in the conduct of the American army to distinguish it from the ordinary necessities of war, in which private mischief must be suffered for the public good. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[17th CONGRESS.]

No. 589.

[1st SESSION.]

REVOLUTIONARY PENSIONERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1822.

SIR:

WAR DEPARTMENT, *January 2, 1822.*

In answer to your letter making several inquiries relative to the regiment commanded by Colonel Bedel, and in relation to several other subjects connected with revolutionary pensions, I have the honor to acquaint you that there are several pay-rolls of that regiment in this Department; that sixty-four persons who belonged to that regiment now receive pensions, three of whom are officers; and that a number of persons who served under the command of Colonel Bedel have applied for pensions and have been refused. The former class is composed of those who served under that officer in 1776, at which period his regiment was considered on the continental establishment; those whose claims have been rejected served prior or subsequent to that year, when that regiment was not on the continental establishment.

In reply to the other inquiries in your letter, I have to inform you that it appears, from the records of this Department, that two thousand three hundred and ninety-two persons, whose names were placed on the pension list under the act of March, 1818, have applied for a continuation of their pensions under the act of May, 1820, and been rejected.

From the 18th of March, 1818, to the 1st of May, 1820, two hundred and fifty-two have been discontinued by death; and from the latter date to the 1st of December, 1821, it appears, so far as returns have been received, that one hundred and eighty have been in like manner discontinued. Probably as many more have died, but the number cannot yet be precisely ascertained, reports for the last six months having been received from five States only, viz: New Hampshire, Rhode Island, New York, Pennsylvania, and Maryland.

A person whose name may have been placed on the pension list under the act of March, 1818, and dropped therefrom under the act of May, 1820, on account of the amount of his property, may be restored to the roll in a case where it is evident that a mistake has arisen; but in no other case can a person's name be restored to the list. According to the construction given by the Attorney General to the act of May, 1820, there is no power vested in this Department to replace the name of any one who has been dropped from the roll on account of his property, and who may have since become so reduced as to need the pension; and by his opinion I have been invariably governed in my decisions.

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

J. C. CALHOUN.

Hon. JOHN COCKE,
Chairman of the Committee on Revolutionary Pensions.

SIR:

DEPARTMENT OF WAR, *December 17, 1821.*

I have the honor to acknowledge the receipt of your letter of the 14th instant, requesting a statement of the number of persons placed on the pension list, agreeably to the provisions of the act of Congress of the 18th March, 1818, and the number now on the list, in pursuance of the act of the 1st May, 1820, with a brief statement of the principles by which they were retained or rejected.

The whole number of persons whose names have been placed on the pension roll under the former act amounts to eighteen thousand four hundred and eighteen, which has been reduced under the latter to twelve thousand and eighty-eight. The principles by which I have been governed in the investigation of claims; under that law you will find generally laid down in the opinions of the Attorney General of the United States, copies of which are herewith transmitted. No particular amount of property has been assumed as a standard by which to regulate the continuance of a pension, but in every case regard has been had to the peculiar circumstances of the applicant. His age, his occupation, his ability to pursue his business, the number and ages of the members of his family, and their capacity to contribute to his support, with the duration of his service, are all taken into consideration.

It is proper to observe that the opinion of the Attorney General has not been construed to extend to prevent a reconsideration where there are any grounds to believe that an error has been committed in dropping a pensioner from the list.

I have the honor to be your obedient servant,

HON. JOHN COCKE,

Chairman of Committee of Revolutionary Pensions.

J. C. CALHOUN.

SIR:

OFFICE OF THE ATTORNEY GENERAL OF THE U. S., *May 9, 1820.*

I have now the honor of answering, in their order, the three questions submitted for my opinion on yesterday, on the act of Congress of the 1st instant, supplementary to the act of the 18th of March, 1818, providing for certain persons who served in the land and naval service of the United States in the revolutionary war.

First. Whether the whole of the form prescribed in the first section to verify the amount of property of the applicant, except the oath of the party and the certificate of the clerk, must not be done in open court?

Answer. That section requires the party to present, in open court, the schedule of all his property, subscribed by himself, and accompanied by the affidavit the form of which is given by the section. This affidavit must be annexed to the schedule, and must either have been previously sworn to before some judge of the court, or must be sworn to in open court, when the schedule to which it is annexed shall be presented. The court to which the schedule is thus presented affix a value to the property: all this is to be done in open court, and made matter of record: for, by the term "court" used in the section is meant the court *in session*. I answer the first question, therefore, in the affirmative.

Secondly. Whether by "court of record," mentioned in the first section, are included courts of special jurisdiction; such, for example, as a court of ordinary, even when it is a court of record, as it has been decided to be in some of the States?

Answer. Courts of special jurisdiction may, nevertheless, be courts of record. All the courts of the United States are courts of special, not of general jurisdiction; yet they are courts of record. The phrase "court of record" is borrowed from the English law, and it is proper to look to that law for its meaning. According to the English law, those only are courts of record which proceed according to the course of the common law, which have jurisdiction in all actions, real, personal, and mixed, above the value of forty shillings; which have the power to fine and imprison; and which enrol or record their proceedings in perpetual testimony thereof. According to that law, the mere fact of keeping a register of its proceedings is not enough to make a court a court of record; for the court of admiralty and ecclesiastical courts do this, yet they are not courts of record in England, because they do not proceed according to the course of the common law, but according to the course of the civil and canon law. The "court of ordinary" mentioned in the question is, I presume, the prerogative court of England, whose function is to grant probats of wills and letters of administration; this is one species of ecclesiastical courts, and, in England, is not a court of record, for the reason just mentioned, that it proceeds by the civil and canon law, not by the common law. It is further to be remarked that in England the erection of a new tribunal, with the power to fine and imprison, is of itself sufficient to constitute the new tribunal a court of record. With this view of the English law on the subject, it is proper to state that, in my opinion, all are courts of record within the contemplation of the act of Congress—

1st. Which are expressly made courts of record by the laws of the State which create them.

2d. Which have been solemnly adjudged by the tribunals of the several States to be courts of record.

3d. Which proceed according to the course of the common law, with a jurisdiction unlimited in point of amount, keeping a record of their proceedings.

4th. Which have the power of fine and imprisonment.

And that courts which proceed according to the course of the civil and canon law, having neither of those attributes, are not courts of record, although they may keep a register of their proceedings and possess a seal.

The great multitude and variety of courts which exist in the different States, and the very loose and incorrect notions which are afloat as to what it is that constitutes that technical being "a court of record," will render it difficult for you to apply those principles to every case that may be brought before you from every part of the Union. You have a right, however, to be satisfied (and, indeed, you are required by the law to be satisfied) that the court whose certificate is affixed is a court of record. This proof can be easily supplied by the minute of the court in every instance; it may, on the face of the proceeding, state itself to be a court of record, and state why it is such; for example, "being a court of record expressly so declared by the statute of the State which created it;" or "expressly so adjudged by the tribunals of the State;" or "having the power of fine and imprisonment," &c. This may be required by the regulations which you will publish under the act, and it is, fortunately, a requisition with which a compliance is very easy.

Thirdly. Whether the words of the third section, "in such indigent circumstances as to be unable to support himself without the assistance of his country," do not comprehend those only who are incapable, without the aid of the Government, of supporting themselves, except by private or public charity?

Answer. I think it was the intention of Congress to make the amount of the schedule the test of the indigence of the applicant; and that, consequently, the relief given by the former act is to be continued in every case in which the schedule shall exhibit proof of such indigence that the income of the property is inadequate to the support of the applicant.

I have the honor to be, &c.

WM. WIRT.

The Hon. JOHN C. CALHOUN, *Secretary of War.*

SIR:

OFFICE OF THE ATTORNEY GENERAL U. S., *February 19, 1821.*

The act of the 1st of May, 1820, in addition to the pension law of the 18th of March, 1818, makes it the duty of the Secretary of War to strike from the list of pensioners the name of every person who, according to the evidence of the schedule required by the act, ought not, in his opinion, to remain on it. I am asked whether he has any power to restore, on subsequent and different evidence, the name of any person who may have been stricken off on the evidence of the schedule. To which I answer that he has not; because the law, which is the only warrant of authority to him, gives him no such power. If it be desirable that he should possess it, Congress must confer it, or he cannot, with any propriety, assume its exercise.

I have the honor to remain, sir, very respectfully, your obedient servant,

WILLIAM WIRT.

The Hon. JOHN C. CALHOUN, *Department of War.*

17th CONGRESS.]

No. 590.

[1st SESSION.]

SLAVE LOST IN THE PUBLIC SERVICE, AND FINAL SETTLEMENT CERTIFICATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 15th of February, 1822, were referred the petition and accompanying papers of Michael McKewan, of Berkley county, Virginia, have had the same under consideration, and report thereon:

The petitioner states that, during the war of the Revolution, about the month of June or July, 1778, he went to Philadelphia for the purpose of purchasing goods, taking with him a wagon and team of four horses, driven by his negro slave Tom, then about thirty-three years of age, (as he states;) that said slave was possessed of excellent qualities and very valuable; that, during the time he was in Philadelphia, his said wagon and team, and driver, were pressed into the public service, for the purpose of conveying supplies to the army then in the Jerseys; that, after several interviews with Colonel Mitchell, deputy quartermaster general, (as he states,) he consented to sell the wagon and team to the United States, and that it was arranged that Tom should continue with the wagon and horses, upon a promise that he (the petitioner) should be amply compensated for his services; and that he (Tom) should be delivered to him (the petitioner) in Philadelphia at the following Christmas; that he (the petitioner) went to Philadelphia at the time appointed, but found his said servant ill of the smallpox, caught while in public service, of which disease he died in the month of December, 1778. The petitioner states that he never received any compensation for the said slave or his services; and, as to the price of the wagon and team, that he received it in the paper currency of the time, which soon depreciated.

The petitioner then goes on to state that in the month of September, 1791, he received from a certain John H. Nicholls an assignment of sundry final settlement certificates that had been casually mutilated and almost destroyed, and also of a claim against the United States of a certain John Morris, upon an account amounting to \$107⁴/₉, on the 22d of May, 1783, certified by N. Brownson, deputy purveyor southern district; that two of these mutilated certificates have been recognised at the Treasury Department as the remains of certificates No. 81,754, for \$80, and No. 82,154, for \$43³/₉, both outstanding and unpaid; but that payment is refused at the Treasury, because the law upon the subject of outstanding final settlement certificates has expired, and the settlement of Morris's account is said to be barred by the statutes of limitation.

The petitioner then, in his petition, goes on to state that he contracted for the supply of the troops of the United States, within the State of Virginia, for the year 1801, and, jointly with a certain Daniel Harragan, for the supply of the said troops within the States of Virginia and Maryland for the year 1802; that he stands debited on the books of the Treasury for a balance of \$267 87, on account of the contract for 1801, and for a balance of \$623 89, on account of the contract for 1802; that suits were brought many years since against him and his securities for the recovery of these sums; that judgment was obtained against him for the first-mentioned balance, upon which a *feri facias* was issued, and subsequently an execution against his body, upon which he was taken and imprisoned near two years ago, and still remains imprisoned. The petitioner further states, "if these balances were justly due from him, he begs leave to state that he has long since become, from misfortunes, utterly unable to pay them, otherwise than by an adjustment of his claims before mentioned against the United States. But your petitioner does on his conscience declare his thorough conviction that they are not justly due."

The committee further report that, in their opinion, they are not authorized, nor is it their duty, to liquidate and settle, and balance the accounts of the petitioner in the manner alluded to and intimated by him; and this committee therefore ask that they may be discharged from the consideration of so much of the petition of the said petitioner as relates to his proceedings under the several contracts by him entered into for the supply of troops of the United States, in the States of Virginia and Maryland, for the years 1801 and 1802.

The committee further report that, in respect to the claim of a certain John Morris against the United States, upon an account amounting to \$107⁴/₉, on the 22d May, 1783, duly certified, as the petitioner states, by N. Brownson, deputy purveyor southern district, on which the petitioner states that on the 12th of September, 1791, he received an assignment from a certain John H. Nicholls, which had been regularly assigned by the said Morris to a certain Simeon Nicholls, and by him to the said John H. Nicholls, this committee are of opinion that it is inadmissible as evidence of any claim against the United States; that it does not appear by any act or resolution of Congress that accounts current, such as that exhibited by the petitioner, afford any evidence of claim against the United States. That, on the 23d of August, 1780, Congress "*Resolved*, That no certificates issued in the quartermaster's or commissary's departments after the 15th day of September next afford any claim upon the United States, unless issued under the following regulations:" the second of which regulations is, that "the quartermaster general and

commissary general shall, themselves, sign all such certificates as are issued in their respective departments." That if the said account current could be considered as a certificate, with the name of N. Brownson, deputy purveyor southern district, annexed thereto, it cannot afford any just claim against the United States; and, furthermore, if by any possibility any claim against the United States could or can be bottomed on the said account, it is long since barred by statutes of limitation. That the petitioner states that he sold his wagon and team, after several interviews with Colonel Mitchell, deputy quartermaster general, (who then had his office, as he states, in Philadelphia,) to the United States; that he received pay for the same, but that it depreciated. On this, the committee observe that, if the money he received for his wagon and team depreciated in his hands, it was occasioned by the state of things at that time, and that he (the petitioner) may have suffered by that depreciation as did almost every person at that time who received in payment the then paper currency.

The petitioner states that he received no pay for his said slave, or for his services. That the petitioner states that, about the month of June or July, 1778, he went to Philadelphia with his wagon and team of four horses, and his slave, Tom; that he afterwards, (in Philadelphia) sold his wagon and team to the United States, and that it was arranged that Tom should continue with them, upon a promise (as he, the petitioner, states) that he should be amply compensated for his services, and that he should be delivered to him, the petitioner, (as he states,) in Philadelphia at the following Christmas. The petitioner states that he accordingly went to Philadelphia at the time appointed, but found his said servant ill of the smallpox, caught while in the public service, of which disease he died on the 24th or 25th of December, 1778. On this statement of the petitioner, as set forth in his petition, it does not appear that he has any claim against the United States, for it may justly be presumed that he was compensated for the service of his said slave while in the service of the United States, or that he might have been so compensated by application to the proper officer for that purpose; that his said slave took ill with the smallpox (as he states) while, with his consent, he was in the service of the United States, as a driver of a wagon and team of the United States, to which employment the petitioner himself had assigned him, and died. That the petitioner is presumed, by his statement in his petition, to have seen and been present with his said slave before he died; and that said slave Tom, being a driver, hired by his master, the petitioner, to drive a wagon and team for the United States, and he dying with the smallpox, it does not appear that the petitioner could have any just claim against the United States for value of said slave; and it may be presumed that after said slave died, the petitioner, while in Philadelphia, had the merits of the case fully examined, and that this case of the petitioner respecting said slave received that careful attention from the proper officer of the United States that it merited; otherwise, the petitioner, if he had believed that in this case he had any just claim against the United States, would not have suffered it to lie dormant so many years; that more than forty-three years have passed away since the time that the said slave, as the petitioner states, died. That, for several years after said slave died, the petitioner had many opportunities of presenting said claim, if he had deemed it just, for liquidation and settlement by the proper officers appointed from time to time for that purpose; and that if he neglected to make application, it was in his own wrong, if his said claim had by him been deemed and believed to be just. The committee are of opinion that the claim of the petitioner, relative to his said slave, is inadmissible, and ought not to be allowed; and furthermore, that it is long since barred by statutes of limitation.

This committee further report that, in respect to the final settlement certificates, which he states have been recognised as outstanding and unpaid at the Treasury Department, and fragments of which he states he produced, he can, it is presumed, be relieved, provided a bill now under consideration in the House of Representatives does become a law. That, in respect to any final settlement certificates mentioned by the petitioner, and by him alluded to, the testimony is insufficient, and they are long since barred by statutes of limitation. Taking the whole case of the petitioner into consideration, this committee submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

17th CONGRESS.]

No. 591.

[1st SESSION.]

MATERIALS, LABOR, &c. FOR THE ERECTION OF MADISON BARRACKS AT SACKETT'S HARBOR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 25, 1822.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom were referred the petitions of Hoel Lawrence, Frederick White, Thaddeus Clark, and others, reported:

That the claims of the petitioners rest on the same principles; therefore the committee think it unnecessary to make a separate report on each petition. They claim payment for different sums of money, which they allege are due them from the United States for cash advanced, for labor, and materials furnished, forage and transportation, &c. for the use and benefit of the United States in the erection of the Madison barracks at Sackett's Harbor in the years 1816 and 1817; for which several sums they state that they hold the due-bills of Captain Thomas Tupper, assistant deputy quartermaster general, who superintended the erection of these barracks, to wit:

| | | | | | | |
|--------------------------------------|---|---|---|---|---|------------|
| Hoel Lawrence, to the amount of | - | - | - | - | - | \$1,708 77 |
| Frederick White, including interest, | - | - | - | - | - | 4,254 06 |
| Zeno Allen, | - | - | - | - | - | 1,300 00 |
| John Perkins, | - | - | - | - | - | 1,032 34 |

The other petitioners, to wit, Thaddeus Clark, Albert Crane, David Whiting, and Asahel Smith, have not stated the amount of their bills.

The committee here take leave to refer the House to information received from the Secretary of War in answer to a resolution of the House, (letter marked A,) and documents No. 1 to 4 of that communication, which the committee adopt as part of their report; as also the statements of the petitioners will show that the Government has

already paid the claims now preferred, as also others not yet made to Congress, amounting, in all, to near \$24,000. It will be seen that the petitioners placed more confidence in Captain Tupper than in their Government; that they gave their accounts receipted in full to Captain Tupper, which enabled him to draw the money from the Government, and to deceive and defraud themselves.

Some of the petitioners allege that the Government is bound or liable to pay their claims *again*, because of neglect in its officer to take security of Captain Tupper for the performance of his duty as assistant deputy quartermaster general, under the belief that the sureties of Captain Tupper would be liable to them for his failure to pay to them their money thus obtained. The committee think the claimants are as unfortunate and mistaken in this opinion as in giving Captain Tupper their accounts receipted in the usual form for the sums now claimed. Admitting security had been taken, surely their receipts for receiving these accounts in full from Captain Tupper would protect his securities against their claim. They also allege that if security had been taken, the Government could have recourse against that security; but the same reason would operate in favor of the security in either case; their receipts for the money would protect the securities from a claim by the Government the same as in the case of suits by themselves. The petitioners have preferred Captain Tupper in his individual character to the Government, and to him and his legal representatives they can only look for redress; they cannot be permitted to take advantage of their own wrong to the injury of the Government or individuals.

The committee recommend that their claims be rejected.

SIR:

DEPARTMENT OF WAR, *January 2, 1822.*

In obedience to the resolution of the House of Representatives of the 27th December, 1821, I have the honor to transmit, enclosed, a letter of the Quartermaster General's Department, (marked A,) with the accompanying documents No. 1 to 4, and to add that it appears by the records of this Department that Captain Thomas Tupper was appointed an assistant deputy quartermaster general on the 15th November, 1816, and it cannot be found that any bond was entered into by him.

I have the honor to be your obedient servant,

J. C. CALHOUN.

The Hon. PHILIP P. BARBOUR, *Speaker of the House of Representatives.*

A.

SIR:

QUARTERMASTER GENERAL'S OFFICE, *December 31, 1821.*

In compliance with your order, transmitting a resolution of the House of Representatives of the 27th instant, calling for information relative to the non-payment of certain debts contracted in the erection of the Madison barracks at Sackett's Harbor, in the years 1815, 1816, and 1817, I have the honor to state that at an early period after the quartermaster general came into office, in 1818, complaints were received from various persons at Sackett's Harbor respecting arrearages stated to be due on accounts contracted by Captain T. Tupper, assistant deputy quartermaster general, who was charged with the superintendence of the erection of the Madison barracks. An investigation of these complaints resulted in the removal of Captain Tupper from that duty on the 9th September, 1818, and the assignment of Lieutenant J. B. Brant, regimental quartermaster, to its completion. Lieutenant Brant was soon after directed to collect and forward all the information he could obtain respecting those arrearages, accompanied by the claims themselves, where they could be had. A portion of them (small in amount, however) were considered admissible after a close examination, and payment was authorized. The residue, amounting as near as can be ascertained to about \$24,000, were considered objectionable, and returned to the claimants. They consisted of two classes: 1st. The due-bills of Captain Tupper, given to individuals who had furnished him with their duplicate accounts, receipted in due form, which had been passed to his credit in the Treasury; 2d. The protested drafts of Captain Tupper drawn on Colonel Mullany, the division quartermaster general at the time, without authority. The principles upon which those of the first class were rejected will be found in the accompanying letter (marked No. 1) from the quartermaster general to Major Brown; and the grounds upon which the payment of the drafts was refused will be found in the letter of the quartermaster general to the War Department, hereto annexed, (marked No. 2.)

Accompanying papers Nos. 3 and 4 show the time that Captain Tupper was removed from service.

The foregoing contains all the information which can be afforded from this department relating to the subject of the resolution. The records of the office commence in June, 1818, and it will be perceived do not embrace the period in which the transactions occurred.

I have the honor to be, sir, your humble servant,

T. CROSS,

Assistant Quartermaster, in absence of the Quartermaster General.

The Hon. the SECRETARY OF WAR.

No. 1.

SIR:

QUARTERMASTER GENERAL'S OFFICE, WASHINGTON, *December 15, 1818.*

I have received your letter of the 3d instant. In reply to that part which relates to unsettled claims of individuals for services rendered and supplies furnished for the use of the Madison barracks at Sackett's Harbor, and which were contracted by Captain Tupper, assistant deputy quartermaster general, during the years 1816 and 1817, I have to state that those claims can only be settled upon the following principles: For all sums which shall appear to have been passed to the credit of Captain Tupper in the settlement of his accounts at the proper accounting office of the Treasury, and which he may *not* have paid to the individuals who furnished him with their accounts and vouchers, and which enabled him to obtain such credit, the claimants can have their recourse to Captain Tupper *only*; they having, "in their own wrong," put it in the power of Captain Tupper to deceive first the Government, and afterwards to deceive and defraud themselves, by furnishing him with their accounts and receipts in the usual and ordinary form, without having obtained from him at the time a proper equivalent therefor.

It is a long-established maxim in law that an individual cannot be permitted to take advantage of any act which he has done "in his own wrong," nor ought it to be expected that the Government will permit the claimants at Sackett's Harbor to take such advantage.

All claims which may not have been brought into the settlement of the accounts of Captain Tupper, and not have been carried to his credit, will be taken up for settlement, and, if found correct and just, will be paid when Congress shall make the necessary appropriation for that purpose.

Lieutenant J. B. Brant, quartermaster at Sackett's Harbor, has been instructed to settle and pay the claims for purchases made by Captain Tupper since the 1st of May last, to an amount not exceeding \$1,200.
I am, sir, &c.

Major SAMUEL BROWN, *Brownville.*

T. S. JESUP, *Quartermaster General.*

No. 2.

SIR:

QUARTERMASTER GENERAL'S OFFICE, *January 11, 1819.*

If the chief of a department possesses the right to issue instructions to his subordinates, that right implies an obligation on the part of the subordinate to comply with the instructions received; and the Government is only accountable for such acts of the officer as are in conformity with the instructions given by the chief.

Captain Tupper was not authorized to draw on Colonel Mullany for funds. The persons who hold his drafts have, therefore, no claim on the Government; for it was their business to ascertain whether he had the requisite authority; and, if they failed to do so, the Government ought not to be made accountable for their neglect. If it be admitted that the Government is accountable for the unauthorized acts of Captain Tupper, the conclusion, absurd as it is, inevitably follows, that the War Department, instead of regulating the duties of its subordinate officers, is liable to be controlled and governed by them.

I have the honor to be, sir, &c.

T. S. JESUP, *Quartermaster General.*

Hon. J. C. CALHOUN, *Secretary of War.*

No. 3.

SIR:

ADJUTANT AND INSPECTOR GENERAL'S OFFICE, *December 10, 1818.*

The Secretary of War directs that you repair forthwith to this place, and report to the quartermaster general, prepared to settle your public accounts.

I am, sir, &c.

D. PARKER,
Adjutant and Inspector General.

To Captain THOMAS TUPPER,
Assistant Deputy Quartermaster General.

No. 4.

GENERAL ORDER.

ADJUTANT AND INSPECTOR GENERAL'S OFFICE, *February 17, 1819.*

Captain Thomas Tupper, assistant deputy quartermaster general, having neglected his duty, and having failed to obey orders, is hereby dismissed the service of the United States, to take effect on the 31st December last, when the order of the War Department for the settlement of his accounts should have been fulfilled.

By order:

D. PARKER,
Adjutant and Inspector General.

The following is a correct statement of moneys advanced by Frederick White on account of the United States, at the request of Thomas Tupper, assistant deputy quartermaster general:

| No. of accounts, drafts, &c. | Dates of accounts, drafts, and due-bills. | Amount of principal. | Length of time since due. | Amount of interest to Sept. 1820. | Total amount of principal and interest. |
|------------------------------|---|----------------------|---------------------------|-----------------------------------|---|
| | | | Years mos. days. | | |
| 1 | Balance of book account, March 1, 1817, - | \$213 29 | 3 6 0 | \$52 22 | \$265 51 |
| 2 | Draft accepted, December 28, 1816, - | 90 00 | 3 9 0 | 23 51 | 113 51 |
| 3 | Due-bill, January 19, 1817, - | 50 00 | 3 7 0 | 12 43 | 62 43 |
| 4 | Due-bill, January 19, 1817, - | 131 25 | 3 7 15 | 33 25 | 164 50 |
| 5 | Due-bill, January 2, 1817, - | 226 75 | 3 8 0 | 58 43 | 285 18 |
| 6 | Due-bill, February 1, 1817, - | 320 00 | 3 7 0 | 80 26 | *400 26 |
| 7 | Due-bill, February 7, 1817, - | 300 00 | 3 6 21 | 75 00 | 375 00 |
| 8 | Due-bill, February 14, 1817, - | 100 00 | 3 6 16 | 25 08 | 125 08 |
| 9 | Due-bill, February 23, 1817, - | 500 00 | 3 6 7 | 123 17 | 623 17 |
| 10 | Due-bill, February 24, 1817, - | 85 62 | 3 6 6 | 21 17 | 106 79 |
| 11 | Due-bill, April 5, 1817, - | 70 00 | 3 4 0 | 17 96 | 87 96 |
| 12 | Due-bill, September 2, 1817, - | 97 03 | 3 6 0 | 23 76 | 120 79 |
| 13 | Due-bill, September 3, 1817, - | 724 00 | 3 6 0 | 177 38 | 901 38 |
| 14 | Due-bill, September 3, 1817, - | 500 00 | 3 6 0 | 122 50 | 622 50 |
| | | | | | \$4,254 06 |

I certify that the above exhibits a just and true account of moneys advanced by Mr. Frederick White, at my request, for transportation of United States troops, munitions of war, labor on the United States barracks, and forage; and that no part of said account has been paid by me.

THOMAS TUPPER.

Thomas Tupper, being duly sworn, saith that the above certificate is true and correct.
Sworn before me, this 7th day of December, 1820,

JUSTIN BUTTERFIELD, *Justice of the Peace.*

* This is paid.

SACKETT'S HARBOR, January 7, 1822.

The following is a true exposition of my claims against the Government of the United States.

ZENO ALLEN.

COPY OF MY DRAFT.

SIR: SACKETT'S HARBOR, May 19, 1818.

At three days' sight please pay to the order of Mr. Zeno Allen thirteen hundred dollars out of the public funds in deposit.

THOMAS TUPPER, Assistant Deputy Q. M. G.

M. HUNT, Esq., Cashier Utica Bank.

The above draft was given to me for the following items:

| | | | | |
|---|---|---|---|------------|
| An account of William Warring for nails, spikes, and blacksmith's work, | - | - | - | \$60 00 |
| For a due-bill given to a mason that worked on the stone barracks, on settlement, | - | - | - | 162 00 |
| For a due-bill given to George W. Genks for carpenter and joiner's work on said barracks, | - | - | - | 160 00 |
| For a due-bill given to Abraham Jewett for team work, drawing stone, lime, and sand, for said barracks, | - | - | - | 51 00 |
| For an order given me by Joseph Kembull (one of the master carpenters) on Tupper, as part pay for his services on said barracks, | - | - | - | 67 00 |
| For certificates given soldiers, at fifteen cents per day for extra fatigue work, erecting the stone barracks, and purchased by me of them, | - | - | - | 600 00 |
| For a due-bill given to a teamster for transportation from Albany, | - | - | - | 85 00 |
| For John Perkins's (the foragemaster's) receipts for hay, oats, and corn, delivered by J. Smith, | - | - | - | 115 00 |
| | | | | \$1,300 00 |

The above accounts were all for services rendered in 1816, and all for service in erecting the stone barracks, except \$115, which was for hay, oats, and corn, furnished the foragemaster by Jesse Smith, and were paid by me, not for speculation, but purely for accommodation, being pressed to do it by the persons who rendered the services, and by Tupper, who wished to satisfy them; and at that time I had never dreamed of absolving the responsibility of Government by varying or consolidating the accounts with their agent, or by shifting them from the first to the second or third persons, as long as the business was done with their authorized agent, officially certified. I furthermore certify that I was very honestly led into this belief; for I had previously done business with Major S. Brown, quartermaster general, and with Tupper before, and always gave duplicate receipts, and took their due-bills for the amount, and always received my money after a suitable time. I further certify that I have frequently heard Tupper say he wanted the duplicate receipts for every expense for Government, as a voucher to enable him to get the money; and I know this method was generally practised both by him and Major Brown.

I, Zeno Allen, being duly sworn on the Holy Evangelists, do solemnly swear the foregoing exposition of my accounts is strictly true, and that I have never received one cent.

ZENO ALLEN.

Sworn and subscribed to before me, this 7th January, 1822.

HIRAM STEELE, Judge Jefferson Common Pleas.

STATE OF NEW YORK, Jefferson County, ss.

On the 7th day of January, 1822, came before me John Perkins, and, being duly sworn, says he is now the owner of due-bills to the amount of one thousand and thirty-two dollars and thirty-four cents, which were signed by Thomas Tupper, assistant deputy quartermaster general, and were given for cash advanced by this deponent to John Lafferty, Isaac Whitcomb, and William White, for their services in the quartermaster's department in the years 1815, 1816, and 1817, and for forage and straw furnished by this deponent to the Government by the request of the said Tupper. And this deponent further says that no discount or allowance was ever made to him for cash advanced or supplies furnished, but the full sum was faithfully and honestly paid upon the credit of the Government; and, further, that this deponent never did, nor would he, at any time above mentioned, have credited or trusted the said Tupper to the amount of one hundred dollars upon his own individual responsibility, (he then being reputed insolvent,) but did pay, advance, and furnish the same entirely and totally upon the credit of the United States, by their agent, Tupper. And this deponent further says that he considers the said sum of one thousand and thirty-two dollars and thirty-four cents, and interest, to be honestly and justly due him from the Government, and that the same has never been paid, nor any part or portion thereof.

JOHN PERKINS.

Sworn and subscribed before me,

HIRAM STEELE, Judge Jefferson Common Pleas.

I certify, on honor, that while I was at Sackett's Harbor, and in command of the second regiment of infantry, there were considerable sums due to the non-commissioned officers and privates of that regiment for extra pay for labor performed in erecting the stone barracks at that place. Captain Tupper, the assistant deputy quartermaster general, stated that he had no funds to pay these men, and was in the habit of giving to them certificates, stating the number of days of labor performed, and the amount due.

The men were anxious to obtain their pay, particularly when discharged, as most of the men were while I was there.

I know that at one time it was said by the men that no one would buy the certificates; and, at the request of one man who was discharged, and who had depended on this *fatigue* money to defray his expenses in travelling home, I called on Zeno Allen, Esq., a merchant at Sackett's Harbor, and requested him to buy those certificates, and at the same time assured him that it was my opinion that funds would be provided to pay them. He consented to do so, and, from my knowledge of that gentleman, I have no doubt that he paid the men the full value. I have been informed, and believe, that he purchased certificates of this kind to a considerable amount.

Given at Detroit, (at the request of Zeno Allen, Esq.) this 6th day of February, 1819.

H. LEAVENWORTH, Colonel United States Army.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled: The petition of the undersigned respectfully sheweth:

That your petitioners are the holders of due-bills signed by "Thomas Tupper, assistant deputy quartermaster general," given for forage, transportation, materials, work, and labor, and other services done, and supplies furnished, for the use and benefit of the United States, to the said Tupper, as their agent and contractor, for which your petitioners have never been paid, or in any other way remunerated, for the whole or any part thereof; and the said Tupper being insolvent, we are driven to the only alternative of supplicating your honorable body for relief.

Conscious of the justness of our claims, we have made repeated attempts to obtain an investigation; but from some cause, to your petitioners unknown, the doors of Congress have, as yet, been closed to us. During the late war with Great Britain, sudden emergency and unavoidable casualties, in numerous instances, rendered some accommodation with the quartermaster's department on this station indispensably necessary; by means of which, credit became a currency, and due-bills thus given were for some time promptly paid; and by their official signature, carrying with them the responsibility of the Government, they received the patronage of the community, and, in a measure, became the circulating medium of this section of the country. The unwary and uninformed, the patriotic and enlightened, all alike were led to believe that "signing duplicate receipts, and taking a due-bill payable when in funds for the purpose," was necessary to enable him to obtain the funds appropriated for the purpose; for such was the repeated assurance of Tupper, the reputed agent of the Government.

Under this brief statement of facts, relying with the most implicit confidence upon the Government, we would humbly implore your honorable body to grant us such relief as the equity of our claims demands.

Dated at Sackett's Harbor, Jefferson county, New York, November 26, 1821.

THADDEUS CLARK,
ASAHEL SMITH,
JOHN PERKINS,
ZENO ALLEN,
ALBERT CRANE,
DAVID WHITING.

17th CONGRESS.]

No. 592.

[1st SESSION.]

BREACH OF CONTRACT.

COMMUNICATED TO THE SENATE, ON THE 5TH MARCH, 1822.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of Samuel Monett, reported:

That, from the evidence referred to them, it appears that, in the years 1818 and 1819, Captain Rogers, assistant deputy quartermaster general of the army, was superintending the erection of public works at Baton Rouge, under instructions to employ the troops in procuring the wood materials from the public lands in the vicinity; but with the conditional power "to purchase materials by contract where they could not be provided by the troops."

In the spring of 1819 he advised the quartermaster general of the ability of the troops to procure the whole of the wood materials from the public lands; that the high water had for the time driven the men from the swamp, which had occasioned the purchase of a raft of logs to be sawed by the troops for a special purpose; and that the labor of the troops in procuring materials would be resumed so soon as the waters should subside.

On the 27th May, 1819, the captain, in his official character, furnished the petitioner a bill for 150,000 feet of plank of different dimensions, and, on the 12th June following, entered into the following contract with him, written on the back of the bill:

"BATON ROUGE, June 12, 1819.

"I hereby agree to deliver to Thomas S. Rogers, assistant deputy quartermaster general at Baton Rouge, the quantity of plank specified in the within bill, on or before the 25th December next, or as near that time as the stage of the water will allow.

"SAMUEL MONETT."

"BATON ROUGE, June 12, 1819.

"I hereby agree to pay to Samuel Monett, or his agent duly authorized, \$30 per thousand feet, (thick stuff, board measure,) for the quantity of plank of the quality specified in the within bill, on the delivery of the same at Baton Rouge, as per his agreement annexed.

"TH. S. ROGERS,

"Assistant Deputy Quartermaster General."

Of this contract it appears no notice was given to the quartermaster's department.

The petitioner ascended the Allegany river and procured the plank in the fall of 1819; but, owing to the low water in the fall, and to the ice in the winter ensuing, he could not get his plank into the Ohio river until some time in the following spring; and, about the 12th June, 1820, he arrived at Baton Rouge with a great quantity of plank and lumber, and offered the plank contracted for to Captain Jones, the successor of Captain Rogers on that station, who refused to receive it on behalf of the United States.

It appears that great sacrifices were made in the sales as well of this as of the other plank and lumber floated down by the petitioner at the same time, and that he suffered great losses thereby.

The petitioner urges that Captain Rogers was the proper judge of the happening of the condition upon which his authority to make the contract depended, and that the fact of making this contract is conclusive of his opinion upon that point; that he, the petitioner, tendered the plank as near the 25th December, 1819, as was practicable under the circumstances, and within the terms of his contract; and therefore claims indemnity for his losses consequent upon that transaction.

The committee are of opinion—

1st. That the fact of making the contract is not conclusive of its necessity or propriety; for, if so, the act of exceeding his authority by an officer would render the act done obligatory upon the Government.

2d. That in this case the condition upon which depended the officer's power of contracting did not exist, and, consequently, that he did not possess such power in this instance.

3d. The power to contract for materials, if it existed at all, must be subservient to the end for which it was given: and the clause of the contract relating to the time of its performance, as near that mentioned as might be, should be understood to mean a reasonable time, with regard to the object of the contract, and the time when the Government would need the plank for use, and cannot be properly construed to warrant the petitioner in ascending the remote rivers of the country to procure materials, *at the risk of the Government*, in places whence they could not descend for so many months after the time when they were needed, and that mentioned for their delivery; and, consequently, that the contract, such as it is, has not been performed on the part of the petitioner, nor has the Government received any benefit therefrom.

Wherefore, they recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 593.

[1st SESSION.]

MONEY ADVANCED BY A PAYMASTER IN THE ARMY.

COMMUNICATED TO THE SENATE, MARCH 5, 1822.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Joseph C. Boyd, of Portland, in the State of Maine, late district paymaster of the United States army for said State, reported:

That, during the late war, the said Joseph C. Boyd was appointed district paymaster for the United States army, and stationed at Portland, in the State of Maine. That, on the 9th day of March, 1813, he paid to Joseph Westcott, then a captain, and commanding a company of volunteers in the service of the United States, stationed at Castine, the sum of \$1,374 35, being the amount of pay due said Westcott's company, according to the pay-roll then exhibited, and took his receipt for the same. The said Westcott then sailed from Portland to Castine, but, before he reached the latter place, he lost his pocket-book, containing the aforesaid money, as he says, by inevitable accident, in consequence of which loss the troops were not paid. When the district paymaster presented his accounts for settlement at the Treasury Department, he was refused a credit for the sum paid Captain Westcott, on the ground that the receipts of the soldiers who performed the service were not produced. He prays that Congress would pass a law authorizing and directing this sum to be passed to his credit on the settlement of his accounts.

It appears, by letters from Governor King and General Boyd, that the attendance of the district paymaster was indispensably necessary at Portland, and that he could not have left that station without great detriment to the public service. They further state that it was the constant and settled practice for district paymasters, when paying off separate companies stationed at a great distance, to place the funds necessary for that purpose in the hands of the captains of the companies, and take their receipts for the same.

The committee are of opinion that the district paymaster, considering the circumstances of the case, was justified in placing in the hands of Captain Westcott the amount necessary to pay off his company, and that it would be just and equitable to allow him that amount on the settlement of his accounts. They therefore report a bill for his relief.

17th CONGRESS.]

No. 594.

[1st SESSION.]

PENSION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 5, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom was referred, on the 19th ultimo, so much of the petition of Cornelius Huson as relates to a pension, have had the same under consideration, and submit the following report:

The petitioner states that while at Sackett's Harbor, in the year 1813, he, with his horses and sleigh, was impressed into the service of the United States by Jacob Tuckerman, then foragemaster in the said service, "to carry troops and loading for the use of the army from Sackett's Harbor to Gravelly Point;" that while in this service thus imposed upon him, "his horses and sleigh were utterly lost while passing over the ice on the lake, and himself desperately wounded by the breaking of his breastbone and several of his ribs."

The fact of impressment is satisfactorily proved. The alleged fact of the petitioner's wounds rests on his own affidavit, and that of John Amringe. The petitioner swears that "he received a wound from his sleigh on its

plunging over the cakes of ice, which broke his breastbone and ribs on his right side, and occasioned the loss of the use of his right arm; which wound for a short time totally disabled him, and deprived him of all sense and recollection." John Amringe swears that he went from Albany to Sackett's Harbor in company with the said Huson; that while at the latter place both were *pressed* with their teams to carry loading to Gravelly Point; that the said Huson, "in performing this tour of duty, was wounded in his body by the operation of a sleigh, the ice being very bad and dangerous." That the third day after the wound he (Amringe) "left Huson in such a situation that he supposed he would not live to see the next morning."

It also appears by the affidavit of Sebastian Visscher, who was appointed a commissioner by the district judge of New York to take the testimony of witnesses in relation to this subject, that the facts necessary to support the petitioner's claim, in the opinion of said commissioner, have been once proved, and the testimony forwarded to the War Office, and there lost or mislaid.

It is also proved to the satisfaction of the committee that the petitioner's wounds render him totally incapable of manual labor.

Although this case does not come within the provisions of the pension law, and although the committee are aware of the necessity of adhering in general to the principles of that law, yet in their opinion a case can hardly be conceived which has stronger claims on the justice of the country than the present. The petitioner was compelled, against his will, to perform a service for his country, which no law but that of necessity can justify. In the performance of this service he received wounds which disqualify him from all manual labor. The Government cannot heal his wounds. The least they can do is to afford him that support which his wounds (occasioned by an arbitrary act of theirs) disqualify him from acquiring by his own labor. The committee, therefore, recommend that the said Huson be allowed a pension at the rate of \$8 per month, to commence from the 3d day of December, 1821.

17th CONGRESS.]

No. 595.

[1st SESSION.]

ARREARS OF PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 8, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 19th of February, 1822, were referred the petition and accompanying papers of Thomas White, sen., of Bond county, in the State of Illinois, have had the same under consideration, and report thereon:

That the petitioner, Thomas White, sen., has heretofore had his said petition presented in the House of Representatives of the Congress of the United States, and, on the 13th of January, 1821, it was referred to the Committee on Pensions and Revolutionary Claims; that, on the 17th of the said month, that committee made a report on the said case of the petitioner, which is as follows:

"The petitioner states that he is a native of the State of Pennsylvania, Chester county, and that early in the month of July, 1776, he went in the militia service into the State of New Jersey; that orders came, as he believes, from the convention at Philadelphia, that each regiment should raise a company for the flying camp raised for the middle States of America, with leave to choose their own officers; that he was chosen a first lieutenant in Captain William Armstrong's company, Colonel William Montgomery's regiment; that he was taken prisoner at Fort Washington on the 16th November, 1776; that, after his return from captivity, he moved to North Carolina, where he remained for several years; that he never received pay until he was taken prisoner. He appears to claim arrears due to him, and asks relief.

"The committee further report that, on the 3d of June, 1776, Congress *Resolved*, That a flying camp be immediately established in the middle colonies, and that it consist of ten thousand men; to complete which number, *Resolved*, That the colony of Pennsylvania be requested to furnish of their militia, six thousand men; Maryland, of their militia, three thousand four hundred; Delaware Government, of their militia, six hundred. *Resolved*, That the militia be engaged to the 1st day of December next, unless sooner discharged by Congress, and made regulations respecting their pay; that Congress, by their resolution of the 25th of September, 1776, prescribed the manner and directed payment to be made to the militia of Pennsylvania; that the petition is not supported by any testimony, not even that of the oath of the petitioner; that ample provision was made by Congress for payment of the militia in time of the revolutionary war; that, if the petitioner has not been paid, it has been by his own neglect, by not applying in due time to the proper officer; that all claims of this kind are long since barred by statutes of limitation. More than forty years have elapsed since the time of the performance of the alleged services, and that to attempt a revision thereof at this late period is impracticable. This committee, therefore, submit the following resolution:

"*Resolved*, That the prayer of the petitioner be not granted."

That, on the said 17th day of January, 1821, the said report was read in, and concurred with by, the House of Representatives.

This committee further report that the petitioner, Thomas White, sen., of Bond county, in the State of Illinois, not being satisfied with the said report and decision in this his case, has again caused his said petition to be presented, and, on the 19th of February, 1822, the House of Representatives of the Congress of the United States ordered said petition to be referred to the Committee on Pensions and Revolutionary Claims, and the committee have had the same under consideration, and do further report: The petitioner, in his said petition, states that, some time after his return from captivity, he moved to North Carolina, where he remained a number of years; that he there was informed that Congress had opened the way for those that had not settled with the public; that he went to Philadelphia for that purpose; that he made application to Major Howell, at his office; that Major Howell told him the books were foreclosed by Congress; that he then returned home; that the next summer he saw a handbill

which stated the way was open for settlement for personal services only; that he then went to Philadelphia that fall, and applied to Major Howell as before; that he told his case to him, (Major Howell;) that he (Major Howell) examined the books; that he found the name of the petitioner, his rank, the time he was taken prisoner, and the date of his exchange, and what money he had received; that he then reported to the Auditor, Mr. Harrison, in his (that is, the petitioner's) favor, \$1,200 and thirteen years' interest; that the Auditor reported against the allowance to the Comptroller, Mr. Wolcott, to which report he agreed. The petitioner further states that Major Howell found there was a balance in his favor of a few dollars, that was due before he was taken prisoner, which they gave to him; it bore his expenses home, and thus ended the transaction. The petitioner further states, the benevolent disposition exercised by Congress towards the old revolutionists has encouraged him to make this further attempt, if your honorable body will allow him any thing for his better support and comfort now in his old age.

This committee further report that, on the 15th February, 1781, Congress "*Resolved*, That Joseph Howell, jun., one of the auditors of accounts for the main army, be, and he hereby is, authorized to open his office in Philadelphia for the purpose of settling the accounts that may properly come before him as one of the auditors of the main army; and that he proceed, particularly, in the settlement of the accounts of the officers and paymasters of the Pennsylvania line, or other accounts proper to be settled by him, under the direction of the Board of Treasury;" that Congress, on the 5th of August, 1783, was informed of the death of Mr. Pierce, late commissioner of army accounts, and took order for electing a commissioner; and that, on the 28th of August following, Congress elected Mr. Joseph Howell commissioner of army accounts; that, on the 5th of June, 1776, Congress "*Resolved*, That the militia, when in service, be regularly paid and victualed in the same manner as the continental troops;" and on the 25th of September following, Congress, by resolution, provided for payment of the militia when in service. That Congress, by resolutions passed at different times, provided for the support of the prisoners at New York, by ordering large sums of money for that object. At what particular time or times the petitioner applied to Joseph Howell does not appear, but it may be presumed that the accounts of the petitioner have been settled and paid.

The committee further report that, in this case of the petitioner, recourse has been had to the Treasury Department for such information as the records of that Department can afford relative to this case; and this committee have received a report from the Secretary of the Treasury, accompanied with a report made to him by the Register of the Treasury, as follows:

"TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 4, 1822.*

"The Register has the honor to transmit a certified copy of the account of Thomas White, late lieutenant in Col. William Montgomery's regiment of flying camp army of 1776, settled at the Treasury of the United States on the 4th of January, 1793. The additional claim alleged by Lieutenant White to have been rejected by the Auditor, and its rejection confirmed by the Comptroller of the Treasury, after a minute search in each of those offices cannot be traced. As the papers refer altogether to the flying camp, it is presumed that the settlement made at the Treasury in 1793 includes the whole of his claim.

"Respectfully submitted.

"JOSEPH NOURSE.

"The Hon. WM. H. CRAWFORD, *Secretary of the Treasury.*"

The statement of the account alluded to in the foregoing report is as follows:

| | | |
|-----|--|---|
| DR. | <i>Thomas White, late lieutenant in Col. William Montgomery's regiment of flying camp,</i> | CR. |
| | | 1793. |
| | Jan. 7. To E. Branham, (475, 1886, 55.) §80 40 | 1793. |
| | | Jan. 4. (177) By regist'd debt, (2802, 1886, 322.) §80 40 |

Which is accompanied with a certificate of the Register, as follows:

"TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 4, 1822.*

"I certify that the above is a true extract from the Treasury record; the credit given is in specie value; it is a balance which, on a settlement by the accounting officers of the Treasury, was ascertained to be due to Lieutenant White for his services in the flying camp army. The certificate of registered debt he transferred on the 7th January, 1793, thereby closing his account in the Treasury books.

"JOSEPH NOURSE."

This committee do refer to the former report of the Committee on Pensions and Revolutionary Claims made in this case, and to the proceedings of the House of Representatives thereon, as heretofore in this report alluded to, and to the said report and accompanying documents in this case received from the Secretary of the Treasury, and ask that the said reports and accompanying documents may be taken and made parts of this report.

This committee, after due consideration of this case, and the circumstances attending it, and also the evidence from the record in the Treasury Department, manifesting a settlement to have been made with, and the balance appearing due having been paid to, the petitioner in the month of January, 1793, are of opinion that the petitioner has not, in this case, any just claim against the United States, and do accord in opinion with the Committee on Pensions and Revolutionary Claims who formerly reported in this case; and for the reasons assigned in that report, together with the facts stated and reasons assigned in this report, this committee are of opinion that the petitioner in this case has not any just claim against the United States, and therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

17th CONGRESS.]

No. 596.

[1st SESSION.]

PAY AND BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 18, 1822.

Mr. WALWORTH, from the Committee on Military Affairs, to whom was referred the petition of Stephen Howard, junior, reported:

That, on the 23d day of June, 1812, the petitioner, then being a minor, did, with the consent in writing of Stephen Howard, his father, enlist in the army of the United States for the term of five years, and was regularly mustered, and joined the 11th regiment of infantry; that he continued to serve in that regiment until the 14th of August, 1813, and was then discharged, without his consent or that of his father, by order of General Hampton. The cause of his discharge (as stated therein) is on account of his being a boy, unfit to perform the duties of a soldier. The petitioner proves, by the certificate of his captain and the colonel of the regiment, and by several witnesses, that he was an able-bodied person, and competent to perform the duties of a soldier, and that he served faithfully to the time of his discharge; that he continued with the army after his discharge to the end of the war, and was in several battles. The petitioner claims the bounty land and three months' extra pay promised to soldiers who enlisted for five years, under the act of the 14th of January, 1812, and also pay from the time of his discharge to the end of the war.

The committee are of opinion that the petitioner, having been regularly enlisted and mustered, and having faithfully served until he was discharged from the army, has done every thing requisite on his part to entitle him to the bounty land and three months' extra pay allowed by the act of Congress under which he enlisted; and that his discharge without his consent before the expiration of his term of enlistment ought not to deprive him of the promised bounty of the Government. The claim for services rendered after the date of the discharge the committee deem inadmissible, such services not being authorized by law, or by any regulation of the army. The committee report a bill for his relief, so far as they consider him entitled thereto.

17th CONGRESS.]

No. 597.

[1st SESSION.]

COMMUTATION AND BOUNTY LAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 19, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 28th of February, 1822, was referred the petition of Sarah Easton and Dorothy Storer, report thereon:

The petitioners state that their father, the late Colonel Robert H. Harrison, entered the service of the United States in the month of October, 1775, in the capacity of aid-de-camp to General Washington, and that, in the spring of the following year (1776) he was appointed, in addition thereto, principal secretary to the commander-in-chief; that he served, as they state, in these high and responsible stations, until his health became so much impaired that it became necessary to retire on furlough from active service, (1781,) which is presumed to have been in March in the said year 1781. The petitioners further state that their father aforesaid did not rejoin the army again, nor ever recover his health; that, soon after the present constitution of the United States went into operation, being appointed one of the associate judges of the Supreme Court, and strongly urged by the President, General Washington, to the acceptance thereof, on his way to the seat of Government in an exhausted state, he was taken ill on the road, compelled to return home, and died in a few weeks after. (March, 1790.)

The committee further report that the said petition is accompanied with several papers going to show the zeal, and fidelity, and patriotism of the father of the petitioners, during the time he was, and acted as, aid-de-camp to the commander-in-chief, until, in March, 1781, he retired from said service on account of his ill state of health, but otherwise apparently irrelevant to the claim of the petitioners, who now claim that they may receive, in virtue of their father's services, what, by the laws of their country, their venerated parent was so eminently entitled to had he ever demanded it, viz: the commutation of half-pay and the bounty in land provided by Congress for the officers and soldiers of the revolutionary war, which they now pray may be extended to them, the only legal representatives of their father aforesaid.

The committee further report that Congress, on the 5th June, 1776, resolved that Robert Hanson Harrison have the rank of lieutenant colonel in the continental army, and that the aids-de-camp of the commander-in-chief rank as lieutenant colonels; that, on the 15th of May, 1778, Congress resolved "that all military officers commissioned by Congress, who now are, or hereafter may be, in the service of the United States, and shall continue therein during the war, shall, after the conclusion of the war, be entitled to receive, annually, for the term of seven years, if they live so long, one-half of the present pay of such officers," &c.; that, on the 3d day of October, 1780, Congress resolved "that such of the sixteen additional regiments as have not been annexed to the line of any particular State, and all the several light corps of the army, both of horse and foot, and also the German battalion, be reduced on the 1st day of January next; that the non-commissioned officers and privates in those several corps be incorporated with the troops of their respective States, and that such of them as do not belong to any particular State be annexed to such corps as the commander-in-chief shall direct. And whereas, by the foregoing arrangement, many deserving officers must become supernumerary, and it is proper that regard be had to them, Resolved, That, from the time the reform of the army takes place, they be entitled to half-pay for seven years, in specie, or

other current money equivalent, and also grants of land, at the close of the war, agreeably to the resolution of the 16th of September, 1776; that the regular army of the United States, from and after the 1st day of January next, consist of four regiments of cavalry, or light dragoons," &c., as stated in said resolution.

The committee, in applying the said resolution of the 3d day of October, 1780, to the case and claim of the petitioners, observe that, under the said resolution, they have not any right to claim either commutation of half-pay or bounty land, inasmuch as their father, Colonel Robert H. Harrison, as aid-de-camp to the commander-in-chief, and ranking as a lieutenant colonel in the line of the army of the United States, does not appear to have been deranged from the army in virtue of the said resolution, but continued in service, as appears by the petition of said petitioners and accompanying documents, until in March, 1781; and in this particular reference is had to the accompanying certificate of General Washington, given at head-quarters on the 25th of March, 1781; and, in respect to said certificate, it may be observed that it does not appear to have been intended to operate as a furlough, but rather as a certificate of the fidelity and good conduct and bravery of Colonel Robert H. Harrison, given to him on his voluntarily retiring from the army on account of ill health; and this inference is confirmed by this, to wit, that he did not again rejoin the army, and therefore did not continue in the service of the United States to the end of the war; that, on the 21st of October, 1780, Congress, by resolution, adopted further regulations for the army, and resolved "that the whole of the troops be enlisted during the war, and join their respective corps by the 1st day of January next;" and also resolved "that the commander-in-chief and commanding officer in the southern department direct the officers in each State to meet and agree upon the officers for the regiments to be raised by their respective States from those who incline to continue in service, and, where it cannot be done by agreement, to be determined by seniority, and make return of those who are to remain, which is to be transmitted to Congress, together with the names of the officers reduced, who are to be allowed half-pay for life;" "that the officers who shall continue in the service to the end of the war shall also be entitled to half-pay during life, to commence from the time of their reduction." This committee will here observe that the said resolution of the 21st of October, 1780, provided that the officers who were entitled thereto should have half-pay for life in place of half-pay for seven years, as was promised by the resolution of 3d of October, 1780; and the resolution of the 21st of October, 1780, provided that the officers who were reduced in consequence of the provisions of the said two resolutions should have half-pay for life, and that the officers who continued in the service to the end of the war should also be entitled to half-pay during life, to commence from the time of their reduction; that, on the 8th of March, 1785, Congress resolved "that the officers who retired under the resolve of the 31st of December, 1781, are equally entitled to half-pay or commutation with those officers who retired under the resolves of the 3d and 21st of October, 1780;" that, on the 22d of March, 1783, Congress, by resolution, provided that commutation of half-pay for life for five years' full pay might be made by officers to whom half-pay for life had, by resolutions of Congress, been promised; and on the 26th of January, 1784, Congress resolved "that half-pay cannot be allowed to any officer, or to any class or denomination of officers, to whom it has not heretofore been expressly promised;" that it does not appear that Colonel Robert H. Harrison was included in any class or denomination of officers to whom half-pay was expressly promised by any act or resolution of Congress; that Congress, on the 16th of September, 1776, resolved "that eighty-eight battalions be enlisted as soon as possible to serve during the present war; that Congress make provision for granting lands, in the following proportions, to the officers and soldiers who shall so engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy;" that, in this case of the petitioners, it does not appear that Colonel Robert H. Harrison was discharged from the service, or reduced by any act or resolution of Congress, and therefore is presumed not to have been included in any class or denomination of officers entitled to bounty land. The case of the legal representatives of the celebrated Colonel Knolton is one to be regretted; he commanded a company at the battle of Bunker's Hill, and was among the last in quitting the lines when the retreat was ordered; he was afterwards appointed a major in Colonel Durkee's regiment; and, on the 10th of August, 1776, was appointed by Congress lieutenant colonel of the 20th regiment; that, in September following, he was appointed to command a regiment of rangers, as stated by his representatives, and on the 15th day of that month he fell in battle fighting for his country; that, on the 16th of that month, Congress passed the resolution granting bounty lands to the officers and soldiers of the continental army; that, afterwards, the legal representatives of Colonel Knolton petitioned Congress to grant to them bounty land on account of the revolutionary services of their father, and their prayer was not granted; their brave father had fallen in battle on the day before the resolution granting bounty land was passed by Congress. This committee, for information in this case of the petitioners, have had recourse to the Treasury Department, and have, in pursuance thereof, received from the Secretary of the Treasury a report containing a report of the Register of the Treasury, as follows:

"SIR: "TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 7, 1822.*

"I beg leave to transmit to you the memorial and papers of the representatives of the late Colonel Robert H. Harrison, military secretary and aid-de-camp to General Washington, with the rank of lieutenant colonel in the continental army, under a resolution of Congress of the 5th June, 1776. Upon an examination of the records of this office, we cannot discover any settlement of the account of Colonel Harrison of the revolutionary army.

"JOSEPH NOURSE.

"PETER HAGNER, Esq., *Third Auditor of the Treasury.*"

That, in pursuance of that reference, the Third Auditor transmitted a report to the Secretary of the Treasury, which accompanies this report, and is referred to, dated Third Auditor's Office, March 9, 1822, in which the Third Auditor states his answers to inquiries made by the chairman of the Committee on Pensions and Revolutionary Claims, as follows:

"It appears, by a resolve of Congress on the 5th of June, 1776, that the rank of Robert Hanson Harrison was fixed at that of a lieutenant colonel in the continental army. That he was the aid-de-camp and secretary to the commander-in-chief, appears by the account on the books of the late commissioner of army accounts, an extract from which is herewith, marked A." "It does not appear, by any evidence in this office, that Colonel Harrison retired from service under authority of any act or resolution of Congress."

The following inquiry was made, to wit: "Does the name of Colonel R. H. Harrison appear on the list of officers entitled to commutation of half-pay for five years' full pay, or on the list of officers entitled to bounty land?" Answer by the Third Auditor: "The name of Colonel R. H. Harrison does not appear on either of the lists alluded to." Answer to another inquiry, as follows: "There is no record evidence in this office of the time Colonel Harrison left the service. From the certificate of the commander-in-chief, dated the 25th of March, 1781, filed with the petition, it is presumed he left the service about that time; and as, by the resolves of Congress, commutation of half-pay for five years' full pay, and land, were only allowed to officers serving to the end of the war, or to those who became

supernumerary under particular resolves of Congress making that grant, no evidence presents itself that Colonel Harrison was entitled to commutation or bounty land.

"By the statement A, before referred to, it will be seen that no settlement of the account of Colonel Harrison appears to have been made, and that the moneys advanced to him from time to time, as therein stated, have been passed to his credit by a general account, without specifying any items." That it appears, by the account A, referred to, that Robert Hanson Harrison, Esq., aid-de-camp and secretary, is charged with several sums of money, amounting to \$10,776 25, and that he is credited by the United States for that amount, to which the Third Auditor has subjoined the following note:

"TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *March 8, 1822.*

"The above is a true copy from the ledger of accounts during the revolutionary war. The journals for the time have all been destroyed; the particular purpose for which the money was advanced, therefore, cannot be ascertained. There is no record to be found of any settlement made of the accounts of Colonel Harrison, though, in that respect, the records are so entirely deficient that no positive testimony can be offered. The credit above appears to be a mere form by which many of the accounts were closed without any particulars.

"PETER HAGNER, *Auditor.*"

This committee further report that the petitioners state that their father, Colonel Harrison, lived until in March, 1790, some years after the constitution of the United States was adopted, and in the time that General Washington was President of the United States; and it does not appear to this committee that Colonel Harrison, in his lifetime, made any claim for commutation or bounty land. This committee, after examination of this case of the petitioners, are of opinion that this claim of the petitioners ought not to be allowed, and therefore submit the following resolution:

Resolved, That the prayer of the petitioners be not granted.

SIR:

TREASURY DEPARTMENT, *March 12, 1822.*

I have the honor to return the petition of Sarah Easton and Dorothy Storer, together with such evidence as the records of the Treasury afford, which is applicable to the case.

I remain, with respect, your most obedient servant,

WM. H. CRAWFORD.

Hon. JOHN RHEA, *Chairman of Committee on Pensions and Revolutionary Claims.*

SIR:

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 7, 1822.*

I beg leave to transmit to you the memorial and papers of the representatives of the late Colonel Robert H. Harrison, military secretary and aid-de-camp to General Washington, with the rank of lieutenant colonel in the continental army, under a resolution of Congress of the 5th June, 1776.

Upon an examination of the records of this office, we cannot discover any settlement of the account of Colonel Harrison of the revolutionary army.

I have the honor to be, with great respect, sir, your obedient servant,

JOSEPH NOURSE, *Register.*

PETER HAGNER, Esq., *Third Auditor of the Treasury.*

SIR:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *March 9, 1822.*

I have the honor to return the letter of the honorable John Rhea, chairman of the Committee on Pensions and Revolutionary Claims, enclosing the petition and accompanying documents relative to the services of the late Robert H. Harrison, Esq. as aid-de-camp and secretary to the commander-in-chief during the revolutionary war, with the following answers to his inquiries, viz:

Question. Was the late Robert H. Harrison an aid-de-camp to the commander-in-chief, with the rank of a lieutenant colonel, by a resolution of Congress passed some time in the year 1776?

Answer. It appears, by a resolve of Congress on the 5th June, 1776, that the rank of Robert Hanson Harrison was fixed at that of a lieutenant colonel in the continental army. That he was the aid-de-camp and secretary to the commander-in-chief, appears by the account on the books of the late commissioner of army accounts, an extract from which is herewith, marked A.

Question. Does it appear that Colonel Robert Hanson Harrison retired from service under authority of any act or resolution of Congress?

Answer. It does not appear, by any evidence in this office, that Colonel Harrison retired from service under authority of any act or resolution of Congress.

Question. Does the name of Colonel Richard Hanson Harrison appear on the list of officers entitled to commutation of half-pay for five years' full pay, or on the list of officers entitled to bounty land?

Answer. The name of Colonel Richard Hanson Harrison does not appear on either of the lists alluded to.

Question. Is there on the records of the Treasury Department any evidence that Colonel R. H. Harrison continued in the service of the United States until the end of the war, or otherwise, to be entitled to commutation of half-pay for five years' full pay, and to bounty land?

Answer. There is no record evidence in this office of the time Colonel Harrison left the service. From the certificate of the commander-in-chief, dated the 25th March, 1781, filed with the petition, it is presumed he left the service about that time; and as, by the resolves of Congress, commutation of half-pay for five years' full pay, and land, were only allowed to officers serving to the end of the war, or to those who became supernumerary under particular resolves of Congress making that grant, no evidence presents itself that Colonel Harrison was entitled to commutation or bounty land.

By the statement A, before referred to, it will be seen that no settlement of the account of Colonel Harrison appears to have been made, and that the moneys advanced to him from time to time, as therein stated, have been passed to his credit by a general account, without specifying any items.

With great respect, I am, sir, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. W. H. CRAWFORD, *Secretary of the Treasury.*

A.

DR. *Robert Hanson Harrison, Esq., Aid-de-camp and Secretary, in account with the United States.* CR.

| | | | | | | |
|-----------------|--------------------|---|--------------------|-----------------------|---|-------------|
| 1776, February, | To James Warren, - | - | \$80 $\frac{1}{2}$ | By the United States, | - | \$10,776 25 |
| May, | William Palfrey, | - | 132 | | | |
| July, | Ditto, | - | 168 $\frac{1}{2}$ | | | |
| September, | Ditto, | - | 200 | | | |
| May, | Ditto, | - | 500 | | | |
| August, | Ditto, | - | 300 | | | |
| February, | Ditto, | - | 600 | | | |
| June, | Ditto, | - | 479 $\frac{1}{2}$ | | | |
| 1778, October, | Ditto, | - | 400 | | | |
| December, | Ditto, | - | 786 $\frac{2}{3}$ | | | |
| 1776, Dec. 9, | Richard Dallam, | - | 300 | | | |
| No date, | John Pierce, | - | 840 | | | |
| No date, | Ditto, | - | 3,449 30 | | | |
| No date, | Ditto, | - | 2,500 | | | |
| | | | \$10,776 25 | | | |

The above is a true copy from the ledger of accounts during the revolutionary war. The journals for the time have all been destroyed; the particular purpose for which the money was advanced, therefore, cannot be ascertained. There is no record to be found of any settlement made of the account of Colonel Harrison, though, in that respect, the records are so entirely deficient that no positive testimony can be offered. The credit above appears to be a mere form by which many of the accounts were closed, without any particulars.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *March 8, 1822.*

PETER HAGNER, *Auditor.*

To the honorable the Congress of the United States: The petition of Sarah Easton and Dorothy Storer respectfully sheweth:

That their father, the late Colonel Robert H. Harrison, entered the service of the United States in the month of October, 1775, in the capacity of aid-de-camp to General Washington; and that, in the spring of the following year, (1776,) he was appointed, in addition thereto, principal secretary to the commander-in-chief.

That he served in these high and responsible stations, and performed all the duties of them, with bravery, fidelity, and ability, through the most trying and perilous scenes of the revolutionary conflict, until his health became so much impaired by the laborious duties he had to perform that it became necessary to retire, on furlough, from active service, (1781.)

That their father aforesaid did not rejoin the army again, nor ever recover his former state of health, but that a feeble and delicate state thereof was the consequence during the remainder of his life; and, finally, that he fell a sacrifice to that duty he conceived he at all times owed to his country; for, soon after the present constitution of the United States went into operation, being appointed one of the associate judges of the Supreme Court, and strongly urged by the President, General Washington, to the acceptance thereof, on his way to the seat of Government, in an exhausted state, he was taken ill on the road, compelled to return home, and died in a few weeks after, (March, 1790.)

That your memorialists were left young at their father's death; and that, at the decease of their mother, which followed about two years after that of their father, his valuable papers, which had been preserved with great care, were purloined or otherwise lost, and have never since been recovered, although much pains has been taken to ascertain what became of them.

This unfortunate circumstance has considerably retarded the claim your petitioners now confidently make on your honorable body that they may receive, in virtue of their father's services, what, by the laws of their country, their venerated parent was so eminently entitled to, had he ever demanded it, viz: the commutation of half-pay and the bounty in lands provided by Congress for the officers and soldiers of the revolutionary army, and which they now pray may be extended to them, the only legal representatives of their father aforesaid; and your petitioners will pray, &c.

SARAH EASTON,
DOROTHY STORER.

Documents accompanying the memorial of Sarah Easton and Dorothy Storer.

The services rendered by the late Colonel Robert H. Harrison in our revolutionary war were of that distinguished character to be known to the whole army, to the Congress who conducted the affairs of the Revolution, and, in general, to the American people. In the commencement of the war, being a neighbor of General Washington, and well known to him, he was invited by the general to join him as aid-de-camp and principal secretary, and he served in that station with as pure and unsullied a fame as any person ever enjoyed. In all the actions in which General Washington commanded, Colonel Harrison was present, near the person of the general, and exposed with him to equal danger. He assisted, as I have always understood, in the councils of war, where his opinions were highly respected. He was the faithful depositary of the secret councils of the general, of the confidential communications to him from Congress, of the military movements that were intended to be made, and of all those secret councils on the preservation of which the success of the army and of the Revolution itself depended; and he was a most virtuous, able, and active agent in promoting every measure that was decided on.

In the most gloomy periods of the Revolution, he was firm, persevering, and undaunted. I particularly remember that, in the ever-memorable retreat through Jersey, his example, in aid of that of the illustrious commander-in-chief, cheered the drooping spirits of others, and animated them to action. No person was more brave than Colonel Harrison, none more faithful, and I say with confidence that few, very few, rendered more important services to their country. Had he sought promotion in the army, there can be no doubt but he might easily have obtained it; but he had no such ambition. To be eminently useful in the station which he held, was the sole object of his heart. It is impossible to look back to this eventful period, and especially to the great achievements of the army, in which

he sustained so distinguished and useful a part, by the various important and complicated duties he had to perform, without being deeply impressed with a sense of his rare merit, and acknowledging with gratitude his very important services. He did not leave the army until the liberties of his country were secured, nor then till his constitution had received a severe shock. No sooner, however, was an opportunity afforded to the late commander-in-chief, than he seized it to bestow on him a new and strong proof of his confidence and attachment, as well as of his high respect for his merit. On the adoption of the present constitution of the United States, when General Washington was called to the head of the Government, he appointed Colonel Harrison a judge of the Supreme Court of the United States. His constitution, however, was too far exhausted to permit him to enter on the duties of that office. He set out to undertake them, but did not survive the effort.

I certify these facts from a personal knowledge of them, in their most important circumstances, having served myself, in our revolutionary war, three campaigns—those of 1776, 1777, and 1778; in the first as a lieutenant in the third Virginia regiment, and in the two last as aid-de-camp to Major General Lord Stirling; and they were afterwards known to me in common with other citizens who enjoyed public trusts by which they became acquainted with public affairs. The documents, however, of the late army, and of the Congress, will sufficiently prove the facts. Of the recompense which Colonel Harrison received for his important services I can say little. I have no doubt, however, that he received nothing more than his pay by the month, depreciated as it was when received. He was among the most diffident and modest of men, and the last to set up a pretension, or to make any claim for his services.

Given under my hand at Washington.

JAMES MONROE.

[The following letters, which were found among the papers of Colonel R. H. Harrison, will establish some of the important facts set forth in the memorial, and stated in the above certificate, and particularly the great confidence reposed in Colonel Harrison by General Washington. They form a small portion only of the correspondence which took place between them, as nearly the whole of the valuable papers of the former were unfortunately lost after the death of his widow, Mrs. H.]

MY DEAR HARRISON:

MORRISTOWN, *January 9, 1777.*

I often intended, but before I had it in my power forgot, to ask you whether your brother-in-law, Major Johnson, would not, in your opinion, make a good aid-de-camp to me. I know it is a question that will involve you in some difficulty, but I beg you will not consider the connexion between you in answering of it. I have heard that Major Johnson is a man of education; I believe him to be a man of sense. These are two very necessary qualifications; but how is his temper? As to military knowledge, I do not expect to find a gentleman much skilled in it; if they can write a good letter, write quick, are methodical and diligent, it is all I expect to find in my aids. Do not, therefore, if Major Johnson possesses these qualities and a good disposition, refrain (from false modesty) to withhold your recommendation, because, in that case, you will do him injustice, and me a disservice.

If you think Mr. Johnson will suit me as well as any other, I should prefer him; and therefore beg that he may be sent hither immediately, as Webb only waits the arrival of another aid to set out for Connecticut.

I am ever your affectionate friend and obedient servant,

GEORGE WASHINGTON.

MY DEAR SIR:

MORRISTOWN, *January 10, 1777.*

Enclosed are unsealed letters for Baylor and Major Clough; let every thing be put in motion agreeably to them as speedily as possible, and Clough or Starke, or both, set off as speedily as possible for Virginia.

If Grayson accepts the offer of a regiment, he should set out immediately to raise it; in doing which, he will, I expect, derive great assistance from Levin Powell if he inclines to serve as lieutenant colonel. The other officers, under the reserve of a negative, I leave to themselves to name. Young Ross I shall put into Gist's regiment.

Let me have a copy of the instructions given to Sheldon; and if you could let me know exactly how the matter stands with respect to the exchange of prisoners, I should be glad to be furnished with it as soon as possible, as I am blamed, it seems, for not facilitating that matter more. Take the most speedy and effectual measures to communicate the releasements that have come out, in order that the several officers concerned may be under no doubt or embarrassment with respect to the part they are to act.

The enclosed came to me from Richard Henry Lee, Esq. I send it, that, if Grayson thinks proper to make use of Captain Kendall, he may. Colonel Lee gives a good character of him. I shall add no more at present than that I am most sincerely yours,

GEORGE WASHINGTON.

P. S. Send me a copy of that resolution of Congress relative to General Lee. I hear they are about to try him as a deserter.

MY DEAR SIR:

MORRISTOWN, *January 20, 1777.*

Mr. Johnson (who is now become a member of my family) delivered to me your letter of the 18th last night.

I beg of you to consult, and in my name advise and direct, such measures as shall appear most effectual to stop the progress of the smallpox. When I recall to mind the unhappy situation of our northern army last year, I shudder at the consequences of this disorder if some vigorous steps are not taken to stop the spreading of it. Vigorous measures must be adopted (however disagreeable and inconvenient to individuals) to remove the infected and infection before we feel too sensibly the effect.

I wish to Heaven the expected reinforcements were joined. (Under the rose I say it,) my situation, with respect to numbers, is more distressing than it has ever been yet; and at a time when the enemy are assembling their force from all quarters, no doubt with a view either to rout this army or to move towards Philadelphia, as I cannot suppose them so much uninformed of our strength as to believe they are acting upon a defensive plan at this hour.

I am exceeding glad to hear you are getting better of your complaints. I would not wish you to come out too soon; that may only occasion a relapse, which may add length of time to your confinement.

Be so good as to forward the enclosed to Captain Hamilton.

Most affectionately, I am yours,

GEORGE WASHINGTON.

P. S. Doctor Cochran will set out to-morrow for Newtown, and will assist you in the matters before mentioned relative to the smallpox people.

DEAR SIR:

MOUNT VERNON, *November 18, 1781.*

A few days previous to my leaving the camp before York I was favored with your letter of the — ultimo. Thinking I should see you on my return, I postponed acknowledging the receipt of it till now that I despair of that pleasure, being on the eve of my departure for Philadelphia, without making any stay upon the road except one day at Annapolis, if the Governor should be there.

I desired Doctor Draper, who came to this place with me on Tuesday last, and proposed being at Port Tobacco next day, to let you know I should stay a few days at home, and should be glad to see you; he possibly did not go there, or you might be attending the courts.

I thank you for your kind congratulations on the capitulation of Cornwallis. It is an interesting event, and may be productive of much good if properly improved; but if it should be the means of relaxation, and sink us into supineness and security, it had better not have happened. Great Britain for some time past has been encouraged by the impolicy of our conduct to continue the war; and should there be an interference of European politics in her favor, peace may be further removed from us than we expect; while one thing we are sure of, and that is, that the only certain way to obtain peace is to be prepared for war. Policy, interest, economy—all unite to stimulate the States to fill the continental battalions, and provide the means of supporting them. I hope the present favorable moment for doing it will not be neglected.

Mr. Custis's death has given much distress in this family. I congratulate you on your late change, and am, dear sir, your most obedient and affectionate servant,

GEORGE WASHINGTON.

ROBERT H. HARRISON, Esq.

DEAR SIR:

MOUNT VERNON, *July 3, 1785.*

In the interval between your leaving this and the arrival of Mr. Briscoe, Mr. Montgomery, of Dumfries, recommended a young man whom he thought would answer my purpose; and being desired to speak to him, he accepted my offer, and will be with me in the course of a few days. Had it not been for this, the good character given of Mr. Briscoe by you and others would have induced me, without hesitation, to have accepted his services. I thank you very sincerely for the ready and early attention you paid to my inquiries. To assure you of the great esteem and regard I have for you is unnecessary, because you must be convinced of it; I shall only add, therefore, that I am, very affectionately, your obedient and obliged humble servant,

GEORGE WASHINGTON.

ROBERT H. HARRISON, Esq.

DEAR SIR:

NEW YORK, *September 28, 1789.*

It would be unnecessary to remark to you that the administration of justice is the strongest cement of good government, did it not follow as a consequence that the first organization of the federal judiciary is essential to the happiness of our country, and to the stability of our political system.

Under this impression, it has been the invariable object of my anxious solicitude to select the fittest characters to expound the laws and dispense justice. To tell you that this sentiment has ruled me in your nomination to a seat on the supreme bench of the United States would be but to repeat opinions with which you are already well acquainted—opinions which meet a just coincidence in the public mind.

Your friends and your fellow-citizens, anxious for the respect of the court to which you are appointed, will be happy to learn your acceptance, and no one among them will be more so than myself.

As soon as the acts which are necessary accompaniments of these appointments can be got ready, you will receive official notice of the latter. This letter is only to be considered as an early communication of my sentiments on this occasion, and as a testimony of the sincere esteem and regard with which I am, dear sir, your most obedient and affectionate humble servant,

GEORGE WASHINGTON.

The Hon. ROBERT H. HARRISON.

MY DEAR SIR:

NEW YORK, *November 25, 1789.*

Since my return from my tour through the eastern States, I have received your two letters, dated the 27th of last month, together with the commission which had been sent to you as a judge of the Supreme Court of the United States.

I find that one of the reasons which induced you to decline the appointment rests on an idea that the judicial act will remain unaltered. But, in respect to that circumstance, I may suggest to you that such change in the system is contemplated, and deemed expedient by many in as well as out of Congress, as would permit you to pay as much attention to your private affairs as your present station does.

As the first court will not sit until the first Monday in February, I have thought proper to return your commission, not for the sake of urging you to accept it contrary to your interest or convenience, but with a view of giving you a further opportunity of informing yourself of the nature and probability of the change alluded to. This you would be able to do with the less risk of mistake if you should find it convenient to pass some time here when a considerable number of members of both Houses of Congress shall have assembled; and this might be done before it would become indispensable to fill the place offered to you. If, on the other hand, your determination is absolutely fixed, you can, without much trouble, send back the commission under cover.

Knowing as you do the candid part which I wish to act on all occasions, you will, I am persuaded, do me the justice to attribute my conduct in this particular instance to the proper motives, when I assure you that I would not have written this letter if I had imagined it would produce any new embarrassments. On the contrary, you may rest assured that I shall be perfectly satisfied with whatever determination may be consonant to your best judgment, and most agreeable to yourself.

I am, dear sir, with sentiments of real esteem and regard, your most obedient and affectionate servant,

GEORGE WASHINGTON.

P. S. As it may be satisfactory to you to know the determination of the other associate judges of the Supreme Court, I have the pleasure to inform you that all of them have accepted their appointments.

[Endorsed "Private."]

MY DEAR SIR:

BLADENSBURG, *January 21, 1790.*

I left home on the 14th instant with a view of making a journey to New York, and, after being several days detained at Alexandria by indisposition, came thus far on the way. I now unhappily find myself in such a situation as not to be able to proceed farther. From this unfortunate event, and the apprehension that my indisposition may continue, I pray you to consider that I cannot accept the appointment of associate judge with which I have been honored. What I do, my dear sir, is the result of the most painful and distressing necessity.

I entreat that you will receive the warmest returns of my gratitude for the distinguished proofs I have had of your flattering and invaluable esteem and confidence, and that you will believe that I am, and shall always remain, with the most affectionate attachment,

My dear sir, your most obedient and obliged friend and servant,

ROBERT H. HARRISON.

The PRESIDENT OF THE UNITED STATES.

[Mr. Harrison lived to return home, and died in March following.]

No. 300.—*Certificate of services.*

I certify that Robert Hanson Harrison, Esq., lieutenant colonel in the continental army, entered the service in the month of October, 1775, as one of my aids-de-camp, and in May following became my secretary, the duties of which offices he discharged with "conspicuous abilities;" that his whole conduct, during all the interesting periods of the war, has been marked by the strictest integrity, and the most attentive and faithful services, while by personal bravery he has been distinguished on several occasions.

Given at head-quarters, this twenty-fifth day of March, 1781.

GEORGE WASHINGTON.

To Lieut. Col. ROBERT HANSON HARRISON.

I certify that the above is a true copy taken from a volume in my possession containing private letters from General Washington, from January, 1780, to December 18, 1782, marked P. vol. 2, page 201.

BUSH. WASHINGTON.

DEAR SIR:

LA GRANGE, *October 28, 1821.*

I was lately in town, where I had the honor to receive your much esteemed letter, and hasten to forward my answer with the paper of which the enclosed is a duplicate. I hope it will arrive in time, and beg you to accept my thanks for the opportunity you have given me to express affectionate remembrances. Happy I would be to flatter myself that I have in some degree contributed to the success of the wishes of a family to whom I shall ever think myself bound by the ties of high regard and tender friendship which united me to my dear companion in arms and patriotism, Colonel Harrison. I beg you to receive and present to the other members of the family my sincere and affectionate regard.

LAFAYETTE.

To DAVID EASTON, *Washington City.*LA GRANGE, *October 28, 1821.*

My happy intimacy at head-quarters during the revolutionary war, and a mutual friendship with Colonel Robert H. Harrison, have enabled me to witness his high virtues, distinguished abilities, important services, as well as the very great share he had in the confidence, affection, and gratitude of General Washington.

While I lived in, and during my ensuing intercourse with, the military family of which I am proud to have ever been considered as a member, I have seen Colonel Harrison intrusted with every secret, consulted on every emergency, employed on opportunities where patriotism and talents were most required; and although at the time of the colonel's retreat I was employed in a separate command in Virginia, I may attest that his brother soldiers regarded him as an officer on furlough, ready to reassume his post in case his health would allow it. So far at least go my general recollection and the remembrance of General Washington's own expressions, that, if I had the honor of a seat in Congress, I should not hesitate to give a favorable vote on that subject.

And in case there is an application made before the State Legislature in behalf of Colonel Harrison's children, I wish it may not appear too presuming from a survivor of the head-quarters of those early times to say that a mark of satisfaction to the memory of their excellent father, gratifying as it cannot fail to be to the actual veterans of the revolutionary army, would not have been less gratefully applauded by those who are departed, namely, by our venerated commander-in-chief.

LAFAYETTE.

17th Congress.]

No. 598.

[1st Session.

PROPERTY ABANDONED AT ALGIERS IN 1812.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 21, 1822.

Mr. SMITH, of Maryland, from the Committee of Ways and Means to whom was referred the petition of Jonathan S. Smith, reported:

That the petitioner states that he was at Algiers in pursuit of his business as a merchant, having in store one hundred and thirty-one bags of coffee, valued at \$6,801, which had been consigned by him to Tobias Lear, then consul of the United States to the Regency of Algiers; that he, together with the said consul, was compelled to

depart from Algiers in July, 1810, at three days' notice, and to abandon the said property; that he (the petitioner) applied to Congress for redress, and that the subject had been referred to the Secretary of State, who reported "that the claim on the Regency of Algiers for indemnity was good, and that, whenever a peace should be made with them, it would be the duty of the United States to endeavor to obtain such indemnity;" that the said petitioner filed his claim with the Secretary of State; that the claims of William Gray and other citizens were known to the commissioners of the United States who made and signed the treaty of peace with Algiers, but that the claim of the petitioner (although regularly filed in the State Department) was not known to them; that the treaty provided "that a just and full compensation shall be made by the Dey of Algiers to such citizens of the United States as have been captured and detained by Algerine cruisers, or who have been forced to abandon their property at Algiers, in violation of the twenty-second article of the treaty of 1795."

And it was further agreed by the contracting parties that, in lieu of the above, the Dey of Algiers should deliver to the consul the whole of a quantity of cotton left by him, and also should pay him the sum of \$10,000 in specie.

It appears that the cotton was delivered, and the \$10,000 actually received by the consul, which sum has been divided proportionately among the several sufferers; that the petitioner's loss (as he states) amounted to the sum of \$6,801 84; that he has received \$2,000, being his fair proportion of the \$10,000 paid by the Dey of Algiers. The balance, say \$4,801 84, is claimed by the petitioner, and he prays that Congress will pass a law authorizing the payment of that amount.

The petitioner bottoms his claim on national law; on the declaration of the Secretary of State that the claim was good, and that, on a treaty being made, it would be the duty of the United States to endeavor to obtain indemnity from the Dey; that the Dey had consented to make a just and full compensation to the claimants; that, notwithstanding such engagement, the commissioners had (for want of the information relative to his property, possessed by the State Department) consented to accept of \$10,000 for property belonging to the petitioner and others, which was worth \$40,000; that the neglect on the part of the State Department left the commissioners who made the treaty to guess at the probable loss that had been sustained by the citizens of the United States; and for all those causes he prays remuneration for the loss he has sustained.

The committee ask leave to refer to a printed statement of the case accompanying this report.

The committee have considered the subject with great attention. The loss to the petitioner is sincerely regretted. They must, however, presume that the commissioners had used their best endeavors for a full payment to the sufferers. The cotton was restored. The commissioners, it appears, were apprized of the loss of all the sufferers except that of the petitioner, amounting to more than \$33,000, and it may be presumed that they found it necessary to accept \$10,000 in full payment.

The committee are of opinion that the granting of the relief prayed for by the petitioner would admit the principle that, in all cases, the Government is bound, in making peace with a foreign Power, to secure its citizens in all their just claims against such Power, or to make itself responsible for all such claims—a principle which might, and probably would, embarrass the Government in all its negotiations—a principle that has, in no instance, been admitted by the United States. It is the duty of the Government to use its best endeavors in such cases to obtain redress for injury done its citizens. It is to be presumed that the commissioners did so in making the treaty of peace with Algiers. The committee, therefore, recommend that the petitioner have leave to withdraw his petition and papers.

To the honorable the Senate and House of Representatives of the United States of America: The memorial of Jonathan S. Smith, of the city of Philadelphia, respectfully sheweth:

That your memorialist, a native born citizen of the United States, and at present therein residing, having been abroad on his commerce, he, in February, 1810, proceeded with a quantity of coffee, on board the schooner Union, of New York, which he landed at the island of Majorca, in the Mediterranean; that he reshipped from thence two hundred and nine bags of said coffee to the city of Algiers, in Barbary; that the same was consigned to Tobias Lear, Esq., then consul general of the United States at that place.

That your memorialist, in consequence of the rupture between the Regency of Algiers and the United States, was forced to depart from the city of Algiers with the aforesaid consul general of the United States, in July, 1812, at three days' notice, on board the ship Allegany, with all American citizens, contrary to the eighteenth article of the treaty of September, 1795, then existing between the United States and the Regency of Algiers, which stipulates as follows, viz:

"Should war break out between the two nations, the consul of the United States, and all citizens of said States, shall have leave to embark themselves and property, unmolested, on board of what vessel or vessels they may think proper."

That your memorialist, thus situated, had no alternative but to abandon his property then at Algiers, and drew up a formal instrument of protest thereon, which was legally attested by Tobias Lear, Esq., as the consul of the United States, and his consular seal of office thereunto affixed. That your memorialist, by this act, did abandon one hundred and thirty-one bags of coffee, containing sixteen thousand three hundred and eighty-seven pounds, nett American weight, then in the hands of Tobias Lear, Esq., as the constituted authority of the United States, relying on them for indemnity in all losses, costs, charges, and damages, according to the customs and usages of commercial nations wherein any outrage or want of good faith has been observed towards their own respective citizens or subjects by other nations.

That your memorialist had the honor to submit to your honorable body, in 1814, a full statement of his case, with his original protest, setting forth the nature of the same. This was then referred to the honorable the Secretary of State of the United States for his official report thereon, who was pleased to state, in answer, that he considered this a good claim on the Regency of Algiers whenever a treaty should be made with them by the United States, who were bound to recognise the same in any future negotiations. Such treaty has since been effected; and, by the fourth article, it is therein provided as follows, viz:

"That a just and full compensation shall be made by the Dey of Algiers to such citizens of the United States as have been captured and detained by Algerine cruisers, or who have been forced to abandon their property at Algiers, in violation of the twenty-second article of the treaty of 1795."

"And it is agreed between the contracting parties, that, in lieu of the above, the Dey of Algiers shall cause to be delivered forthwith into the hands of the American consul residing at Algiers the whole of a quantity of bales of cotton left by the late consul general in the public magazines at Algiers, and that he shall pay into the hands of said consul the sum of ten thousand dollars in specie."

That your memorialist, after this treaty was made, did, in January, 1816, demand payment of his account, as then filed in the Department of State, amounting to six thousand eight hundred and one dollars and eighty-nine

cents; that your memorialist actually received in advance, and as part payment of his claim, from the treasury of the United States, the sum of two thousand dollars. This act, therefore, fully admitted the validity of this claim, as well as the assumption of the debt. But it now appears that the sum of ten thousand dollars, received by the United States by way of reparation to their citizens for the losses and injuries they had sustained, is not sufficient to satisfy the several claims, which amount to near forty thousand dollars; and that out of this inadequate provision your memorialist has received his full proportion.

That your memorialist, however, upon every principle of national honor, law, and justice, feels the highest confidence that his personal rights cannot be compromised by any oversight on the part of the United States in their negotiations with the Regency of Algiers, as the former had officially declared, by their own report made previous to this treaty, that they were bound to recognise this claim, and, consequently, to provide for a just and full reparation therein. And under that decision, however distant the prospects of reimbursement, your memorialist then rested satisfied for the time being, with the national assurance taking it for granted that the United States would have fulfilled their promises in the same.

That your memorialist, notwithstanding the peculiar hardship of his case, is not disposed to trouble your honorable body with a further detail therein, as all the facts have already been before you, but trusts to this plain summary in point towards the equity of his claim, and must hope that you will be pleased to take the same into your consideration, and direct that the balance of his account, as filed in the Department of State, amounting to four thousand eight hundred and one dollars and eighty-nine cents, shall be forthwith paid unto him, the aforesaid memorialist, who, as in duty bound, will ever pray, &c.

JONA. S. SMITH.

Summary statement of facts in the case of Jonathan S. Smith, of Philadelphia, for certain property he was forced to abandon in the city of Algiers, at the time of the rupture between that Regency and the United States of America.

In the month of July, 1812, the consul general of the United States, the late Tobias Lear, Esq., was ordered to depart that Regency at three days' notice, with all American citizens, on board the ship *Allegany*, in consequence of the misunderstanding between the two Governments; by which Jonathan S. Smith was forced to abandon one hundred and thirty-one bags of coffee, then remaining in store in that city, contrary to the good faith stipulated in the eighteenth article of the treaty of peace and amity made between the United States and that Regency on the 5th of September, 1795, which states as follows, viz:

"Should war break out between the two nations, the consul of the United States, and all citizens of said States, shall have leave to embark themselves and property, unmolested, on board of what vessel or vessels they may think proper."

Under the letter of this treaty Jonathan S. Smith shipped his coffee to Algiers, considering this sanction on the part of his own Government, as well as the Regency of Algiers, a sufficient guaranty that his property and person would not only be secure, but unmolested there. This will fully prove to the mind of every considerate and disinterested person that Jonathan S. Smith was pursuing a legitimate commerce; and in this case the more particularly so, as it was through the intermediate agency of the consul of his own nation, Tobias Lear, Esq., who was the consignee of this property; consequently, that the loss and injuries sustained by Jonathan S. Smith, by the violation of the aforesaid article of treaty, formed a just and equitable claim on his part for a competent indemnity in all losses, charges, damages, and interest, according to his protest before Tobias Lear, Esq. as the consul of his nation at Algiers.

From the foregoing circumstances, Jonathan S. Smith, on his return home, presented a memorial to the honorable the Senate and House of Representatives of the United States, with the original protest; and by a resolution of the Senate, in March, 1814, the case was referred to the honorable the Secretary of State of the United States for his report thereon; and he was pleased to reply as follows, viz:

"That the injunctions imposed by the Dey of Algiers on the consul general of the United States and other American citizens to leave Algiers before the petitioner could dispose of his coffee, or to provide the means to carry it elsewhere, give him a claim on the Regency for indemnity whenever a peace shall be made, and which it is the duty of the United States to endeavor to obtain for him."

From this extract of the official report on this special case, it most evidently appears that the Government of the United States not only then considered that Jonathan S. Smith had a good claim on the Regency of Algiers, but that it would be the duty of the United States furthermore to recognise and provide for the same in any new treaty which they might make with that Power; and, in order that the nature of this claim might be fully understood, and not overlooked by the United States, in any new arrangement with the Regency of Algiers, was one principal reason that governed Jonathan S. Smith in placing a full statement of the facts before his own Government in due time. If other claimants have not taken this precaution, or the United States had not themselves ascertained the full extent of the injuries done their own citizens previous to entering on such negotiations, in order to provide a full reparation therein, it certainly should not follow that any individual should suffer to have his own rights curtailed by such neglect or oversight.

The United States did make a new treaty with the Regency of Algiers; and, by the fourth article, it is stipulated therein as follows, viz:

"That a just and full compensation shall be made by the Dey of Algiers to such citizens of the United States as have been captured and detained by Algerine cruisers, or who have been forced to abandon their property at Algiers, in violation of the twenty-second article of the treaty of peace and amity concluded between the United States and the Regency of Algiers on the 5th of September, 1795."

"And it is agreed between the contracting parties, that, in lieu of the above, the Dey of Algiers shall cause to be delivered forthwith into the hands of the American consul residing at Algiers the whole of a quantity of bales of cotton left by the late consul of the United States in the public magazines at Algiers, and that he shall pay into the hands of said consul the sum of ten thousand dollars in specie."

Under the general provision made by this treaty, the claim of Jonathan S. Smith was included with others; and it will also be perceived, by the tenor of the first part of the fourth article, that the Dey and Regency of Algiers were then disposed to make a just and full reparation to those citizens of the United States who had been captured and detained by Algerine cruisers, or who had been forced to abandon their property at Algiers; and they having conceded this point in the fullest extent by such preliminaries, the United States should have taken care to receive, for their own citizens, to the full amount of all injuries done them by the violation of the treaty of 1795. However, by compromise, the sum of ten thousand dollars only was received, besides the cotton, and it appears that the claims since exhibited amount to near forty thousand dollars.

In January, 1816, Jonathan S. Smith presented his account for payment at the Department of State. Some difficulty then appeared in the final settlement, owing to the insufficiency of the sum which had been received by the United States from the Regency of Algiers; notwithstanding, the honorable the Secretary of State of the United States was then pleased to make him an advance of two thousand dollars on account of his claim, then filed in that Department, amounting to six thousand eight hundred and one dollars and eighty-nine hundredths. At the same time it was fully understood that this accommodation was not to debar him in a demand for the balance, which was to be made by appeal to the honorable the Senate and House of Representatives of the United States, as an individual could not have any other method of redress in such case.

It has been a matter of some mystery as to the final disposition of the coffee after it was abandoned by Jonathan S. Smith, at the city of Algiers, conformably to his protest before Tobias Lear, Esq., the late consul general of the United States, and by him attested with his consular seal thereunto affixed. This, however, will not become a matter of necessary inquiry on the part of Jonathan S. Smith, in the present state of the case, as he now fully considers that the United States have assumed the issue. He must, nevertheless, be permitted to remark that a quantity of bales of cotton left in the public magazines by the late consul general have since been found, and restored to the rightful owner; and he has also been benefited by an intermediate rise in the value of the article, whilst other claimants are only to receive about one-fourth of their dues. It is true it may be no more than just to return the cotton to the identical owner; but query: would he have been satisfied to receive the same in case of any intermediate decrease in value? Perhaps, it being of but small consideration to a merchant of great commerce, he might have thought it not worth his attention; but had he been disposed to think otherwise, he would have had it equally in his power with the other claimants still to have demanded indemnity for the partial loss he had therein sustained.

Thus it will appear that the fourth article of the late Algerine treaty not only places the claimants on an unequal footing, but ultimately leaves the greater part of them without a just and full reparation, as first contemplated, which might and should have been received from the Dey and Regency of Algiers by the United States, as they had undertaken to legislate thereon in behalf of their own citizens, agreeably to the protection given by the customs and usages of nations. And it will also be perceived that the unsatisfied claimants cannot now, under any pretext whatever, have recourse to the Regency of Algiers for further reparation in the losses and injuries they have sustained by the violation of the treaty of 1795, as the United States have themselves, by an article in their new treaty, foreclosed all demands on the same.

Therefore, Jonathan S. Smith must, on his own part, from the foregoing considerations, look to his own Government for the balance of his account, amounting to four thousand eight hundred and one dollars and eighty-nine hundredths; and which sum he confidently trusts will be fully accorded to him, in the justice and liberality of the honorable the Senate and House of Representatives of the United States towards his memorial now before them.

JONATHAN S. SMITH.

PHILADELPHIA, *December 5, 1818.*

SIR:

DEPARTMENT OF STATE, *February 6, 1819.*

I have the honor to state, for the information of the Committee of Ways and Means, that the account of Jonathan S. Smith, for the claim he now makes under the fourth article of the late treaty with the Dey and Regency of Algiers, was known to this Department before the negotiation of that treaty; and that the claims of Nathaniel Silsbee, James Devereux, Robert Stone, jun., and Dudley Pickman, for the brig Edwin and cargo, and of William Gray, for a parcel of cotton left at Algiers, were known to the commissioners of the United States who concluded that treaty, at the time of the negotiation, though neither of these claims, nor any specified one whatever, is mentioned or referred to in the instructions to them from this Department: Conformably with the opinion of the then Attorney General of the United States, the nett proceeds of the cotton were paid to Mr. Gray; and the sum of ten thousand dollars, reserved to be paid by the fourth article of the treaty, has been distributed as nearly as might be, according to the amount of their several claims, between Jonathan S. Smith and Nathaniel Silsbee, for himself and the other owners of the brig Edwin and cargo.

It may be proper to add that the payment to Mr. Smith was made some time before that to Mr. Silsbee, and that the claim of Mr. Silsbee was still further recommended by a certificate of Commodore Decatur, one of the commissioners who negotiated the treaty, stating that it was the only one known to the commissioners, with the exception of that of Mr. Gray, at the time of their forming the treaty.

I have the honor to be, with great respect, sir, your most obedient servant,

JOHN QUINCY ADAMS.

SAMUEL SMITH, Esq., *Chairman of the Committee of Ways and Means.*

17th CONGRESS.]

No. 599.

[1st SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 26, 1822.

Mr. EUSTIS, from the Committee on Military Affairs, to whom were referred the memorial and resolutions of the Legislature of the State of Georgia, asking payment from the United States for services rendered by the militia of that State in the years 1792, 1793, and 1794, reported:

That they have examined the documents referred to in the memorial, to wit, a report made by the Secretary of War on the 3d of February, 1803, in compliance with a resolution of the House of Representatives of the 3d of April, 1802, and sundry other documents attached to that report, [see No. 139, page 277,] by which it appears that the sum then claimed for services rendered by the militia amounted to \$142,535 29.

The destruction of the War Office and public documents by fire, it is believed, prevents the committee from giving a history of some of the facts and circumstances in relation to this claim, in the early stages of its existence, necessary to give a fair view of its merits. There is abundant evidence, however, yet on record to show that its justice against the United States was never admitted by Congress; and, in the opinion of your committee, there are strong if not insuperable objections on principle why its justice should not be admitted. The committee, however, deem it unnecessary at this time to go into an investigation of the original merits of the claim, because, in their opinion, *it has long since been cancelled, and paid to the State of Georgia*, under a provision in the convention and agreement entered into between the United States and the State of Georgia on the 24th day of April, 1802, whereby that State ceded to the United States her western lands; to which agreement the committee refer the House for further information. In support of this opinion, the House are referred to facts and reasons contained in a report made by the Committee of Claims on the 16th of December, 1803, and to a letter from Levi Lincoln, then Attorney General, and one of the commissioners on the part of the United States, who, with commissioners on the part of Georgia, negotiated that treaty of cession, which letter bears date the 3d of December, 1803, is directed to said committee, and attached to their report; and which report and letter this committee adopt as part of their report. [See No. 148, page 289.]

Your committee find, on examining the proceedings of Congress, that this claim, in substance, was before Congress at each session from the year 1797 (by citizens of the State of Georgia) until the year 1803, when the report by the Committee of Claims above referred to was made and adopted, and payment refused, as is believed, in consequence of the objectionable principles involved therein.

Your committee further find that in the years 1804, '5, and '6, this claim was presented to Congress by citizens of the State of Georgia, and was each year referred to the Committee of Claims, and regularly reported against, referring to and adopting the report made in the year 1803.

From the year 1806 to the year 1816 your committee find no account of this claim in the journals of Congress; when it was again presented, and the subject referred to a *select committee*, [see No. 343, page 515.] who made a favorable report thereon, accompanied by a bill, which was not finally acted on. Since which time your committee presume the House are sufficiently acquainted with the proceedings had thereon.

Your committee are unanimous in the opinion that the claim ought not to be paid by the United States.

STATE OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES, THURSDAY, *December 20, 1821.*

The select committee, to whom was referred the communication of his excellency the Governor upon the subject of claims which accrued in favor of certain of our citizens for militia services rendered in the years 1792, '93, and '94, under the authority of the President of the United States, have bestowed upon the reference an attention, if not proportioned to the importance of the subject, at least as extensive as their time would admit. Your committee cannot withhold an expression of their surprise that services rendered under such high sanctions, at such hazardous periods, and so beneficial in their results, should have passed so long even without the scanty request which constitutes the soldier's pay. But believing, as your committee do, that neither the justice of the claim, nor the disposition to satisfy it, has been impaired by time, they have had reference to documents, by which they are induced to the recommendation of a course, in the success of which they have a confident hope. Your committee submit the following memorial:

The memorial of the Legislature of the State of Georgia to the President of the United States, sheweth:

That your memorialists feel constrained, through the highest organ of the Government, to make this appeal in behalf of a portion of the citizens of the State, whose interests have been long forgotten, or remembered but to be disregarded. Your memorialists cherish no belief that this protracted neglect has proceeded from a deliberate intention to practise towards Georgia an act of injustice; and yet they are at a loss to assign a reasonable apology for the frequent rejection of such well-founded demands. Georgia, from her exposed and frontier situation, has perhaps found it necessary to sustain more of the cruelties and sufferings incident to Indian aggression than any other State in the Union. Although she was one of the original confederation, and bore her full portion of the burden by which the colonies were oppressed, yet the treaty of peace of 1783 did not furnish that repose which resulted to others of the States, and which she so ardently wished.

Her agonies were of longer duration, and were not alleviated by the reflection that she was suffering in the cause of liberty. Her enemy was savage, and her warfare was for protection only. Your memorialists proceed to enumerate the grounds of their reliance for success.

In the year 1792, the frontier of the State, which was bounded by savages, was upwards of four hundred miles in extent. The Creek and Cherokee nations were numerous and warlike, and wrought up to desperation by repeated defeats, and the total discomfiture of a more formidable foe, with whom they had lately been in close alliance.

It was against these that Georgia had to make her defence; she was young, her population sparse, and her resources few; yet, being a member of the Union, she was entitled to protection. With a view to its attainment, a communication was made to the only authority capable of affording aid. In the fall of that year, the Secretary of War, under the directions of the President, vested the Governor of Georgia with a discretion suited to the exigency, which discretion was exercised in a demand upon the agent of the United States for furnishing supplies to provide rations at different stations for the militia that might be called into service. The obedience which the agent yielded to the demand is at least conclusive that he did not question his authority; and the additional fact that the General Government paid the expense of the supplies is conclusive that the authority existed, and that it was of the highest order. Your memorialists see no distinction between the obligation to pay for the supplies, and the services rendered by those who received them.

Rations and pay are inseparable, and form the necessary concomitants of a soldier in service. Under the same authority, a line of forts was built from the seashore to the mountains, and garrisoned by sufficient force. This plan was in pursuance of the authority delegated, which required that the operations should be purely "defensive." If Georgia had conducted the enterprise without dependance and without restraint, its character would have been different. The murders and aggressions of the spring of 1793 made those tribes the objects of just vengeance; and a war of extermination, if in any case, would have been here justifiable. But the State, having no original authority of her own, pursued her conformity to the rules which were prescribed. Being a mere agent, she had but to execute the will of her principal, and that will was expressed under limitations which cost the lives of many of our citizens. These limitations are to be found in a communication from the War Department, dated in May, 1793, where, from "considerations of policy," Georgia was directed to avoid "offensive expeditions." These considerations of policy were not predicated upon the safety of our State, but were founded upon our relations "with

foreign Powers," and the pendency of "treaties with the northern Indians." These facts are adverted to for the purpose of showing, with the greater certainty, that Georgia did not act for herself, but that she was paying obedience to her federal head. Another circumstance carries this position beyond dispute: there is not to be found in our statute book or file, or of record in the State of Georgia, any legislative authority for the service which was rendered during those periods; no one, however, doubts either the performance of the service, or its hazard and severity. The only question to be settled is, who is responsible for the expense?

Your memorialists, in disclaiming all liability on the part of Georgia, will ever contend that a most solemn obligation rests upon the United States—an obligation doubly sacred, involving as it does the faith of the republic and the pledge of the republic's father. Instances are not wanting to prove that the like service during the same periods, and rendered under the like authority, has been compensated from the general treasury. Georgia was not alone during those times of trial in her exposure to the incursions of savages. The State of South Carolina, the north and southwestern Territories, which have since been divided into rich and flourishing States, have had their periods of hostility; and, although they passed the boundary of *defensive* warfare, and actually invaded the enemy's country, and this, too, against orders, yet these have never been reduced to the humiliating necessity of repeating their application. If we be told that we have slumbered over our rights, and that our demand is stale, we answer that as between Governments we know no limitation, and that the subject has been frequently brought to public notice by the able and vigilant representatives of the State. It may be the misfortune of Georgia that the evidence of the performance of these services is not so full and satisfactory as could be wished, but the defect proceeds from no omission of her own. It may be her further misfortune that she is compelled so often to repeat her application; but this does not impair the strength of her claims. She renews the subject on this occasion under increased hopes of success, believing that there is no disposition on the part of the General Government to withhold from our State the things that are hers.

Your memorialists beg leave to refer to the following documents in support of their views upon the subject under investigation:

Letter from the Secretary of War to the Governor of Georgia, dated the 27th of October, 1792.

Another letter between the same parties, dated the 30th of May, 1793.

Another letter between the same parties, dated the 10th of June, 1793.

A letter of the same date from the Secretary of War to the Governor of South Carolina.

A letter from the Secretary of War to the Governor of Georgia, dated 19th July, 1793.

A letter from the Secretary of War to Captain Constant Freeman, dated 5th September, 1793.

A letter from the Secretary of War to the Governor of Georgia, dated the 22d February, 1794; and a letter of the same date to Mr. Habersham, collector of the customs; and also to a report of the Department of War, dated the 3d February, 1803. The whole of these, it is presumed, will be found in the office of the Secretary of War. [For the documents referred to, see No. 139, page 277. The amounts which are claimed for the services rendered are specified in the document last above referred to.]

Your memorialists pray that the subject may receive the consideration to which it is entitled, and that the result may be to the benefit of the citizens of Georgia.

The committee also recommend the adoption of the following resolutions:

Resolved, That his excellency the Governor be requested to transmit copies of the foregoing preamble and memorial to the President of the United States, and to our Senators and Representatives in Congress; and that he also forward such documents and information as he may possess, or be able to obtain, calculated to facilitate inquiry, or effect the end intended.

And be it further resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their best exertions to procure an appropriation, or other arrangement, finally adjusting the points as set forth in the foregoing memorial.

Approved: 22d December, 1821.

17th CONGRESS.]

No. 600.

[1st SESSION.]

PROPERTY DESTROYED BY THE BRITISH DURING THE REVOLUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 29, 1822.

Mr. RHEA made the following report:

The Committee on Pensions and Revolutionary Claims, to whom, on the 25th of March, 1822, were referred the petition of Martha Young, Samuel Young, and Thomas Young, in behalf of themselves and the heirs at law of Joseph Young, late of the county of Westchester, in the State of New York, deceased, and accompanying papers, have had the same under consideration, and report thereon:

The petitioners state that, at the commencement of the revolutionary war, the said Joseph Young resided about four miles east of the Hudson river, on the road leading from Tarrytown, on the said river, to the White Plains; that, after the British took possession of the city of New York, and part of the county of Westchester, that road was denominated "the American lines," the dwelling-house of the said deceased being nearly central between Hudson river and the White Plains; that the elevated situation of the dwelling-house and the number of out-buildings rendered it a convenient post for the American troops whenever they were stationed on those lines; that, from in August, 1776, until in February, 1780, the said dwelling-house was occupied as head-quarters for the several commanders on those lines, and the out-houses were occupied as barracks for the soldiers, and places of deposit for their provisions, forage, and military stores; that, on the night of the 24th of December, 1778, a certain Captain Williams, of the American army, who, with about forty soldiers, was quartered in the said dwelling-house and barn, was attacked by the British refugees, under the command of a Major Barrymore, who took the said dwelling-house

by storm; the said Captain Williams and a part of his soldiers, and also the said Joseph Young, were taken prisoners; that the said Joseph Young was confined in the *provo* and dungeon in the city of New York, about one year; that the barn of the said Joseph Young, which at that time contained a quantity of forage and the provisions for the said detachment, was burnt by the said British refugees, who also took from the said Joseph Young a large and valuable stock of cattle; that, in the winter of 1779, the said buildings were occupied by the continental troops under the command of Colonel Burr, and in the spring of that year by Major Hull; that, in the winter of the year 1780, the said buildings were occupied by a Colonel Thompson, of the American army, who then commanded the American troops stationed on those lines; that the provisions and military stores belonging to the said detachment were deposited in the said buildings; that, on the 3d day of February, 1780, an attack was made on that post by about one thousand British troops and British refugees, under the command of a Colonel Norton. The action commenced at the said dwelling, and continued in and about it until Colonel Thompson had lost about fifty of his men, (they being either killed or wounded,) when he surrendered; that, immediately after the action, all the buildings of the said Joseph Young were burnt, by order of the British commander; that all the clothing, bedding, and furniture of the said Joseph Young were thus destroyed in that inclement season; that the said Joseph Young had been but a short time exchanged from a long and painful imprisonment in the city of New York, and he died in the year 1789. The petitioners now ask that they may be compensated for the said damages done to the property of their said father.

This committee further report that, on the 3d of June, 1784, Congress, on the report of a committee, "*Resolved*, That the commissioner make reasonable allowance for the use of stores and other buildings hired for the use of the United States by persons having authority to contract for the same; but that rent be not allowed for buildings which, being abandoned by the owners, were occupied by the troops of the United States.

"That such compensation as the commissioner may think reasonable be made for wood, forage, or other property of individuals, taken by order of any proper officer, or applied to or used for the benefit of the army of the United States, upon producing to him satisfactory evidence thereof, by the testimony of one or more disinterested witnesses.

"That, according to the laws and usages of nations, a state is not obliged to make compensation for damages done to its citizens by an enemy, or wantonly and unauthorized by its own troops; yet humanity requires that some relief should be granted to persons who, by such losses, are reduced to indigence and want; and as the circumstances of such sufferers are best known to the States to which they belong, it is the opinion of the committee that it be referred to the several States (at their own expense) to grant such relief to their citizens who have been injured as aforesaid as they may think requisite; and if it shall hereafter appear reasonable that the United States should make any allowance to any particular States who may be burdened much beyond others, that the allowance ought to be determined by Congress; but that no allowance be made by the commissioners for settling accounts for any charges of that kind against the United States."

This committee further report that, by the said resolutions, it is manifest that the revolutionary Congress made provision for payment of rent, for the use of stores and other buildings hired for the use of the United States by persons having authority to contract for the same, but that rent be not allowed for buildings which, being abandoned by the owners, were occupied by the troops of the United States; and also that Congress made provision for compensation to be made for wood, forage, or other property of individuals taken by order of any proper officer, or applied to or used for the benefit of the army of the United States. And it is also manifest that the Congress of the Revolution did not assume to make compensation to individuals for damages by them sustained in the destruction of houses or other injuries done to their property by the enemy, or wantonly and unauthorized by their own troops, in the time of the war of the Revolution, but that Congress did refer it "to the several States (at their own expense) to grant such relief to their citizens who have been injured as aforesaid as they may think requisite." The petitioners state that their said father died in the year 1789, and this committee are of opinion that he had, previous to his death, sufficient time to have made application to the proper officer, and to the State of New York, for compensation for the damages done to his property, as stated by the petitioners; that if he did not, the petitioners have not any reason now, after a lapse of more than forty-two years, to complain, or to ask Congress to make compensation to them for damages done, as they state, to the property of their said father; and more particularly so, inasmuch as Congress did not assume to make compensation to individuals for damages such as those mentioned by the petitioners; that this claim of the petitioners, if it ever could have been against the United States, is long since barred by statutes of limitation. This committee are of opinion that the petitioners have not any just claim in this their case against the United States, and that this claim of the petitioners ought not to be allowed. They therefore submit the following resolution:

Resolved, That the prayer of the petitioners be not granted.

CLAIM OF CARON DE BEAUMARCHAIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 1ST APRIL, 1822.

To the House of Representatives of the United States:

WASHINGTON, March 29, 1822.

I transmit to Congress the translation of two letters from the minister of France to the Secretary of State, relating to the claim of the heirs of Caron de Beaumarchais upon this Government, with the documents therewith enclosed, recommending them to the favorable consideration of Congress.

JAMES MONROE.

[TRANSLATION.]

The Baron de Neuville to the Secretary of State.

SIR:

WASHINGTON, February 26, 1822.

I have been instructed by my court to call the attention of the Federal Government to the claim of the heirs of Beaumarchais. His Majesty's Government indulges a hope that their legitimate and well-founded rights will cease at least to be disputed, and that prejudices will yield at length to the influence of indisputable facts, especially when those prejudices are totally ungrounded, and have been abandoned by all those who have maturely examined the case.

The Beaumarchais claim was first produced in 1778.

The French Government has never ceased to support it with that interest which every Government owes to the just claims of its citizens. It has been earnestly recommended to Congress by Presidents Madison and Monroe.

Mr. Madison, in his message of the 31st of January, 1817, expresses himself in the following terms:

"Considering that the sum of which the million of livres in question made a part was a gratuitous grant from the French Government to the United States, and the declaration of that Government that that part of the grant was put in the hands of M. de Beaumarchais as its agent, not as the agent of the United States, and was duly accounted for by him to the French Government; considering, also, the *concurring opinions of two Attorneys General* of the United States, [see pages 344 and 434, Rodney and Pinkney,] that the said debit was not legally sustainable on behalf of the United States, I recommend the case to the favorable attention of the Legislature, whose authority alone can finally decide on it."

Mr. Monroe says, in his message of January, 1818, "The claim of the representatives of the late Caron de Beaumarchais having been recommended to the favorable consideration of the Legislature by my predecessor in his message to Congress of the 31st of January last, and concurring in the sentiments therein expressed, I now transmit copies of a new representation relative to it."

Mr. Gallatin, in his letter of the 2d of December, 1816, to the Duc de Richelieu, owns that a simple but explicit negative declaration on the part of His Majesty's Government that the said million was not applied to the purchase of supplies furnished by M. de Beaumarchais to the United States would have removed the doubts entertained by the officers at the head of the Treasury Department when the account was settled there. [See No. 375, page 538.]

The Duc de Richelieu, whose veracity and loyalty are so well known, made the following answer to Mr. Gallatin on the 20th of December:

"I am therefore warranted, sir, after a fresh examination of the facts, *in persisting in the declarations above stated*, and in considering as a matter of certainty that the million paid on the 10th of June was not applied to the purchase of the shipments made to the United States at that period by M. de Beaumarchais." And, finally, the select committee charged with the examination of the business, and with reporting to Congress on the subject, acknowledge the rights of the heirs of Beaumarchais in the most solemn manner. [See No. 398, page 559.] "The committee" (says the reporter) "have devoted *much time, and made a laborious examination* of the merits of this case; they have been able to discover no reason why the uniform declarations of the French Government should not be credited. There is no fact to contradict them."

"They fully agree with our great revolutionary financier, Robert Morris, 'that, if any thing is due M. de Beaumarchais, the reputation of the country will be compromised until it is paid; that the payment of debts may be expensive, but that it is infinitely more expensive to withhold the payment. The former is an expense of money, when money may be commanded to defray it; but the latter involves the destruction of that source from which money can be derived when all other sources fail. That source, abundant, nay, almost inexhaustible, is public credit. The country in which it may with greatest ease be established and preserved is America; and America is the country which most stands in need of it.' In conclusion, the committee will remark that, in every point in which the case can be viewed by them, they are fully of opinion that the heirs of Beaumarchais are creditors of the United States."

To such an exposé His Majesty's Government have nothing to add when they appeal to the equity of this republic.

I have the honor to be, &c.

G. H. DE NEUVILLE.

[TRANSLATION.]

The Baron de Neuville to the Secretary of State.

SIR:

WASHINGTON, February 27, 1822.

I forgot to add to my letter of yesterday relative to the heirs of Beaumarchais—

1. The memoir or recital of the affair to 1817.
2. The President's message of the 16th of January, 1818.

These pieces, which I have the honor to transmit to you, form, with the report of the committee of the House of Representatives of the 24th of February, 1818, the whole of the necessary documents. If they be not judged sufficient, if a careful examination of them do not produce deep conviction, it must be admitted, sir, that there are some prejudices which can never be overcome.

I dare say that truth never appeared more evident than in this unfortunate and interminable affair; why, then, does it meet with so much opposition?

Moreover, the heirs of Beaumarchais know that they will not in vain appeal to the *justice* of their judges: prejudice will never be able to overcome justice in their hearts; they, therefore, confine themselves to request of them a strict, a very strict examination of their claim: they only say to them, "We are ruined, because our father rendered services to the republic, and *our right* is forgotten. Be pleased to read very attentively, and *your justice* will proclaim our *right*."

Accept, sir, the renewed assurance of my high consideration.

G. HYDE DE NEUVILLE,

Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty.

The Baron Hyde de Neuville to the Secretary of State.

SIR:

WASHINGTON, March 30, 1822.

A report was put into circulation about two years since that the heirs of Beaumarchais were no longer proprietors of their claim, and that it had been sold to a third party.

Even if this were true, it would not in any degree invalidate their title; but I can attest, in the most positive manner, that the report is perfectly ridiculous. The claim still remains the property of M. de Beaumarchais's daughter. I will add, that it is the hope—indeed, the only remaining hope of that interesting lady and of her family. Why should she cease to rely upon a title so perfectly legitimate? This would argue a want of confidence in the equity of a whole nation.

The daughter of M. de Beaumarchais must therefore hope that justice will at last be done to her, and that, after suffering many privations, she will at last be able to hand down to her children the inheritance of her father.

Accept, sir, the assurance of my high consideration.

G. HYDE DE NEUVILLE.

17th CONGRESS.]

No. 602.

[1st SESSION.]

PROPERTY SEQUESTERED IN ENGLAND AFTER THE DECLARATION OF WAR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 8, 1822.

Mr. RUSSELL made the following report:

The Committee on Foreign Affairs, to whom has been referred the petition of Jacob Schieffelin and Henry H. Schieffelin, having duly considered the same, report:

That a report was made to the House, by the Committee of Claims, at the first session of the sixteenth Congress, unfavorable to the prayer of the petitioners. [See No. 512, page 696.] To that report, and to the report of the Secretary of State, of the 6th of January, 1820, [See No. 512, page 697,] on which it was founded, and to the documents cited by the latter, your committee ask leave to refer.

The petitioners now, in substance, state that, finding by the report of the Secretary of State, above referred to, that they are "precluded from all retrospective claims on the British Government by the late treaty of peace, and that their claim has never been preferred, and thus being deprived of all hope of remuneration from that Government," they appeal to the justice of the Government of the United States, and ask for that relief which Congress, in its wisdom, may deem proper to grant.

Your committee are of opinion that the report of the Secretary of State does not apply to the case of the petitioners when it states that "it was distinctly understood [by the respective parties, on signing the treaty of Ghent] that no retrospect was to be taken on either side for losses occasioned by the *hostilities* incident to war." It is not necessary to infer, from the obvious import of the terms here used, that the report applies only to losses *during* the war, and occasioned by the *hostilities* incident to it. The documents now before the public furnish precise and conclusive evidence of the facts on which that report was founded.

In the projet of a treaty submitted on the 10th of November, 1814, by the American to the British plenipotentiaries at Ghent, the thirteenth article proposed "that indemnity shall be made, by each of the contracting parties, to the subjects and citizens of the other party, for all losses and damages sustained *subsequent to the commencement of the present war*, by reason of seizure or condemnation of vessels or cargoes belonging to the subjects or citizens of the one party, which, in the *ordinary course* of commerce, happened to be in the ports of the other party; and by reason of the destruction of unfortified towns, and the pillage or destruction of private property, and the enticement and carrying away of negroes, contrary to the known and established rules and usages of war between civilized nations." To this part of the article the British plenipotentiaries would not assent, as may be seen in their note to the American ministers of the 26th of November of the same year. The American ministers, in reply to that note, on the 30th of the same month, felt themselves obliged to acquiesce in this decision of the other party, and to say that they "will decline insisting upon so much of the thirteenth article as relates to indemnity for losses and damages *subsequent to the commencement of the present war*."

After this dissent on the part of the British, and this acquiescence on the part of the American plenipotentiaries, the report of the Secretary of State might well say that there was a mutual understanding, which would have rendered it obviously useless to urge, after the conclusion of the treaty, claims thus unequivocally excluded before. Still your committee do not consider that report as applicable to the claim of the petitioners; first, because that claim existed prior to the war; and secondly, if it had not so existed, it does not come within the terms or spirit of any of the cases thus excluded.

The property claimed by the petitioners was, according to their own showing, captured and condemned by the British in 1808; the sentence of condemnation reversed by the high court of admiralty in 1810; and the liquidation being delayed until the declaration of war by the United States in 1812, the property was then sequestered, and declared to be lawful prize to the King in 1813, "although taken prior to hostilities."

The claim, therefore, of the petitioners originated in 1808, long before the commencement of the war, and, remaining unliquidated and unpaid, had never ceased to exist, and thence cannot be considered as a claim for losses and damages sustained *subsequent to the war*. The war merely changed the *professed* intentions of the British Government, and substituted prompt confiscation for what strongly resembled it *in effect*, indefinitely delayed restitution, and thus consummated a loss which had long before been sustained.

If the loss of the petitioners, however, can be considered as sustained subsequent to the commencement of the war, still it cannot be brought within either of the two classes of cases described in the thirteenth article above cited, on which the report of the Secretary of State was obviously founded, and, of course, cannot be involved in the fate of those cases.

As the only reason assigned by the petitioners for bringing their claim again before Congress being the inference which they erroneously drew from that report, that this claim had been "precluded by the late treaty of peace, and never preferred," your committee believe that, in showing, as they have done, that this report does not apply to the case, they take from the petitioners the only reason which they have assigned for again presenting their claim to this House.

Your committee, however, entirely disposed to give ample proof of the spirit with which this investigation is pursued, do not confine themselves to this view of the subject. Should the petitioners be able hereafter to show, which it is believed they cannot, that their claim for indemnity is for a loss *subsequent* to the commencement of hostilities, and that it was fairly within the description of the cases which the American ministers understood to be abandoned, still, as this abandonment was manifestly the result of imperious necessity, it could authorize no demand on this Government for compensation.

As your committee have considered the claim now under examination not to be for a loss subsequent to the commencement of hostilities, and, consequently, that it must be for a loss sustained prior to that epoch, they will now endeavor to show that the petitioners have no right to ask of this Government any compensation for a loss so sustained.

In the first clause of the projet of a treaty of the 10th of November, 1814, already cited, the American ministers require "that indemnity shall be made by His Britannic Majesty to the citizens of the United States for all losses and damages sustained by them during the late war between Great Britain and France, and *prior* to the commencement of the present war, by reason of irregular or illegal captures, seizures, or condemnations of vessels and other property, under color of authority, and contrary to the known and established rules of the law of nations."

This clause clearly embraces the case of the petitioners. It was, however, like the remainder of that article, pronounced to be "inadmissible" by the British commissioners; yet the American plenipotentiaries did not abandon the claims which it embraced, but, in waiving them at that time, they explicitly state, in their note of the 30th November, already cited, that they do so with an understanding that "the rights of both Powers, on the subject of seamen, and the claims of the citizens and subjects of the two contracting parties to indemnities for losses and damages sustained *prior* to the commencement of the war, shall not be *affected* or *impaired* by the omission in the treaty of any specific provision with respect to these two subjects."

This declaration on the part of the American commissioners was considered by them to be *formal*; for, in referring to it in their despatch to the Secretary of State of the 25th of December, 1814, the very next day after the treaty was signed, they say, "In declining to insist on the articles respecting impressment and indemnities, we made a *formal declaration* that the rights of both parties on the subject of seamen, and the claims to indemnity for losses and damages *sustained prior* to the commencement of the war, should not be affected or impaired by the omission in the treaty of a specific provision on these two subjects."

To prove to the conviction of every unprejudiced mind that the American ministers at Ghent did not cease to insist on the claims of our citizens on the British Government for indemnity for losses sustained either before the war or during its continuance, until the last hope of success was extinguished, your committee need only to cite a paragraph of the note of the British ministers of the 26th of November, 1814, on this subject. That paragraph, equally applicable to losses sustained before or after the commencement of hostilities, says, "With respect to the thirteenth article, the indemnification proposed by it, as applied to the actual circumstances of the war, are so unprecedented and objectionable, that any further perseverance of the American plenipotentiaries in requiring them is not anticipated by the undersigned; if, however, contrary to expectation, indemnifications of this kind should be required, *all hope of bringing the negotiations to a favorable issue must prove abortive*. The undersigned are instructed explicitly to declare that, as their Government makes no claim on account of losses sustained by British subjects arising out of a war declared by the United States, so neither can their Government agree to make compensation for losses sustained in such a war by the American people."

Had the American ministers, after the receipt of this note, persisted in adhering to an article requiring indemnity for losses sustained either before or after the commencement of hostilities, it is manifest that they must have done so at the imminent hazard, nay, with the certainty, of protracting indefinitely the existing war.

No nation is obliged to make war, or to prolong it when it exists, for the advantage or accommodation of the few. The whole duty of a Government towards its citizens, in this respect, is to seek redress for their wrongs by such means only as shall be perfectly consistent with the welfare and interests of all: of these means the Government is the sole competent judge, and is not responsible for their failure in producing the desired effect to those for whose special benefit they may have been used. For the benefit of the present petitioners these means have been employed by the American Government to the last, and relinquished only when it became obviously necessary so to do, in order to avert the continuance of a destructive and devastating war with the foreign aggressor. Still, in submitting to this necessity, the American commissioners did not consent to abandon the claim of the petitioners, and, far from signing a treaty with an understanding that this claim was so abandoned, they made a formal declaration that the silence of that treaty in respect to it should not affect or impair it.

Whatever might be the legal effect of such an *ex parte* declaration in preserving our rights, or the corresponding obligations of the party to whom it was addressed, still it was *all* that, under existing circumstances, could be done for the petitioners; and it ought, therefore, at least to satisfy them that the American Government has not, by neglecting its duties, become responsible to them for indemnity.

This *ex parte* declaration, reserving, perhaps, on the part of this Government, the right only of renewing hostilities for the attainment of the objects to which it related, whenever such a resort should be found to be expedient, ought to be considered as renouncing, or at least as indefinitely postponing, the right to attain those objects in the ordinary forms of negotiation or diplomatic intercourse. Your committee are, therefore, of opinion that it would afterwards have been useless, and still would be useless, and thence improper, for the American Government to resort to such means; and that the petitioners have, therefore, no just cause to complain if their claim has not been, or shall not be, so "preferred."

The property of the petitioners has never been taken by this Government for the use of the American public; but it has, to the injury of both, been taken and confiscated by a public enemy. For the petitioners, therefore, after all that has been done for them, to insinuate a claim on this Government for indemnity for such a loss, would seem to be adding injustice to ingratitude.

This claim of the petitioners, indeed, appears to be the more ungracious, as the British order for the final confiscation of their property was dated the 13th of December, 1813, and the treaty of Ghent was not signed until the 24th of December, 1814; and, during the intervening period of more than a year, they never acquainted either the American Government or its ministers with the existence of the fact, nor in any way qualified either to demand, specially, an indemnity which the peculiar circumstances of their case might have seemed to warrant. The petitioners, it is believed, cannot intend to ask their Government to indemnify them for any evil which may thus have resulted from their own negligence.

Your committee, aware of the extraordinary hardship of the case referred to them, have been thus particular in reporting on it that the petitioners themselves may be satisfied that, although the aggravated circumstances which attended their loss can form no rightful claim on this Government for indemnity, or even for interference, yet those circumstances have not been disregarded. It is believed, indeed, that the British Government, in availing itself of its own wrong in taking and detaining the property until it was liable, by the rights of war, to be confiscated, has committed a singular act of injustice.

The Government of the United States, however, is in no way responsible for that act; and, having done all, and omitted nothing, which it was its duty to do, in order to obtain justice for the petitioners, your committee are of opinion that, however it may accord with propriety for the petitioners themselves to ask, as a matter of grace, of a foreign Government, the revision of an unusual and severe exercise of an extreme right, yet it does not become this Government to advise or to aid in such a request.

Your committee, having thus fully considered the subject referred to them, submit the following resolution:

Resolved, That the petitioners have leave to withdraw their petition.

17th CONGRESS.]

No. 603.

[1st Session.]

BILLS DRAWN BY THE PAYMASTER GENERAL.

COMMUNICATED TO THE SENATE, APRIL 9, 1822.

Mr. BARTON, from the Committee of Claims, to whom was referred the petition of John J. C. Oldfield, of Baltimore, reported:

That the petitioner claims of the United States the amount of two drafts of \$240 each, made by the Treasury, in favor of the paymaster general, or order, directed to the cashier of the Bank of Tennessee, and endorsed by the paymaster, payable, the one to the order of Polly Crage, and the other to the order of Mary Gibson, as widows of deceased soldiers; both drafts dated January 9, 1821.

About the beginning of March following, the petitioner purchased them *bona fide*, and for valuable consideration, from one H. Wright, the holder of them. They purport to have been endorsed by those widows, respectively, to one William Pace, and by him, in blank, to said Wright; the endorsements from the females appear to be in the handwriting of Pace, with a *cross* for signature, and no witness to either; nor have the committee any evidence of the fact of such endorsements by those females.

Since those papers were put into circulation, it was discovered at the Department of War that the transaction was a fraud upon the Government from the beginning, and that no such persons as Mary Gibson and Polly Crage, as widows of deceased soldiers, entitled to those sums, were then in existence; and, in consequence, payment was refused at the Bank of Tennessee, by instruction from the pay department. The committee deem it unnecessary to venture an opinion how far the law merchant, as applied to individual transactions, can be applied to assignable or negotiable paper issued by the officers of Government, or how far those officers are authorized to issue such paper, because they are satisfied that the holder of these drafts, so payable to *order*, can have no claim upon the United States without proof of the *fact* of endorsement by those supposed widows, respectively; and therefore submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 604.

[1st Session.]

MILITARY SERVICES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 9, 1822.

Mr. MATTOCKS, from the Committee on Military Affairs, to whom was referred the petition of James McKean, reported:

That the petitioner states that he was a captain in the army of the United States during the late war; that, in October, 1812, he was stationed at Fort Niagara as the second in command; that, on the 13th of the month, the enemy, at Fort George, opened a heavy cannonade upon the fort, and the commanding officer, being no soldier, gave immediate orders to abandon the fort; yet the petitioner successfully defended the place until he was compelled, by the repeated orders of his commanding officer, to withdraw with the other forces; that he soon returned with twenty-five volunteers, re-entered, and defended the fort until reinforcements arrived, and thereby the place and military stores of great value were saved; that, when the army was reduced to the peace establishment, he was left out; that he is poor, and for the service before mentioned prays remuneration.

The committee are satisfied, from the testimony produced, that Captain McKean behaved very handsomely at Fort Niagara; but they can perceive no reason for giving him money in preference to other distinguished officers who served during the late war; they therefore recommend the following resolution:

Resolved, That the petitioner have leave to withdraw his petition.

17th CONGRESS.]

No. 605.

[1st SESSION.]

GEORGIA MILITIA CLAIMS.

COMMUNICATED TO THE SENATE, ON THE 15TH APRIL, 1822.

Mr. ELLIOTT, from the Military Committee, made the following report:

The Military Committee, to whom was referred the resolution instructing them to inquire into the expediency of providing for the final settlement of the militia claims of the State of Georgia, for services rendered under orders of the President of the United States, during the years 1792, 1793, and 1794, report:

That, in the examination of this subject, sundry authentic letters and other documents were submitted to their inspection; among which, the following, being deemed the most material, are here so arranged and condensed as to present to the Senate, with the least possible detail, the merits of the case, viz:

A letter from the Governor of Georgia to the Secretary of War, dated 22d of May, 1792, communicating to the Department official information of the hostile disposition of the Creek and Cherokee Indians, as manifested in the murders which they had just committed, and the houses they had destroyed by fire. After stating these facts, the Governor proceeds: "When you maturely deliberate on the present position of the federal troops, and contemplate the orders to that effect, you will doubtless foresee a series of complicated difficulties that may attend the army in the event of general hostilities. The movement of the army ought to be governed by circumstances; and, whilst it is to remain subject to orders issued at the remote distance of *one thousand miles*, I cannot help feeling for the situation of the defenceless settlers scattered over an extensive frontier of at least three hundred miles! The savage depredations that have taken place for near three years past have been considerably to the westward of the Rock Landing, from which, to the river Ingalo, there is a frontier of about one hundred and thirty miles exposed to Indian ravages. When I point out this as defenceless ground, I do not leave out of view that portion of the frontier from the river St. Mary's to the Rock Landing; for, should a pressure take place to the westward, the Indians have sufficient sagacity to retaliate on the settlers on the lower frontiers. From these considerations, *additional exertions towards a general defence will be indispensable.*"

On the 15th of June, 1792, Major Richard McCall, the commandant of the federal troops in Georgia, thus addressed the Governor of the State: "I have just returned from the Big or High Shoals of Oconee. On my way up I found the settlements breaking. At this particular crisis, the settlers neglecting their crops will, of course, be an injury to the frontiers. I have, therefore, in consequence of your excellency's permission, called into service some militia. The reports of Captains Barnet and William Strong, my letter to General Clark, and my instructions to the different officers, will show the occasion of the measure."

The Governor of Georgia was informed by letter from Andrew Pickens, dated at Hopewell, 12th September, 1792, that the Cherokee Indians, instigated by Spanish agents, had manifested an unfriendly disposition, and that four towns had actually determined on war; that the chiefs of the Creek nation had not returned from Pensacola, but were soon expected with a large supply of ammunition, at which time it was expected a general war would commence between that nation and the United States. This letter was accompanied with one from Captain R. B. Roberts, commanding the United States troops at Fort Matthews, Big Shoals of Oconee, informing the Governor of the contents of a letter received by him from Mr. Shaw, the superintendent of the Cherokee nation, which induced him to look for a predatory war, if *nothing more serious*. "The weakness of this post," continues the captain, "(although it is my duty to defend it to the last,) is such as to render its tenure very precarious; the strength of it only twenty-four privates! The frontiers here are truly deplorable. No ammunition, no authority, and no settled mode adopted by Government for their protection. As I am on the spot, I hope your excellency will not imagine I presume to dictate; but really, sir, if the militia are not called out *immediately, in force*, this settlement will be totally broken up, and dreadful consequences will ensue." To this letter the Governor replied on the 18th September, 1792, "that the commandant of the federal forces had long since been served with a provisional arrangement of the militia, by which it will appear that ample provision has been made by the Government for any events that have as yet arisen; and, in case emergencies should require additional aid, to the one-third of the militia, under orders agreeably to the aforesaid arrangement, there shall be no delay on my part in affording every support that the situation of the State will admit." In confirmation of this statement, copies of general orders of the years 1790 and 1792 are found among the papers referred to the committee for examination. By these, the militia of the State are classed, and held ready for active operations whenever their services should be required.

On the 27th October, 1792, the Governor of Georgia was informed by the Secretary of War of the determination of five towns of the Cherokees, consisting of from three to five hundred warriors, and aided by the Upper Creeks, to commence hostilities against the United States. "But," adds the Secretary, "as Congress is on the eve of their session, this information will be communicated to them. The constitution having invested that body with the powers of war, no offensive operations can be taken until they shall be pleased to authorize the same. At present, the information does not warrant the conclusion that more of the Cherokees than five towns, and the Creeks before mentioned, are for hostilities; but when the flames of war are lighted up, it will be difficult effectually to restrain them within narrow limits. If the information which you may receive shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, *you will be pleased to take the most effectual measures for the defence thereof as may be in your power, and which the occasion may require.*" On the 18th of November, 1792, the Governor was informed by Major Henry Gaither, of the federal troops, that, believing it to be necessary, and in consequence of his permission to do so, he had called into service two additional troops, one from Wilkes county, and the other from the county of Elbert.

In a letter of the 29th of April, 1793, the Secretary of War was thus addressed by the Governor of Georgia: "From the depositions of Benjamin Harrison and Francis Pugh, and from the information of Joseph Dabb, there is little expectation of avoiding a general war with the Creek and Cherokee Indians. *Blood has been spilt in every direction on the extended frontier of this State, and one man killed in South Carolina.*" After stating the plans he had adopted for temporary defence, he adds: "I shall follow this plan of operation until measures be taken by the President for the better protection of the unfortunate settlers on this exposed frontier. If I find the pressure become great, *the opposition must keep pace with the several emergencies.*"

On the 8th of May, 1793, his excellency again wrote the Secretary of War that, "such was the havoc and carnage making by the savages in every direction on our frontiers, retaliation by open war became the only resort; that the horrid barbarities recently committed (some recitals of which were enclosed) had compelled him to cause the additional aid of six troops of horse to be drawn into service."

On the 30th of May, 1793, [see page 279,] the Secretary of War acknowledged the receipt of the several letters which had been addressed by the Governor to that Department, and adds, "that, from *considerations of policy*, at this critical period, relative to foreign Powers, and the pending treaty with the northern Indians, it is deemed advisable to avoid for the present offensive expeditions into the Creek country; but, from the circumstances of the late depredations on the frontiers of Georgia, it is thought *expedient to increase the force in that quarter for defensive purposes*. The President, therefore, authorizes your excellency to call into, and keep in service, in addition to the regular force stationed in Georgia, one hundred horse and one hundred militia foot, to be employed, under the orders of Lieutenant Colonel Gaither, in repelling inroads, as circumstances may require." After directing the manner of forming and employing this force, the Secretary concludes thus: "The case of a serious invasion of Georgia by large bodies of Indians must be referred to the provisions of the constitution; but the proceeding with efficacy in future (the necessity of which appears but too probable) requires absolutely that no unnecessary expense shall be incurred in the mean time."

In reply to the Governor's letter of the 8th of May, the Secretary of War, on the 10th of June, says, [see page 280,] "The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your excellency may be considered as indispensable. You are the judge of the degree of danger, and of its duration, and will undoubtedly proportion the defence to the exigencies. The President, however, expresses his confidence that, as soon as the danger which has induced you to call out so large a body of troops shall have subsided, you will reduce the troops to the existing state of things," "*provided the safety of the frontiers will admit the measure*." After speaking of some military supplies that had been forwarded, he thus concludes: "As a general and open Creek war, in the present crisis of European affairs, would be complicated and of great magnitude, the President is *anxiously desirous* of avoiding such an event." "Enclosed is a copy of a letter to the Governor of South Carolina, in case circumstances should require you to call for aid from that State."

The language of this letter to the Governor of South Carolina is strongly expressive of the President's apprehensions of a state of serious hostilities with the Indians. The Secretary says to the Governor: "The President of the United States has received authentic information from Georgia of the *unprovoked and cruel outrages* of parties of Creeks upon the frontiers of that State; and, as it is at present uncertain to what degree the evils complained of may be extended, the President has directed me to request your excellency that, in case the frontiers of Georgia should be seriously invaded by large bodies of hostile Indians, you would, *upon the request of the Governor of said State*, direct such parties of the militia of South Carolina to march to the assistance of Georgia as the case may require; for the *expenses of which the United States will be responsible*."

On the 19th of July, Captain Constant Freeman was sent into Georgia, as agent of the War Department, to regulate the issues of public property to the troops who might be in the service of the United States, and to prevent or remedy any abuses which existed. Having, immediately on his arrival, entered on the duties of his appointment, on the 17th of October, 1793, he directed Major Gaither to attend to the instructions which he had communicated to him from the War Department in relation to the monthly muster and inspection of the militia in the service of the United States, promising to aid the person he should appoint with the necessary instructions.

On the 19th of February, 1794, his excellency George Matthews, who had succeeded Mr. Telfair in the government of Georgia, having in person examined the exposed parts of the State, offered a plan for its defence to the War Department. He protests against the orders which forbid the militia from pursuing the Indians, whose tracks were stained with the blood of those they had just murdered, over a temporary and artificial line, as calculated to encourage the Indians, and to deprive the citizens of the State of the opportunity of reprisal, enjoyed by all nations under such circumstances. This letter is concluded with the following remarks: "I have now to request that some person may be appointed to muster the militia that now are or have been in service, as I presume Captain Freeman has informed you of Major Gaither's having refused to make the appointment. I can, sir, with great sincerity assure you that, in the defence I may require for this State, I have not a wish to make the expense one shilling more than is requisite; and when you reflect that we possess a frontier of more than four hundred miles, exposed to numerous tribes of hostile Indians, I flatter myself the plan I now submit will not be deemed extravagant. I have to request, if the arsenals or military stores of the United States will admit of it, that you send forward equipments for three or four hundred horse. I trust the President will not think this unreasonable, when it is taken into view that this State forms an extensive barrier, or rather picket, to the United States."

In letters of the 25th of March and 14th of May, 1794, [see page 282,] the Secretary of War acknowledges the receipt of Governor Matthews's letter; assents to the propriety of his plans, generally, for the defence of the State; and sanctions particularly the erection of block-houses throughout the whole line of exposure, at the distance of twenty-five miles apart. On the subject of the pay of the militia theretofore employed, the Secretary observes, "As to the number of militia kept up by your predecessor during the last year, no returns or muster-rolls have been received—of course no judgment can be formed of their amount; some reports have made the number before mentioned to you. When the returns and musters shall be received, the question will be impartially considered by the President of the United States, whether, under all the circumstances of the case, he can consider himself as authorized to pay them. If he cannot, (which is most probable,) the question will be submitted to Congress." In relation to the muster and pay-rolls, the agent of the War Department, Captain Freeman, thus addressed the Governor of Georgia on the 28th of April, 1794: "I am very happy that your excellency has ordered the muster and pay-rolls for the militia to be prepared and forwarded; and that *we so perfectly coincide respecting the nature of the service* which has been performed. I make no doubt but that all obstacles will be removed as soon as the former accounts of the militia can be laid before Congress, and that in future regularity and order will be introduced."

On the subject of these claims, Captain Freeman, in a report to the Secretary of War, made the 25th of October, 1802, after stating what muster and pay-rolls he had forwarded to the War Department, and particularly noticing those for the service termed *unauthorized*, remarks: "When the Accountant received the first estimates, he required explanations relative to these claims, and afterwards a certificate from the Governor that *the militia had been called into service for the defensive protection of the frontiers*. This requisition I transmitted to his excellency, who made a statement of the militia services. I transmitted it to the Secretary of War, from whom I received a letter which encouraged the hope that those claims would be admitted and paid; and other letters afterwards received from the Accountant confirmed this belief. However, from the *peculiar circumstances of the Government at that time*, the attention of the Secretary of War was wholly occupied upon other objects, and he left the Department before any decision took place. It is proper to observe, the citizens of Georgia never thought the force authorized by the President of the United States adequate to the protection of the frontiers."

From the foregoing exposition of the papers submitted to the examination of the committee, and the contents of others yet to be noticed, the following facts seem to be established: That during the years 1792, 1793, and 1794, the State of Georgia was almost constantly in a state of serious alarm and danger from Indian hostilities, against which she was not permitted to defend herself, as was her obvious policy, by carrying the war into the enemy's country, and, by burning and destroying their villages and crops, to relieve her citizens from the painful necessity

of being for years in arms upon her frontiers. That Georgia was not permitted to pursue this course, because it was the duty and one of the attributes of the Federal Government "to provide for the common defence; and its policy in this instance, having a due regard to the safety of other parts of the Union, and the *success of pending negotiations with other Indian tribes*, forbade a war with the Creek and Cherokee Indians. That the President became at length seriously convinced of the dangerous situation of the State, and, not having federal troops at his disposal, did on the 27th of October, 1792, invest the Governor of Georgia with discretionary powers in relation to the force to be employed for the safety of the inhabitants, but confined his operations strictly to defensive measures. That the Governor continued in the exercise of this discretionary power until the 30th May, when it was suspended by a letter of that date from the Secretary of War; but from the increasing pressure upon every part of the frontier, the power to act discretionary was again restored in the broadest terms in the letter of the Secretary of the 10th of June, [see page 280,] wherein he says, "The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your excellency may be considered as indispensable. *You are the judge of the degree of danger, and of its duration*, and will undoubtedly proportion the defence to the exigencies." So ample was this power thus given for defensive purposes, that in its exercise the Governor of Georgia was not restricted to the use of the means within the State, but was informed that the Governor of South Carolina had been required, *should he request it*, to order a detachment of the militia of that State to his assistance. That, under this authority, the Governor of Georgia did call out and place under the command of the federal officers in that State large bodies of militia, who were employed along a frontier of nearly four hundred miles for defensive purposes, during the periods to which this inquiry was directed. The services of which troops are acknowledged, and the estimates of the pay claimed by them, amounting to \$129,375 66, are found in the documents examined by the committee, and in relation to which the then Secretary of War, Mr. Pickering, wrote the agent of the War Department in Georgia in August, 1795: "The large estimate for services, about which my predecessor doubted, I have looked into, and will immediately further examine. From the complexion of these claims, connected with the *Governor's certificate*, which I received enclosed in your letter of the 23d of June, I am inclined to think *they must be generally admitted*."

And again, in a communication to the Governor in September following, the Secretary of War assures him that "money for paying the Georgia militia is preparing to be forwarded. No delay will take place that is avoidable. The post is on the point of starting. I shall write you particularly by the next."

That the President did intend to intrust the defence of the State of Georgia to the discretion of the Governor is apparent from his requiring, as necessary to a decision on these claims, his excellency's certificate that the troops were called into service *by him, and employed for defensive purposes*. That they were not, therefore, admitted and paid by the administration under which they were authorized can be accounted for only upon the grounds suggested by the agent of the War Department, that, "from the peculiar circumstances of the Government at that time, the attention of the Secretary of War was wholly occupied upon other objects, and he left the Department before any decision" could be made.

Under this view of the subject, your committee are of opinion that the defence of Georgia was a necessary measure on the part of the Federal Government, but became expensive and protracted from the peculiar situation of the United States, which did not permit an invasion of the Indian territory; that the forces employed by the Governor in defensive operations under the authority of the President did not exceed the exigencies of a frontier of nearly *four hundred miles*, constantly exposed to the incursions of treacherous enemies inhabiting the adjacent territory, and whose security from pursuit enabled them to concert in safety, upon the very confines of the State, their plans of robbery and murder; and, consequently, the expenses of this defence are justly chargeable against the United States. They therefore recommend the following resolution:

Resolved, That the Military Committee be instructed to report a bill appropriating \$129,375 66 in full discharge of the militia claims of Georgia.

17th CONGRESS.]

No. 606.

[1st SESSION.]

DEFALCATION OF AN ASSISTANT DEPUTY PAYMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 27, 1822.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred, on the 8th of January, so much of a resolution passed the 31st day of December, 1821, as directs an inquiry "whether, by a late decision of the district court for the eastern district of Pennsylvania, a public agent, whose claim for certain allowances, in defect of vouchers, had been rejected by this House, has defeated the United States in a suit against him, by an allegation substantially different from that preferred to Congress, and one invalidated by evidence in the possession of the Government, of which the prosecuting officer could have availed himself for the benefit of the United States," reported:

That the terms of the inquiry suggested to the committee the case of John T. David, a deputy paymaster in the late war. A claim had been preferred by him for allowances to the amount of about \$26,000, on the plea that a fire happened in his room in Philadelphia, March 7, 1814, and had impaired or destroyed his vouchers. His claim was rejected by the House on the 27th of February, 1818, in confirmation of a report of the Committee of Claims of that date; and, on a renewed application for relief, was again reported against by the same committee, on the 17th of March, 1820. The sum for which he was a debtor on the books of the Department was about \$29,000; the difference between those sums, amounting to about \$3,000, being on account of disallowances where vouchers were presented which were not satisfactory.

Shortly after the last report of the committee in this case, a suit was invited on the part of J. T. David, which was finally determined in his favor. It appears that, on the 22d of January, 1816, the Committee of Claims had reported a bill for his relief. A subsequent investigation, however, of the claim, at the two periods above referred

to, had produced a different result; and the committee beg leave to refer to the reports alluded to, and especially to that of March 17, 1820, and to the correspondence of the paymaster's department therein mentioned, for the reasons which confirmed the committee in their belief that the allowance solicited on account of vouchers alleged to have been burnt was not reasonable, and which, if they had been presented to the court and jury, could not have failed to create a strong presumption against that plea of the defendant.

It does not appear that the United States were defeated by any allegation substantially different from such as had been preferred originally to Congress; but that, proof having been adduced of actual payment in a variety of the instances in which the vouchers had been rejected at the Department, or in which the defendant alleged before the court that there were no vouchers, and proof having been offered that all the troops had been paid on the frontier where David was a paymaster, he obtained the benefit of the very liberal inference that all the public money which had been in his hands had been applied to the public service.

A letter of March 5, 1822, from the Third Auditor to the committee, (which they request may be considered a part of this report,) exhibits the manner in which the account was made out, and forwarded to the district attorney for suit. For an illustration of the manner in which the interest of the United States in this important suit was supported, the committee refer to a letter from the district attorney to the Fifth Auditor of the Treasury, dated July 21, 1821, which they beg also to submit as a part of their report. The suit, it would seem, was represented as a matter of form, and was obviously conducted in a most amicable spirit on the part of the United States. The fact that the Committee of Claims had reported in favor of the claim of J. T. David, in 1816, was carefully certified to the court and jury on the part of the defendant. The fact that it was, on a re-examination, twice subsequently reported against by the same committee does not appear to have been shown on the part of the Government. By the letter of the prosecuting officer above mentioned, it appears that he had from the first expected the defendant to defeat the Government as to the amount claimed to be allowed on the score of burnt vouchers. This presentiment may account for the fact exhibited by the trial notes in possession of the committee, that no evidence was offered on the part of the United States, nor any question put, by way of cross-examination, to the witnesses offered by the defendant, for the purpose of developing the suspicious character of that allegation.

By the above-mentioned letter of the district attorney, it is manifest that a strong impression was made on the minds of the court and jury by testimonials of certain officers of the army to the excellency of the character of the defendant. A communication from General Bloomfield, of the 22d January, 1822, extracts from which accompany this report, is the only commentary which is deemed necessary on those testimonials.

The committee forbear to give any opinion on this transaction, but must express their regret that the United States had not the benefit of those facts relative to the claim of J. T. David which are referred to in their report of March 17, 1820, which, if urged with fidelity on the attention of the court and jury, would, as the committee believe, have left the defendant no hope of any credits beyond what he could sustain by reasonable proofs.

The remedy for evils such as have now been adverted to is a subject of inquiry by the Committee on the Judiciary, under the resolution of 31st December. The Secretary of the Treasury, in a letter to the Committee of Claims, dated the 26th of March last, suggests that, "for securing the interest of the United States in such suits, a commission of two and a half per cent. be allowed to district attorneys on the sums actually received into the treasury on judgments recovered by them for the United States." The committee, therefore, recommend the following resolution:

Resolved, That the letter of the Secretary of the Treasury, on the subject of allowing a commission to the district attorneys of the United States in certain cases, be referred to the Committee on the Judiciary, with instructions to inquire into the expediency of reporting a bill containing the provision therein recommended, with such modifications, or other provisions, as may be necessary for securing the interests of the United States in suits against public debtors.

SIR: TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *May 2, 1820.*

Enclosed are authenticated copies of the account and bond of John T. David, late paymaster fifteenth regiment United States infantry.

There appears to be a balance of \$29,003 55 due from him to the United States, for the recovery of which, with interest, you will be pleased to institute suit against him and his sureties without delay.

With great respect, &c.

JOSEPH ANDERSON, *Comptroller.*

CHARLES J. INGERSOLL, Esq.,

U. S. Attorney, Eastern District of Pennsylvania, Philadelphia.

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *March 5, 1822.*

In reply to your letter of the 4th instant, I had the honor to state, for the information of the Committee of Claims, that, in reporting the accounts of John T. David to the First Comptroller for suit, I furnished a copy of the official account current, a copy of my report to the Second Comptroller, and a copy of the statement of difference between the official and Mr. David's own statement of his accounts; which last-mentioned document points out, in detail, the items suspended and disallowed on the examination and settlement of his accounts, with the reasons for suspending and disallowing briefly explained.* The documents described above embrace all the evidence that is furnished in reporting cases for suit.

| | | | | | | |
|---|---|---|---|---|---|--------------------|
| In the settlement of Mr. David's accounts there was deducted, on account of incomplete or informal vouchers, the sum of | - | - | - | - | - | \$4,130 63 |
| Disallowed, on account of errors in addition, overpayments, &c., | - | - | - | - | - | 783 95 |
| This sum, charged by Mr. David, on account of burnt vouchers, and for which no vouchers, of course, were furnished, and, consequently, deducted from his account at the time of settlement, | - | - | - | - | - | 27,752 91 |
| | | | | | | <u>\$32,667 49</u> |

As the foregoing items form a larger amount than the balance which was reported for suit, I deem it proper, in order that there may be no difficulty in comprehending the subject, to present the following brief view of the settlement of Mr. David's accounts:

* A copy of the statement of difference is enclosed.

| | | | | |
|--|---|---|---|--------------------|
| Balance due the United States, per official statement, | - | - | - | \$29,008 55 |
| Balance claimed by John T. David, on his last account current, being the amount of his contingent account, | - | - | - | 704 34 |
| Difference between the official and Mr. David's statement, | - | - | - | <u>\$29,707 89</u> |
| Arising as follows: | | | | |
| Amount suspended and disallowed, as stated on the preceding page, | - | - | - | \$32,667 49 |
| Deduct this sum admitted to his credit for sundry errors discovered in the examination of Mr. David's account, which he had committed against himself in making up his accounts, | - | - | - | 2,959 60 |
| Difference accounted for, | - | - | - | <u>\$29,707 89</u> |

I have the honor, &c.

PETER HAGNER, *Auditor.*

HON. SAMUEL MOORE, *Member of Committee of Claims, &c.*

SIR: TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *July 19, 1821.*

In your return of suits pending and disposed of, under date of the 21st of June, it appears that, in the case of John T. David, the court and jury were satisfied that he did not owe the money claimed of him by the United States, and, consequently, the verdict was rendered in his favor.

As the sum in controversy is considerable, I should be glad to receive from you a statement of the evidence which produced this conviction on the minds of the court and jury, so as to be enabled to decide on the propriety, or otherwise, of carrying the case before the circuit court.

I have the honor to be, &c.

S. PLEASANTON, *Agent of the Treasury.*

CHARLES J. INGERSOLL, Esq., *U. S. Attorney, Philadelphia.*

SIR: PHILADELPHIA, *July 21, 1821.*

I have received to-day your letter dated the 19th instant, requesting a statement of the evidence in the case of John T. David, so as to enable you to decide upon the propriety, or otherwise, of carrying it before the circuit court. Accordingly, I send you my trial notes, to which I add the following outline:

The action, it was asserted by the defendant's counsel, Mr. Kittera and Mr. Binney, was instituted at his request, not because the accounting officers of the Treasury had any reason to doubt his having faithfully applied the public funds in his hands, but because he could not vouch their disbursement conformably with the regulations which govern Treasury settlements. A fire which broke out in his chamber had consumed or injured his papers so much as to render it impracticable for him to exhibit regular vouchers, but he undertook to show, by the personal examination of several officers, by the written deposition of Major Washington Lee, the paymaster, who could not attend at the trial, and the remaining vouchers he had and produced, that all the troops in his department had been regularly paid; to all which proofs he added strong testimonials from General Bloomfield, Colonel Duane, and others, as to the excellence of his character; and the argument, moreover, that the War Office must have the means of showing the unfaithfulness of his agency, if it had been so in any respect. With regard to a number of minor items in his account, making altogether an aggregate of upwards of \$2,000, he relied upon various proofs and arguments which were submitted to the court and jury. The case turned on the facts, and they were discussed before an intelligent jury and the district judge. My argument was, that, having received the money, Mr. David was bound clearly to show what had become of it; that a fire was a very suspicious apology for the loss of vouchers; and that, because the defendant might have, perhaps, made out a claim to consideration for a Legislature, it was not such a one as a court of justice could sanction. With regard to the minor items, I denied his having shown any sufficient account for them. To these views Mr. David's counsel replied, and satisfied both the judge and the jury of his right to their determination in his favor. I had no expectation, from the first, that the verdict would have been against him as to the larger sums, the want of vouchers for the disbursement of which was ascribed to the fire. But I did suppose that the United States were entitled to, and would probably have, a verdict for something, embracing at least some of the other items. The judge, however, though (it being mostly matter of fact) he left it mainly to the jury, charged against us, and the jury gave a verdict for the defendant.

As to most of the claim, the result, I believe, was a proper one; as to the rest, it may at least be doubted whether it is not so likewise: and, giving an official opinion on the whole subject, I do not perceive any ground for endeavoring to obtain a revision; otherwise I should have so apprized you before now, or taken the requisite measures without waiting for special instructions to that effect.

I remain, very respectfully, your humble servant,

C. J. INGERSOLL.

Mr. PLEASANTON, *Treasury Agent.*

SIR: TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *July 30, 1821.*

I have had the honor to receive your letter of the 21st instant, enclosing memoranda of evidence adduced on the part of John T. David, before a district court lately held at Philadelphia, which produced a verdict in his favor.

It is not improbable that the same evidence may produce the same effect in the circuit court; but as the sum in controversy is large, and as two committees of the House of Representatives, at different periods, reported adversely to his claim, one of which reports was sanctioned by the House, I do not consider myself justified in suffering judicial proceedings to terminate with the decision of the district court. You will be pleased, therefore, in the ordinary manner, to carry the case before the circuit court.

As throwing further light on the subject, and as going to show that we have a well-founded claim, at all events, against Mr. David, for a small amount, I enclose an extract of a letter from the Third Auditor, with an account of errors discovered in the settlement of Mr. David's accounts, which, according to his own statement, would make him a debtor to the United States.

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

S. PLEASANTON, *Agent of the Treasury.*

CHARLES J. INGERSOLL, Esq.

SIR:

PHILADELPHIA, *August 1, 1821.*

I have received to-day your letter dated the 30th instant, together with certain statements respecting the accounts of John T. David, and instructing me to carry the case before the circuit court.

But I acknowledge myself at a loss how to accomplish your views. The case cannot be removed for revision in the circuit court otherwise than by writ of error; and, although the evidence may go with the record, the court of error will take for granted that the jury below found the facts according to the truth. Unless, therefore, there be some error in point of law, the proceedings must be fruitless. If, however, you continue to think it proper to make it, at all events, I will make the experiment. For that purpose I must trouble you for my trial notes, which you have not yet returned.

As the session of the court terminated with the verdict in that cause, I suppose that I am entitled to move for a new trial within the first four days of the next session, which takes place on the third Monday of this month. I am quite as little encouraged to try that alternative as the other, although it will be the most regular mode of getting at any alleged injustice in the present result.

The answer to both applications will be the same, and will be decisive that it was a question of fact determined by the jury.

After this explanation, however, I am at your service for any course you may determine to be the right one; and, if you still adhere to the propriety of further measures, I suggest for your consideration whether it will not be best to make the movement in both courts.

I am, respectfully, your humble servant,

C. J. INGERSOLL.

STEPHEN PLEASANTON, *Treasury Agent.*

SIR:

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE, *August 3, 1821.*

Your letter of the 1st instant has just come to hand. From the view you present of David's case, it would be attended, in all probability, with no advantage to carry it before the circuit court. You will, therefore, move for a new trial in the district court, and, if granted, will urge a correction of the errors discovered by the Third Auditor in David's account, if nothing more can be obtained. Should the court refuse a new trial, further proceedings may be considered terminated, and you will thereupon be good enough to obtain and transmit to me a copy of the judgment certified by the clerk of the court, with a view to obtain for the defendant suitable credit on the books of the Auditor.

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

S. PLEASANTON, *Agent of the Treasury.*

C. J. INGERSOLL, Esq.

SIR:

PHILADELPHIA, *October 5, 1821.*

Enclosed I transmit the certificate of the final judgment in the case of John T. David, conformably to your letter of the 3d August last.

The notice for a new trial was made on the 20th August, from which time the hearing has been deferred by various circumstances until to-day, when the argument took place. After hearing me in support of the motion, the judge, without deeming it necessary to hear counsel against it, gave his opinion in favor of the verdict.

I remain, very respectfully, your obedient servant,

C. J. INGERSOLL.

STEPHEN PLEASANTON, Esq.

SIR:

BURLINGTON, *January 22, 1822.*

I had the honor to receive your letter of 17th current yesterday, too late to answer by mail. The testimonial given to Mr. David of the opinion Colonel Pike gave of him to me in 1812 was solicited by David, and I believe given by me at Washington.

When I was informed he had made application to Congress to be allowed for money said to be lost by fire, I deemed it correct to state to you that David had been tried, convicted of charges for not doing his duty as paymaster of the 15th regiment, &c., and dismissed the service.

The charges alleged, order for a general court-martial, proceedings of the court-martial, dismissal from the service of the United States, were filed in the office of the adjutant general.

The following is an extract from a copy of my letter to the Secretary of War, dated 17th August, 1814:

"The court-martial find Lieutenant David guilty, agreeably to the evidence adduced, subjecting him to the eighty-third article of war, and most respectfully recommend Lieutenant David to the particular clemency of the commanding general, and to the honorable the Secretary of War so far as to permit him to resign the service. Shall David have this permission; and, in such case, shall I receive and announce the same in orders?"

A month elapsed before I received the letter sent herewith.

David was accordingly, by general orders, dismissed. I do not recollect to have heard that David was reinstated in service.

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

JOSEPH BLOOMFIELD.

Hon. SAMUEL MOORE, Esq.

Extract of a letter from John R. Bell, Assistant Inspector General, to Brigadier General Joseph Bloomfield.

ADJUTANT AND INSPECTOR GENERAL'S OFFICE,

WASHINGTON, *September 13, 1814.*

If Lieutenant David is allowed to resign, he would exult in his good fortune in not being disgraced for acts the most unmilitary. I know he refused to obey the order of the War Department, and tendered his resignation: for that alone an officer should be dismissed without a hearing. The Secretary of War does not give his consent to his resigning; you are, therefore, left to approve or disapprove of the proceedings of the court, as in your judgment will do Lieutenant David military justice.

SIR:

TREASURY DEPARTMENT, *March 26, 1822.*

In reply to your letter of the 4th instant, requesting to be informed what compensation, under existing regulations, a district attorney receives for the prosecution of suits on the part of the United States against agents retaining public money in their hands, and under what circumstances such attorney has a right to receive his costs from the treasury of the United States in those cases, I have the honor to communicate the within report of the First Comptroller of the Treasury.

In reply to your last inquiry, viz: What measure would it be expedient to adopt for securing the public interest on such suits? I have the honor to suggest that, according to the practice at this time generally prevalent when the attorney of the United States has entered up judgment against the public debtor, he considers his duty to the Government completely fulfilled. He pays no further attention to the subject in most cases. If the money is collected by the marshal, it is frequently retained a considerable time, and sometimes is eventually lost to the Government through his negligence or want of integrity. In other cases, the debtor endeavors to cover his property by covinuous transfers and conveyances. In such cases the Government is generally a sufferer.

To secure the public interest in all cases where legal coercion is to be employed, the public interest requires that the attorney of the United States should be interested in the recovery and payment of the money into the treasury. I therefore respectfully suggest that a commission of two and a half per cent. be allowed to the attorneys of the United States upon all sums which shall be recovered by judgment and paid into the treasury. This commission will be a sufficient inducement to direct their attention to the conduct and situation of the public debtor, and to prevent abuses on the part of the subordinate officers whose services may be necessary to the payment of money into the treasury which may have been recovered by process of law.

I remain, with respect, your most obedient servant,

WM. H. CRAWFORD.

Hon. SAMUEL MOORE.

SIR:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *March 8, 1822.*

In compliance with your request to be furnished with the information required by the enclosed letter, addressed to you by the honorable Samuel Moore, by direction of the Committee of Claims, so far as respects the following points, viz: "What compensation does a district attorney, under the present regulations, receive for the prosecution of suits on the part of the United States against their agents for retaining public moneys in their hands, and under what circumstances has a district attorney a right, by existing regulations, to receive his costs from the treasury of the United States in those cases?" I have the honor to state that, according to the fourth section of the act of 28th February, 1799, the compensation of the attorneys of the respective districts of the United States, besides the per diem allowance for necessary attendance on business of the United States, during the session of any district or circuit court, to such of them as are entitled to it and their mileage, and a salary to some of them, is to be the same in each State, respectively, as is allowed in the supreme court thereof; and in the district courts of the United States their stated fees in the cases hereinafter mentioned are as follows, to wit: "For drawing interrogatories, five dollars; for drawing and exhibiting libel, claim, or answer, six dollars; and for all other services in any cause, six dollars."

In the last clause of the first section of an act passed the 3d of March, 1795, entitled "An act for the more effectual recovery of debts due from individuals to the United States," is the following provision: "And the party sued as aforesaid shall be subject to the costs and charges of suit, whether the ultimate decision be in his favor or against him." Under this provision, it has long been considered that in *all suits* brought by the United States the defendants are legally liable to the costs.

But in cases where the party proves insolvent, or cannot be found, and the debt and costs cannot be made, or a sufficient sum to cover the costs, the deficiency is considered properly chargeable to the United States.

With considerations of high respect, I have the honor to be your obedient servant,

JOSEPH ANDERSON, *Comptroller.*Hon. WILLIAM H. CRAWFORD, *Secretary of the Treasury.*HOUSE OF REPRESENTATIVES, *February 27, 1818.*

The Committee of Claims, to whom was referred the petition of John T. David, with the accompanying documents, report:

That the petitioner was a lieutenant of the 15th regiment of infantry in the army of the United States, and states that he acted as assistant deputy paymaster for the purpose of paying the troops stationed at Sackett's Harbor, in the year 1813; that, in the months of June and October of that year, he received large sums of money which were disbursed among the troops, with the exception of \$3,650, being the balance remaining in his hands, which was transmitted to the paymaster; that he took duplicate receipts for the moneys paid by him, which were brought to Philadelphia; and, after being put in order for the purpose of examination and allowance at the War Department, a fire happened at his quarters, during his absence therefrom, which defaced, and, in some instances, partly consumed his vouchers, and that it was in consequence of great exertions that they were saved from entire destruction. He further states that those least injured, forming a complete set of vouchers, but parts of some of them illegible, were sent to the War Department, but that the accounting officers, from this circumstance, did not consider themselves justified in settling his accounts, and making him allowances to which he was entitled; he therefore prays the interposition of the Legislature in his behalf.

It appears from a report of Mr. Lear, Accountant of the War Department, of the date of 16th of January, 1816, to the Secretary of War, and by him communicated to the honorable Mr. Yancey, chairman of the Committee of Claims, to whom a former petition of the said David on the same subject was referred, that his accounts were stated at the office of the paymaster of the army, in November, 1814, passed to the office of the Accountant of the War Department, and there adjusted on the 31st of January, 1815, and a balance found due the United States of \$29,003 55, differing from his statement in the sum of \$29,507 04. The principal items constituting the difference are for vouchers alleged to have been burnt, and, as rendered by said David, are as follows, viz:

| | | |
|--|---|--------------|
| Amount claimed on his statement of pay for vouchers stated to have been burnt, | - | \$19,691 84½ |
| Amount on his statement of subsistence, | - | 6,922 83 |
| Amount on his statement of forage, | - | 1,188 24 |

\$27,752 91

Making, together, twenty-seven thousand seven hundred and fifty-two dollars and ninety-one cents, balancing, in each case, the amount of moneys received for those objects. These charges were not allowed on the ground that no authority short of Congress could authorize their admission. A letter from Mr. Hagner, Third Auditor of the Treasury Department, of a late date, states that, since the before specified report, no further evidence has been produced at that Department to justify the admission of the claim without legislative interference.

Respecting the burning of Lieutenant David's vouchers in Philadelphia, it appears, by the certificates of Colonel William Duane and Benjamin Nones, a notary public in said city, and the depositions of two other persons, one of whom was the owner and occupant of the house in which were Lieutenant David's quarters, that, on the evening of the 8th of March, 1814, his room in the second story was discovered to be on fire, and that, upon rushing up to it, the bed and window curtains were observed to be in flames, and that nearly all of the furniture in the room was consumed; both ends of a table on which the papers lay were considerably burnt, the papers themselves materially injured, and that it was owing to great exertions that they were rescued from total loss. Lieutenant David did not return until after the fire was extinguished. The fire was supposed by the witnesses to have been communicated by a spark from the fire in the room to the curtains of the bed, which was near to it.

The committee, in attentively considering the case of the petitioner, cannot but unequivocally censure the loose and careless manner in which his papers were left at his quarters; and as there is no evidence exhibited to the committee of the disbursement of any part of the sum of \$29,003 55 standing against him on the books of the Treasury Department, unless his own allegation should be so considered, (a class of testimony which it must have been in his power to procure, at least for a considerable portion of said sum, had it been disbursed as alleged,) the committee are of the opinion that it would be incorrect to grant the prayer of the petitioner, and therefore submit the following resolution:

Resolved, That the petition of John T. David be rejected.

HOUSE OF REPRESENTATIVES, *March 17, 1820.*

The Committee of Claims, to whom were referred the petition and accompanying documents of John T. David, of Philadelphia, report:

It appears from the statement of the petitioner that he was a lieutenant in the army of the United States during the late war, and acted as assistant deputy paymaster for the purpose of paying off the troops stationed at Sackett's Harbor in the year 1813. In the settlement of his accounts a balance of \$29,003 55 is found against him, which he alleges ought to pass to his credit on account of vouchers burnt or defaced by fire, and therefore he asks the interposition of Congress.

The committee beg leave to refer the House to their report in this case, made on the 27th of February, 1818. The reasons for deciding against the claim at that time will appear detailed at length in that report. The petitioner, however, again urges his claim at the present session, and the committee have re-examined it with attention; they see nothing to induce a change of the opinion heretofore given. The letter of the 10th ultimo, from the Third Auditor of the Treasury to a member of the committee, points out the objections to a settlement of this account in the usual mode by the officers of that Department. It does not appear that the evidence required of the petitioner is at all unreasonable, or such as he should not be bound to produce before his claim can be adjusted with safety to the Government.

The rules of the Department require officers to make quarterly returns: this the petitioner has not done; on the contrary, it appears, in a letter from Robert Brent, late paymaster general, to the petitioner, dated 21st of November, 1814, that he had violated positive instructions, and was charged by Mr. Brent with having brought upon himself many of the difficulties of which he complained. In the petitioner's reply to the letter at that time, he does not pretend to controvert the statement of Mr. Brent; but he now says he came on to Washington in February, 1814, to settle his accounts; that the paymaster general told him he might return to Philadelphia, and arrange his papers at leisure; that he did so, but on the 7th or 8th of March following a fire broke out in the room he occupied, and consumed or defaced his vouchers so as to prevent their allowance at the Department.

It is difficult for the committee to reconcile this apparent contradiction, especially when they reflect that this allegation of the petitioner does not appear to have been made in the lifetime of Mr. Brent; and, until further evidence is adduced, they would deem it inexpedient for Congress to interfere. The following resolution is therefore submitted to the House:

Resolved, That the claim of John T. David be rejected.

17th CONGRESS.]

No. 607.

[1st SESSION.]

CAPTURE OF THE SHIP AMIABLE ISABELLA AND CARGO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 4, 1822.

Mr. SERGEANT made the following report:

The Committee on the Judiciary, to whom was referred the petition of Alonzo B. Munoz, have had the same under consideration, and have agreed to submit the following report:

The petitioner, who states himself to be a subject of His Catholic Majesty, residing in the island of Cuba, and lately sole owner of the ship *Amiable Isabella*, sets forth in his petition that the ship sailed from Havana, bound to *Hamburgh*, on or about the 14th of November, 1813, "laden with a valuable cargo belonging to the petitioner; but, even if it had belonged to other persons, he conceives that, under the provisions of existing treaties, the property in the said cargo was a question concerning which the courts of the United States had no right to inquire,

inasmuch as the property of the ship was conclusive to protect it from American capture." That the vessel was captured on her passage by the Roger Quarles, American cruiser, and carried into the port of Wilmington, North Carolina, where vessel and cargo were labelled and acquitted; but, on appeal to the circuit court, the sentence was reversed, and ship and cargo condemned to the captors—a decision which the petitioner states he is ready to show "was founded on a mistake of the honorable judge, and which he has himself been made sensible of and acknowledged." From this decision he appealed to the Supreme Court of the United States, and at February term, 1820, the case was laboriously argued and discussed, and a decision finally made in the petitioner's favor, and ordered to be reported; and he hopes to be able to prove that a written opinion was accordingly made out, submitted, agreed to, and ordered to be delivered, and was taken into court to be delivered, when, upon the table of the Supreme Court, at the hour of the court's convening, were found a letter from Mr. Wirt, Attorney General, to the President, a letter from the President to Mr. Wirt, and one from Mr. Wirt to the Chief Justice, which asked for another argument upon a single point in the case in which the United States were interested, as involving the construction of an important clause in the treaty with Spain; that a new argument took place, and the property was finally condemned, which the petitioner complains of as wrong. He also insinuates very strongly that the Attorney General was not moved in this course by a sense of official duty, but by the interest he felt in the case as counsel of the captors, with a large contingent fee depending on the event; and he seems to think that an undue influence was somehow exercised to his prejudice, by which, as he says, "a property to the value of \$100,000 was snatched from his grasp at the very moment when he was about to be restored to as just a claim as ever was set up by man." He finally insists that the construction of the treaty contended for by his counsel was the right one, and was most agreeable to the interests of the United States as well as to his own; and upon these grounds, more particularly stated in his petition, he asks for an indemnity for the loss he has sustained.

The petition is without the support of any evidence, and is not vouched even by the oath of the petitioner; and though there are assertions in the petition that he is prepared to prove some of his allegations, yet the committee cannot help thinking that, before he approached the House with such a claim, he ought to have had his evidence prepared to accompany the statement of facts it contains. He could not reasonably suppose that insinuations so injurious as those he has put forward would be suffered to remain without examination until it might suit his convenience or his pleasure to endeavor to maintain his allegations.

How it has happened that the petitioner or his agents have been able to intrude upon the consultations of the judges, and ascertain the results of their private deliberations before they were judicially propounded, or how the petitioner can speak with so much confidence of the motives of the Attorney General, are matters which the committee have not now the means of inquiring into. Having duly considered the contents of the petition, compared with the records of the case, and with the accompanying communication from the Attorney General, they are fully satisfied that nothing has occurred in the progress of the business which can reasonably be complained of, and that the final issue of the cause was just and right.

There appear to have been two questions in the case. The first was a question of proprietary interest, that is to say, whether Munoz, the claimant, was the real owner of the property, or whether it belonged to British subjects, enemies of the United States, and was fraudulently covered by him to protect it from American capture. If he was an owner, and had conducted himself as a neutral ought to do, he was entitled to an acquittal. If, on the other hand, he was lending his name to cover belligerent property, then condemnation would be the just and legitimate consequence. Upon this point the decisions that have been rendered are now to be accepted as conclusive. Indeed, the petitioner asserts his ownership so faintly, and relies so little upon it throughout, that he seems to acquiesce in the justice of his fate as far as this point is concerned. There is no reason to doubt that the proprietary interest was not in Munoz; and, if so, the fact of its being fraudulently covered was incontrovertible evidence to justify its condemnation.

The remaining question was, whether a certain paper found on board the ship, and alleged to be a Spanish passport, was of itself sufficient to shield the vessel and cargo, and bar an inquiry into the real character of the property—that is, in effect, to secure its acquittal—though clearly proved to belong to enemies of the United States. In the course of the argument, a clause in the treaty with Spain was strongly relied upon by the counsel for the claimant as giving to the paper called a passport a power to protect enemy's property fraudulently covered. This construction, if established, would have been universal, applicable to all other cases; and the question was, of course, deeply interesting to the United States. If such a paper, however obtained, was to preclude all investigation, there was an end, in time of war, to the right of capture, and the United States would have been entirely stripped of the means of maritime warfare—an unarmed and defenceless victim of any foe, however contemptible; for the argument, it will be seen, must probably have gone the whole length of contending that, even where the Spanish authorities were themselves imposed upon, the passport would nevertheless be conclusive.

Upon the discovery that this question was involved in the case, Mr. Wirt, who was one of the counsel of the captors, thought it his duty (sincerely, the committee are confident) to disclose its tendency to the Executive. In so doing he was right, whatever may have been his motive; he would have neglected his duty if he had omitted to make the disclosure. The President, with a becoming regard to his high duty, directed him to apply to the court for another argument upon the single point in which the United States were interested. He made the application accordingly, and it was entertained by the court. The committee believe it is not unusual, and they are sure it is quite right, where there is an interest in a cause not represented by the parties before the court, to give it an opportunity of being distinctly heard, upon a suitable application. A court of equity will not decide till all the parties are brought in. It was, therefore, the right of the United States to be heard upon a question affecting their interests, *if they desired to be heard*; and such desire could no otherwise be manifested than as it was manifested—by an application from the President, charged with the care of the public concerns, through the law officer of the Government. In ordinary cases, it is presumed the Attorney General would not have thought it necessary to communicate his correspondence to the court, nor could it add any thing to the weight of the application; but, having been counsel in the cause, it was fit and proper for him to exhibit the grounds of his application more fully than in ordinary cases. He acted in this respect with singular delicacy, as well as with perfect candor, disclosing the fact that the interposition of the Executive had been upon his suggestion, and what that suggestion was; thereby giving to the claimant an opportunity to consider, and the court to decide, how far it was correct. If the petitioner, who is a foreigner, supposes that the President, in performing a duty, which by our constitution it belonged to him and to him alone to perform, of asking to be heard, brought any undue influence to bear upon the final decision of the cause, it is because he knows nothing of the nature of our judicial tribunals, nor of their perfect independence of all such influence. And if he, or any of his advisers, suppose that the rights of the United States were to be neglected, through the fear of awakening the suspicions of an interested party, he claims for a false and pernicious delicacy much more than any impartial man, with a tolerably well-balanced mind, would deem at all admissible. It might suit his purposes well, but it would not conduce to the purposes of justice, nor be worthy of one intrusted with the high charge of taking care of the public welfare.

The cause was reargued upon the single point by counsel on both sides, and, after a long advisement, the court decided against the claimant, one judge dissenting.

It belongs not to the committee, nor to the House, to entertain an appeal from that decision. The cause was fully, and fairly, and openly discussed, and, the committee have no doubt, determined upon its real merits, and, if they might be permitted to express an opinion, was rightly determined. Nothing occurred in its progress calculated unjustly to affect its decision, or to warrant the insinuations in the petition.

But, in addition to what has now been stated, the committee deem it fit to remark that, after what has appeared in regard to the question of proprietary interest, they think it at least very doubtful whether the present claimant can entitle himself to come before this House with the question about the passport. If he did not own the property, but was only covering it for others, he has sustained no injury by the decision upon the treaty. He has no interest, and would be practising upon the House the same imposition which he sought to practise upon the cruisers and courts of the United States. The passport will not avail *him* here. The committee therefore submit the following resolution:

Resolved, That the petitioner has no title to relief.

17th CONGRESS.]

No. 608.

[2d SESSION.]

REVOLUTIONARY PENSIONERS.

COMMUNICATED TO THE SENATE, ON THE 3D OF DECEMBER, 1822.

SIR:

WAR DEPARTMENT, *December 2, 1822.*

In obedience to a resolution of the Senate of the 29th of April last, requiring from this Department, at the present session of Congress, a report of the number of persons placed upon the pension list up to the 4th of September, 1822, by virtue of the acts of the 18th of March, 1818, and 1st of May, 1820, I have the honor to transmit, herewith, a statement containing the number aforesaid, distinguishing between those who enlisted to serve during the war, and those for different periods, stating the number of each, and the time served, and the number of the officers who receive twenty dollars per month.

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

J. C. CALHOUN.

To the Hon. the PRESIDENT of the Senate of the United States.

The following is the number of officers, non-commissioned officers, musicians, privates, petty officers, seamen, and marines, on the United States pension list on the 4th September, 1822, under the laws of the 18th of March, 1818, and 1st of May, 1820, who enlisted to serve to the end of the war, with the length of their service:

| | | | | | |
|---|---|---|---|---|----|
| Officers who served 7 years, at \$20 per month, | - | - | - | - | 57 |
| who served 6 years, do. | - | - | - | - | 66 |
| who served 5 years, do. | - | - | - | - | 15 |
| who served 4 years, do. | - | - | - | - | 8 |
| who served 3 years, do. | - | - | - | - | 5 |
| who served 2 years, do. | - | - | - | - | 5 |
| who served 1 year, do. | - | - | - | - | 9 |
| who served 9 months, do. | - | - | - | - | 1 |

Total number of officers, - - - 166

| | | | | | |
|--|---|---|---|---|-------|
| Non-commissioned officers, &c. who served 7 years, | - | - | - | - | 536 |
| who served 6 years, | - | - | - | - | 1,302 |
| who served 5 years, | - | - | - | - | 380 |
| who served 4 years, | - | - | - | - | 145 |
| who served 3 years, | - | - | - | - | 584 |
| who served 2 years, | - | - | - | - | 291 |
| who served 1 year, | - | - | - | - | 102 |
| who served 9 months, | - | - | - | - | 22 |

Total number of non-commissioned officers, &c. - 3,362

The following is the number of officers, non-commissioned officers, musicians, privates, petty officers, seamen, and marines, on the United States pension list on the 4th of September, 1822, under the laws of the 18th of March, 1818, and 1st May, 1820, who did not enlist to serve to the end of the war, with the length of their service:

| | | | | | |
|---|---|---|---|---|-----|
| Officers who served 6 years, at \$20 per month, | - | - | - | - | 3 |
| who served 5 years, do. | - | - | - | - | 13 |
| who served 4 years, do. | - | - | - | - | 26 |
| who served 3 years, do. | - | - | - | - | 79 |
| who served 2 years, do. | - | - | - | - | 88 |
| who served 1 year, do. | - | - | - | - | 168 |
| who served 9 months, do. | - | - | - | - | 23 |

Total number of officers, - - - 400

| | | | | |
|--|---|---|---|--------------|
| Non-commissioned officers, &c. who served 6 years, | - | - | - | 4 |
| who served 5 years, | - | - | - | 85 |
| who served 4 years, | - | - | - | 309 |
| who served 3 years, | - | - | - | 3,513 |
| who served 2 years, | - | - | - | 928 |
| who served 1 year, | - | - | - | 2,750 |
| who served 9 months, | - | - | - | 814 |
| Total number of non-commissioned officers, &c. | - | - | - | <u>8,403</u> |

RECAPITULATION.

| | | | | |
|---|---|---|---|---------------|
| Number of officers who served to the end of the war, | - | - | - | 166 |
| Number of officers who did not serve to the end of the war, | - | - | - | 400 |
| Number of non-commissioned officers, &c. who served to the end of the war, | - | - | - | 3,362 |
| Number of non-commissioned officers, &c. who did not serve to the end of the war, | - | - | - | 8,403 |
| Total number, | - | - | - | <u>12,331</u> |

17th CONGRESS.]

No. 609.

[2d SESSION.

PENSION AND ARREARS OF PAY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1822.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to whom was referred, on the 4th of December, the petition of Caleb Childs, reported:

That the petitioner states that in November, 1812, he was in the service of the United States, in a corps of laborers or artificers, for the purpose of erecting barracks at Plattsburg; that he continued to be so employed until the 10th of December, 1812, on which day his right foot was badly broken to pieces in consequence of a log being drawn over it, and he was by reason of the wound confined nine months to his house, unable to perform any kind of labor, and for three months longer was only able to do trifling things about the house; during that time he was put to great expense by reason of his confinement, and that he has ever since been a cripple; that he is poor, has a wife and six children to labor for with pain and great inconvenience, and cannot perform one-half the labor that he would be able to do had he not been so injured. He prays compensation for the time lost and expenses incurred by reason of his wound, and that he may be placed on the pension list of the United States, or for such other relief as Congress may consider him entitled to.

Your committee further report, that it appears from the deposition of Philip B. Roberts, accompanying the petition, that he (Roberts) was employed in November, 1812, by General Dearborn, to superintend the building of barracks at Plattsburg for the brigade under the command of General Z. M. Pike; that he (Roberts) was ordered to employ men and teams, &c., and to superintend the building as superintendent, or captain of artificers; that, under the said order, amongst others, he hired for twenty days the petitioner, Caleb Childs, with his yoke of oxen. Before the expiration of the twenty days, he was very severely wounded by a log rolling over his foot; it was ordered that pay and rations should be continued to him until he got well; a month's rations were drawn for him soon after General Pike left Plattsburg for Sackett's Harbor; that, after his departure, he did not receive any more pay or rations. The deponent further states that he heard General Pike say Childs should be placed on the pension list.

Your committee further report, that it does not appear, from proofs and documents in this case, that the said Philip B. Roberts held any commission under the United States, but that he was merely employed to superintend the building of the barracks at Plattsburg, and to hire laborers, unconnected with the army, for that work only. After due consideration, your committee are of opinion that to grant the prayer of the petitioner would be establishing a new principle, uncalled for by justice and forbidden by sound policy; they therefore submit the following resolution:

Resolved, That the prayer of the petitioner be not granted.

17th CONGRESS.]

No. 610.

[2d SESSION.

INDEMNITY TO AN OFFICER OF THE ARMY AGAINST CERTAIN JUDICIAL PROCEEDINGS.

COMMUNICATED TO THE SENATE, DECEMBER 23, 1822.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Robert Purdy, reported:

That, in the year 1809, the petitioner was a lieutenant colonel in the army of the United States, and in command of the troops stationed at Hiwassee garrison. That a certain William Luty, a pedlar by occupation, applied for permission to sell goods to the soldiers, which was granted him on condition that he would not sell spirituous liquors to the soldiers or Indian countrymen. That shortly after said Luty obtained this permission, he was

detected in violating garrison orders, whereupon he was confined under guard, and was convicted by a court of inquiry of having sold spirits, both to the troops and Indian countrymen. That said Luty was kept under guard for about three days, when he was liberated, and directed to leave the garrison; but, instead of complying with these directions, Luty got possession of one or two cabins near the garrison, and within the reserved territory, where he continued to sell spirits, to the great injury of the subordination and discipline of the garrison, and in violation of the laws regulating intercourse with the Indian tribes. That the petitioner ordered the cabins in which said Luty had taken shelter to be pulled down, and they were demolished accordingly. After said Luty was thus forced to leave the garrison, he instituted actions of trespass and false imprisonment against the petitioner, and thereby subjected him to the payment of \$816 70 for damages, costs, and charges. On examining the case of Luty *vs.* Purdy, reported in 2d Tennessee reports, page 163, it appears the court in Tennessee claimed and exercised jurisdiction of acts committed within the Indian territory, and determined that Luty could not be considered a sutler, because he was prohibited from selling *spirits*. It is a subject of much delicacy to review the decisions of our courts of justice; but the committee are compelled to remark that the jurisdiction of the court in this case is doubtful, to say the least of it, and they are confident that a license to sell spirits is not essential to constitute the character of a sutler. But, admitting the court to be correct, both as to jurisdiction and the definition of a sutler, yet the committee are of opinion the petitioner is entitled to relief, because they are satisfied he acted with the sole view of promoting the public interest confided to his command; that he had no other means of restoring order and subordination among the troops, and of enforcing the laws of the United States regulating intercourse with the Indian tribes; and that he pursued, on this occasion, the same course which had been universally adopted by the commanding officers of our frontier garrisons; and therefore they report a bill for his relief.

[17th CONGRESS.]

No. 611.

[2d Session.]

LOSS OF THE SCHOONER WILLIAM YEATON.

COMMUNICATED TO THE SENATE, DECEMBER 30, 1822.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, of Washington city, reported:

That the petition and papers of the said Joseph Forrest have, at different sessions of Congress, been referred to the Committee of Claims, and that several reports have been made thereon. The committee beg leave to refer to their report made on the 28th day of December, 1818, [see No. 457, page 642,] as containing their sentiments and reasons in favor of the allowance of the claim. They therefore report a bill for his relief.

To the honorable Senate and House of Representatives of the United States: The petition of Joseph Forrest respectfully sheweth:

That, in the year 1812, he chartered his schooner William Yeaton, George Travers, master, to the Government of the United States, to take a cargo of provisions to Laguayra, being part of the donation made by the United States to the suffering inhabitants of Venezuela, (who had been visited by an earthquake;) that, by this charter, there was no stipulation as to the number of days that should be allowed for loading and unloading; that the stipulation as to this point, on the part of the owner, required by the United States, was, that he should proceed, with all convenient and practicable expedition, directly to the port of Laguayra, and there discharge the cargo with all convenient despatch; that the vessel, after being loaded, proceeded on her voyage, and carried her cargo in safety to the port of delivery, where she arrived on the 1st July, 1812; that, immediately upon her arrival, the agent of the United States was notified, and requested to receive the cargo; that, instead of doing so, he refused to receive it, except in small quantities from day to day, thereby making the vessel a sort of store-ship from which to issue supplies as he might direct, although earnestly solicited to take out the cargo—the captain having engaged a back freight, for which he was promised fifteen hundred dollars, besides several passengers; that the vessel was kept in this situation until the 1st day of August, with about one-third of the provisions shipped by the United States still on board, when the royal army entered the place; that the royal authorities immediately seized the vessel and cargo, and condemned both, at a distant port, as a good prize; that the principal cause of condemnation, as stated in the decree of condemnation itself, is, that the United States sent this supply to assist the Patriots in their revolution, and not for benevolent purposes, as pretended, because, if the purpose had been such, consular certificates could have been easily procured; that, upon your petitioner's learning that the vessel was seized, and the captain with the crew turned from her, he made immediate application to the President of the United States for the interposition of the Government; that, in answer to this application, he was informed that no communication would be made to Don Onis by the Executive, because the policy of the Government at that time did not warrant the reception of him as minister, but that there would be no impropriety in his applying to the minister himself.

That your petitioner accordingly went to Pennsylvania for that purpose, and had a long conference with Don Onis; that the vessel seized and condemned at Laguayra was, some time after this, restored to the captain, and owing, as he believes, to the interposition of Don Onis, as he had promised; that the vessel was released, but on the condition that she should pay all costs and trial charges, condemnation, &c. &c.; that, in the mean time, she had been long out of the possession of the captain and crew; robbed of many valuable things; exposed, in an open roadstead, to a hot sun, without ever having her decks wetted; and so materially damaged that the captain determined to sell her; that he accordingly disposed of her at auction for one thousand and twenty-five dollars, and, on his return, rendered his account of expenses at Laguayra for this seizure, condemnation, attorney's fees, &c. &c., with other charges, and brought the owner in debt, by his account, more than five hundred dollars, for which he instituted a suit, (in which, however, he failed;) so that the loss of your petitioner was nothing *more* than a *total* loss.

That your petitioner being under the impression that, in presenting a memorial to the Government of his country, which he did, nothing was further necessary than simply to state his case, he wrote his memorial without the aid of learned counsel; that he did not anticipate a reference of his case to the Secretary of State, or that the Secretary would consider himself called upon to give a legal opinion upon the case as thus presented; that the Secretary's report states the loss of the owner of the vessel as total, and submits to the consideration of Congress whether, while they are extending their benevolence to Spanish subjects, they will suffer one of their own citizens to be ruined for being the messenger of their donation. He concludes, however, that the United States are not legally bound to pay. On this point your petitioner is advised that the Secretary is mistaken, for the reason contained in the paper hereto annexed, marked E; and that, if the owner of this vessel had chartered her to an individual, he would have been enabled with certainty to recover, in case the delay in landing the cargo had proceeded from that individual; that, in the present instance, the loss and injury arose not from any fault or negligence on the part of the owner, but from the negligence or improper delay of the agent of the Government.

That, in the year 1819, a committee of the Senate reported a bill for the relief of the owner, but it was lost, as he was informed, in the Senate, by a single casting vote. Not wishing to give the Senate unnecessary trouble, he has since deferred any further application to them, being under the impression that this claim was embraced in the treaty with Spain.

That he accordingly drew up a memorial, in which the facts are stated, and submitted it to the commissioners lately sitting in Washington under that treaty, who rejected it, because the fact of the vessel's going into a Spanish port, contrary to the known laws of Spain, subjected her to seizure, more particularly as she carried supplies to the revolutionists at a time the King had a force in the vicinity to subdue them: the vessel too, the commissioners remarked, was still in the service of the Government, with part of the supplies on board, and condemned, with the cargo, as *belonging* to the United States, and, of course, the injury was done to the United States, and not to the petitioner; that the agent of the United States had a survey of the vessel at Laguayra by several disinterested persons, to ascertain the damage the owner of the vessel had sustained by the seizure and detention, who awarded that the owner's damages amounted to two thousand one hundred and thirty-six dollars, which the agent of the United States declares, under his consular seal, ought to be paid by the Spanish Government; in which opinion he is correct: but the payment, in the opinion of the commissioners, ought to be made to the United States.

That your petitioner has hitherto not asked for any thing but to be placed in the situation he was in when he undertook this business for the United States. The vessel was then worth \$4,000; was valued and insured outward at that in New York, for which he would have been paid by the underwriters had she not arrived safely at Laguayra. The loss of this vessel has been severely felt by the unfortunate owner; he owes at least half her cost, for which he has been compelled to pay bank discount and curtails since the year 1812.

But, although he has not asked for any thing more than the value of his property lost in the service of the United States, he is advised, and conscientiously believes, that he has a good and valid claim, which, in a court of justice, would be sustained against an individual, for the consequential as well as for the actual and immediate loss. That, on this point, relating to consequential damages, he relies, as on the other point, not on the liberality, but on the justice of the Congress of the United States; and he prays that a law may be passed for his entire relief; and he will pray, &c.

DISTRICT OF COLUMBIA, *County of Washington, to wit:*

On this 5th day of April, 1822, Joseph Forrest appeared before the subscriber, a justice of the peace in and for the county aforesaid, and made oath, in due form of law, that the facts, as stated in the foregoing petition, as of his own knowledge, are true, and those as received from others he believes to be true. Sworn before

WILLIAM WATERS.

This charter-party of affreightment, made this twenty-fifth day of May, one thousand eight hundred and twelve, between George Davis, of the city of New York, merchant, agent for the owner of the schooner called the William Yeaton, George Travers, master, of the burden of one hundred and nine tons, or thereabouts, now lying in the port of New York, of the one part, and the United States of America of the other part, witnesseth: That the said George Davis doth, by these presents, grant, and to freight let, unto the said United States, the said schooner William Yeaton, her tackle, apparel, and furniture, and the whole and every part of the said schooner, and all her tonnage, except the cabin and room for stores, water, and cables; and the said United States do, accordingly, hereby hire the same for the voyage hereinafter mentioned and described; and, therefore, the said George Davis, hereby, for himself, and for his heirs, executors, and administrators, covenants and agrees, with the said United States, as follows: that the said schooner shall be sound, tight, and strong, and shall be made ready, fitted, and provided, by the said George Davis, with all necessary and convenient things for such a schooner bound on the proposed voyage; and shall be kept tight, sound, and strong, and furnished with sufficient men, and all other necessaries during said voyage. That the said George Davis shall provide, employ, and pay the captain, officers, and crew of the said schooner, for and during the said voyage. That the said George Davis shall defray all the expenses whatever of the proposed voyage. That the said schooner shall be loaded with all convenient despatch, and be ready to sail from the said port of New York by the twenty-sixth day of May instant, and shall sail from said port on that day, or as soon thereafter as possible, and shall proceed, with all convenient and practicable expedition, directly to the port of Laguayra, in South America, and there discharge her cargo with all convenient despatch. And the said United States hereby covenant with the said George Davis to pay to him, for the cargo to be put on board the said schooner by them, at the rate of one dollar and fifty cents for every barrel of flour, seventy-five cents for every half barrel of the same, and forty cents for every bushel of corn, as the full freight and compensation for the proposed voyage, with a deduction, however, of five per cent. on the amount of said freight, if paid before the sailing of the said schooner from New York.

And it is hereby agreed that the said George Davis shall have the privilege of carrying to Laguayra aforesaid, on board the said schooner, four passengers; and for the true performance of the foregoing covenants the said parties do hereby bind themselves, each to the other, in the penal sum of two thousand five hundred dollars, firmly by these presents.

In testimony whereof, the said George Davis and James Christie, who has been specially authorized by [L. s.] the Government of the United States to enter into and execute this charter-party on their behalf, have hereunto interchangeably set their hands and seals, the day and year first above written.

GEORGE DAVIS,
JAMES CHRISTIE.

Sealed and delivered in presence of FREEMAN HOPKINS,
ISAAC PIERSON.

JAMES MADISON, *President of the United States of America, to all whom it may concern:*

Know ye, that the American schooner William Yeaton, whereof is master George Travers, a citizen of the United States, is bound from the port of New York with a cargo of provisions, intended as a donation from the Government of the United States to the unfortunate inhabitants of the province of Venezuela, who have suffered by the late earthquakes there; wherefore, I request all whom it may concern not to give, or suffer to be given to her any hindrance or molestation; but, on the contrary, to afford her every aid and facility she may require in the prosecution of her voyage.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed [L. s.] to these presents, at the city of Washington, the fourteenth day of May, Anno Domini 1812, and of the independence of the United States the thirty-sixth.

JAMES MADISON.

By the President:

JAMES MONROE, *Secretary of State.*

Bill of lading.

Shipped in good order and well conditioned, by James Christie, in behalf of the United States, on board the good schooner called the William Yeaton, whereof is master for this present voyage George Travers, now lying in the port of New York, and bound for Laguayra, to say, eight hundred and one barrels and forty-nine half-barrels of superfine flour, on account of the United States, being marked and numbered as in the margin, and are to be delivered, in the like good order and well conditioned, at the aforesaid port of Laguayra, (the danger of the seas only excepted,) unto Robert K. Lowry, or to his assigns, he or they paying freight for the said flour, nothing for freight having been paid here. In witness whereof, the master or purser of the said schooner hath affirmed to four bills of lading, all of this tenor and date; one of which being accomplished, the others to stand void. Dated in New York, the 25th day of May, 1812.

GEORGE TRAVERS.

In the matter of the detention which the troops of the army of pacification made of the vessels coming from North America, called schooner Active Trader, Captain Hugh Smith; ship Maria Louisa, Captain Thomas Manning; schooner Mary, Captain James Wibray; brig Cumberland, Captain Jacob Clement Janio; brigantine Joanna, Captain Isaac Smith; brig Calliope, Captain Noah Smith; schooner William Yeaton, Captain George Travers; and of the brigantine schooner Joanna, Captain Peter Fosse, being seen, the steps pursued to verify the papers, and the summary judgment which, in the case of each of the above-recited vessels, has been formed in virtue of the order prescribed by the ordinance; and it appearing from the merit of all that, being placed under the prohibition not to go to points of the Spanish dominions without a certificate from the Spanish consuls of the port of their departure, they sailed for that of Laguayra, in a state of *insurrection*, most of them loaded with provisions, and the brigantine schooner Joanna with twenty-five *quintals of powder*, without the indispensable requisite of the certificate to cover the property of the vessels and cargoes from the danger with which they are threatened by repeated royal ordinances anterior to the 15th of August, 1810, which being published in the gazettes of the United States, it was notorious to all their inhabitants that they could not be admitted in our ports without such a solemnity, and that their vessels and cargoes would be confiscated; that, being met at sea, they would be detained by vessels of war and privateers: Wherefore, and because it was not the object of the Government of the North to relieve the unhappy inhabitants of Venezuela, who had suffered the desolation of an earthquake, since, not being ignorant of a prohibition so strict, the aforesaid certificates could not be refused by the Spanish consuls when applied to acts of humanity, such as are alone indicated by the documents which have been presented, it is clear *that it was solely endeavored to infringe those sovereign regulations, or to elude their fulfilment*, under such pretexts; under which idea, and that Thomas Manning, Jacob Clement Janio, Peter Nightingale, and Peter Fosse declare that the reason for not carrying the said certificates was no other than the certainty that the consuls would have refused them, because the inhabitants of Venezuela had adopted a different Government and flag, it follows that the Government of the said States have not fulfilled it, for this very reason—that the *object was to support them in the obstinacy of their criminal independence*. In consequence, therefore, of those principles which consolidate the glory and honor with which the army of pacification, under the command of its general-in-chief, Señor Don Domingo de Monteverde, has lawfully detained the said vessels, they are all declared good prize, in observance of the said royal order, and of the thirty-fourth article of this report; and that the said army may partake of its proper proportion, designated by its general, the consignee, Don Simon de Yturralde, shall proceed to the collection of the vessels and cargoes, which he shall gather in the port of Laguayra, rendering, for that purpose, a separate statement, in order that the avails, in money or kind, which remain with different individuals, may receive no damage; taking from Mr. Robert Lowry the possession of the said vessels, *and sale being made of them in this port, under the usual formalities*, he shall deliver to each captain one hundred dollars for his subsistence and passage to the port of his departure.

This sentence was given and pronounced by Señor Don Juan de Tiscar, post captain of the royal navy, and principal commandant, &c., in conjunction with Señor Don Ramon Hernandez de Armas, auditor of war and of marine, this 23d September, 1812, and before us, the actuaries, who certify, John de Liscar, Ramon Hernandez de Armas, Juan Galan, Manuel Martinez.

Faithfully corresponding with the original, to which I refer myself, and which I caused to be extracted by the actuaries on the verbal petition of the captain of the schooner William Yeaton, at Puerto Cabello, 25th September, 1812, which I certify.

MANUEL MARTINEZ.

JUAN DE TISCAR,
JUAN DE GALAN.

CARACACAS, *Port of Laguayra, to wit:*

I, Robert K. Lowry, marine and commercial agent for the United States of America to Caracacas, do hereby certify, attest, and make known that the schooner William Yeaton, George Travers, master, was put up at public auction

in this port, and sold with the usual formalities for the sum of one thousand and twenty-five dollars, of which an act having been of me requested, I have granted these presents to serve and avail as need and occasion may require.

In testimony whereof, I have hereunto set my hand, and affixed my consular seal, the 16th day of December, [L. s.] in the year of our Lord 1812.

ROBERT K. LOWRY,
Consul for the United States of America at Laguayra.

In the year 1812 I obtained permission from the Secretary of the Navy to go to sea in the schooner William Yeaton, George Travers commander, on a voyage from New York to Laguayra, with a cargo of provisions shipped by the United States. We arrived at Laguayra about the 1st of July, and immediately notified the consignee, Mr. Lowry, of our arrival, and requested to be unloaded without delay.

I think it was about a fortnight before Mr. Lowry would receive any part of the cargo, although constantly urged to do so by Captain Travers and myself. After the vessel began to discharge, it was in small quantities, and sometimes for many days not a barrel would be received, although Mr. Lowry would always promise that he would attend to it, and that the vessel should soon be unloaded. The delay did not proceed from the captain: he was extremely anxious to get away from the place. He had a back freight and passengers ready, and only waited for Mr. Lowry to take out the provisions. I myself called many times on the consignee to beg him to discharge the vessel, as I felt extremely anxious to return to the United States, apprehending the seizure of the place by the royalists, and under the expectation that war would take place between the United States and England, and that my services would be required.

The captain was so unhappy at remaining at Laguayra so long, that he proposed to me to take charge of the vessel, and let him return to his family. I remained with the vessel until the royal forces arrived and took Laguayra, after which I took passage in a schooner for Baltimore, and left the William Yeaton to her fate, with about a third of her cargo still on board.

DULANY FORREST.

On this 29th day of April, 1822, personally appeared before me, one of the justices of the peace for the county of Washington and District of Columbia, Dulany Forrest, and made oath on the Holy Evangelists of Almighty God that the facts as stated above are true.

Sworn before

JOHN N. MOULDER, *Justice of the Peace.*

CARACCAS, *Port of Laguayra, to wit:*

By this public instrument of protest be it made known that, on the day of the date hereof, before me, Robert K. Lowry, consul for the United States of America at Laguayra, personally appeared George Travers, late master of the schooner William Yeaton, of Washington, who made oath, in due form, that he set sail in the said schooner William Yeaton, on the 28th day of May last past, from the harbor of New York, bound on a voyage to the port of Laguayra; that the cargo of the said schooner, consisting of flour, constituted a part of the supply of provisions voted by the Congress of the United States to the distressed inhabitants of Venezuela on the 8th of May last; that the said schooner arrived at Laguayra on the 1st day of July last; that she began to discharge on the 14th of July, and had completed but a part of her unloading on the 1st of August, when the Spaniards took possession of Laguayra; that, on the 7th of August, the delivery of the whole of the cargo into the custom-house stores was completed; that, on the 8th of August, this deponent was ordered to send on shore the sails or rudder of the said schooner, in consequence of which he duly noted his protest in this office; that, on the 19th day of August, an order was communicated to this deponent to proceed to Puerto Cabello, with his papers, that the vessel might be tried in the court of admiralty there; that he proceeded thither on the 28th of August, and delivered his papers the following day; that, on the 22d of September, this deponent was called before the court, consisting of a judge, a clerk, and an interpreter, where various interrogatories were put to him, copy of which was refused under a considerable expense; that, on the 23d of September, the condemnation of the said schooner William Yeaton was signified to this deponent by the clerk of the court and the interpreter, who waited on their masters at their lodgings, and read the sentence to them; that no further formality took place other than delivering the copy of the condemnation hereunto annexed; that, on his return to Laguayra on the 1st of October, this deponent was forbidden taking any thing from on board of the said schooner William Yeaton, which vessel was taken possession of by the commandant of Laguayra on that day, and the deponent and crew of the vessel ordered on shore.

The said George Travers doth, therefore, solemnly, by these presents, protest against the condemnation as related of the said schooner William Yeaton, by persons calling themselves judges of a court of admiralty of His Catholic Majesty, and hereby throws all damages and prejudices which have arisen, or may arise, to the lawful owner or owners of the said schooner William Yeaton, on the Spanish Government, appealing, by this instrument, to the Government of the United States of America for redress.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said consul for the United States of America at Laguayra, have hereunto set my hand, and affixed my consular seal, the [L. s.] thirteenth day of October, in the year one thousand eight hundred and twelve.

ROBERT K. LOWRY,
Consul for the United States of America at Laguayra.
GEORGE TRAVERS.

CONSULATE OF THE UNITED STATES OF AMERICA,

AT LAGUAYRA, *October 29, 1812.*

GENTLEMEN:

In consequence of the forcible detention of the schooner William Yeaton, Captain George Travers, of Washington, since the entry of the Spaniards into this port on the 1st day of August last past; the condemnation of the said vessel in Puerto Cabello, on the 23d day of September; her consequent seizure and occupying by soldiers and seamen, under Spanish authority, from the 1st day of October until the 26th of the same month, by which much damage has resulted to the owner or owners of said schooner, it has become necessary to have a regular survey of the said schooner, for the purpose of ascertaining the same.

You are hereby, therefore, requested to repair on board of said schooner William Yeaton, and make a regular and thorough examination of said vessel, and return to this office your certificate, on oath, of the damage which, in your opinion, may have resulted to the owner or owners of said schooner by said detention and occupying.

I remain, truly, your most obedient servant,

ROBERT K. LOWRY,

Consul for the United States of America at Laguayra.

Capt. Jos. G. WHITE, Capt. PETER PASCAL,
ISAIAH SMART, and Mr. PHILIP DEPEYSTER.

LAGUAYRA, November 2, 1812.

We hereby certify that, in compliance with the preceding request, we repaired on board the schooner William Yeaton, of Washington, Travers master, and, after a deliberate and thorough survey of the same, we are of opinion that she has not materially suffered in consequence of the Spaniards having held possession of her from the 1st to the 28th of October last; but, from the forcible detention of said schooner from the 1st of August to the 28th of October, she has suffered a delay of eighty-nine days, for which we think her justly entitled to a demurrage of twenty-four dollars per day, amounting, in the whole, to two thousand one hundred and thirty-six Spanish milled dollars; which, to the best of our judgment, is the damage due the owner or owners of the said schooner William Yeaton, in consequence of her forcible detention by the Spaniards since their entry in this port on the 1st of August last past.

In testimony whereof, we have hereunto subscribed our names.

PH. DEPEYSTER,
JOSEPH G. WHITE,
PETER PASCAL,
ISAIAH SMART.

Sworn to before me, the 2d day of November, 1812.

ROBERT K. LOWRY,
Consul for the U. S. of America at Laguayra.

CARACCAS, *Port of Laguayra, to wit:*

By this public instrument of protest be it made known that, on the day of the date hereof, before me, Robert K. Lowry, consul for the United States of America at Laguayra, personally appeared George Travers, master of the schooner William Yeaton, of Washington, who deposed and declared that, in consequence of the declaration of war between England and the United States, he considers it unsafe to proceed with the said schooner William Yeaton to the United States; that no freight is offered for said vessel under her present flag; that the said schooner being considerably worsted since her detention in this port, and not in good and sufficient order, without a considerable expense, to make her voyage at this time of year to America; that, having no provisions for this purpose, and, finally, finding himself in this port of Laguayra without funds to pay the expenses of the said schooner William Yeaton, this deponent finds himself under the necessity of selling the said schooner for account of those concerned, for the purpose of defraying the expenses which have unavoidably been incurred during the detention recited in his protest of the 13th of October, duly registered in this consulate.

The said deponent, therefore, thus publicly signifies his intention of selling the said schooner William Yeaton at auction, or otherwise, for the benefit of those concerned, and for the reasons above recited, thus extending his protest for damages against the Spanish Government, or those whom it may concern.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said consul for the United States of America at Laguayra, have hereunto set my hand, and affixed my consular seal, the twenty-fifth day of November, in the year 1812.

ROBERT K. LOWRY,
Consul for the U. S. of America at Laguayra.
GEORGE TRAVERS.

17th CONGRESS.]

No. 612.

[2d SESSION,

MONEY LOST BY AN ARMY PAYMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 10, 1823.

Mr. WALWORTH, from the Committee on Military Affairs, to whom was referred the petition of John Miller, late captain of the second regiment of the United States, reported:

That the petitioner states that in the year 1810 he was a paymaster in the service of the United States, stationed at Augusta, in Georgia; that, in August, 1810, he received a draft upon a gentleman in Savannah for a large sum of money, which was placed in his hands to pay the troops in that district; that he went to Savannah, received the money, and, on his way back, within a mile of Augusta, his trunk was cut from behind his carriage, and robbed of a sum of money exceeding \$15,000, which he has been unable to regain, and he prays relief.

The petitioner produces evidence to show that his trunk was found broken open the morning after the alleged robbery, near the city of Augusta; and also produces ample testimony of his general good character, both before and since that time. The petitioner, however, has not been able to furnish any testimony whatever of the actual loss of the money, nor has he even shown that it was in his possession at the time of, or immediately previous to, the alleged robbery.

Although the committee have no reason to suspect any fraud, they cannot recommend the case of the petitioner to the favorable consideration of the House. They are satisfied it would lead to the most dangerous consequences to rely upon the general good character of any man intrusted with public money to prove its loss. The committee are also of opinion that relief should not be granted in any case of this kind, without the most ample proof not only of the actual loss of the money, but also that it was lost without any fault or neglect on the part of the claimant. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner be not granted.

17th CONGRESS.]

No. 613.

[2d SESSION.

LOSS OF VOUCHERS.

COMMUNICATED TO THE SENATE, JANUARY 13, 1823.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Archibald F. Macneill, of North Carolina, reported:

That the petitioner was a lieutenant colonel of light dragoons in the army of the United States during the late war; that, in the month of November, 1813, the deputy quartermaster general at Savannah, in Georgia, advanced to the petitioner the sum of \$5,000, for the purpose of purchasing horses for the squadron under his command. Two thousand nine hundred and thirty dollars of the aforesaid sum was paid over by the petitioner to Captain Stephen Proctor of his regiment, which has been passed to the credit of the petitioner on the books in the Treasury Department. A balance of \$2,070 remains due from him to the United States, which has not been accounted for; and for the recovery of which a suit has been instituted against him.

The petitioner states that, on the night of the 4th of November, 1819, a fire broke out in the town of Wilmington, and that his house, among others, was entirely consumed. He also states that all his papers and vouchers relative to this claim were burnt at the same time. Julius K. Walker testifies that he was present at the time, and assisted the petitioner in removing some of his furniture from the house, but such was the rapidity of the flames that they were unable to save any of his papers, which were lodged in the third story. The petitioner now prays that Congress would pass a law authorizing the settlement of his accounts upon equitable principles.

As evidence that the money was expended in the public service, the petitioner produces a letter from Captain Proctor, by which it appears that, "when the troops returned from Point Petre, a considerable number of the troops were without horses, and that the deficiency was supplied by him;" but how, or by whom they were paid for, is not stated.

The committee are of opinion, from an examination of the facts, and the evidence produced in support of them, that the petitioner ought not to be relieved. His misfortune in losing his vouchers arose from a culpable negligence of his own. No satisfactory excuse is offered in justification of his delay in settling his accounts. Had he used reasonable and ordinary diligence, his accounts would have been settled long before the destruction of his house and papers by fire. Six years had elapsed after the receipt of the money by him before this misfortune occurred. It would be highly inexpedient and impolitic to provide relief against losses arising from the negligence and inattention of the public officers of the Government. The committee recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 614.

[2d SESSION.

DEFALCATION OF A COLLECTOR OF THE CUSTOMS.

COMMUNICATED TO THE SENATE, JANUARY 20, 1823.

Mr. VAN BUREN, from the Judiciary Committee, to whom was referred the petition of Samuel Buel, reported:

1st. That, from the petition and documents referred to them, it appears that, in the spring of 1815, a suit was brought in favor of the United States against the petitioner in the district court for the State of Vermont, for moneys received by him as collector of the customs for the district of Vermont.

2d. That, in the winter of 1815-'16, Mr. Buel presented an account against the United States to the amount of rising of \$5,000 for allowance, as a set-off against the demand of the United States; that there is reason to believe that a great part of the said charges was just; but that objections were made by the Comptroller to the form of the account and the regularity of the vouchers; and as a suit was then pending, he thought proper to leave Mr. Buel to his defence at law.

3d. That, in the spring of 1816, Buel attended the district court in Vermont, with his papers, with a view to his defence; that, during the term, he was informed by his counsel that the suit would be continued to the next court,

that being the term at which the *capias* was returnable, and his counsel (as he swears) not knowing that the laws of the United States authorized a judgment at the same term; that Buel, in consequence, left Vermont for his residence in a remote part of the State of New York, with his papers; that in his absence the cause was called, a postponement refused, and a judgment rendered in favor of the United States for the balance claimed by them, without allowing the credits claimed by Buel; that information of said judgment was received by Buel too late to enable him to obtain a new trial according to the laws of the United States; that application was made in his behalf to the circuit court of the United States for that district, but relief refused because he was too late in point of time.

4th. That the petitioner has thus been deprived of an opportunity to make his defence without fault on his part; that an execution has been issued against his body, upon which he has now been imprisoned about five years; that he professes to be willing to pay the balance which is justly due to the United States; and all he asks is an opportunity to investigate the accounts, and have that balance ascertained upon equal terms.

The committee think the prayer of the petitioner is reasonable and ought to be granted, and have prepared a bill for his relief.

17th CONGRESS.]

No. 615.

[2d Session.

DEFALCATION OF AN ARMY PAYMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 31ST OF JANUARY, 1823.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Edward Carey, of Georgia, reported:

That the petitioner represents that his brother, John P. Carey, was appointed in 1813 paymaster to part of a detachment of Georgia militia in the service of the United States, under the command of General John Floyd; that, before the settlement of his accounts at the Treasury, the said paymaster died. It devolved on the petitioner to endeavor to bring the accounts of the deceased to a close. After much trouble and expense, he has succeeded in procuring a settlement of the accounts, except \$923 86, which has been disallowed. This amount, exclusive of about \$100, consists of payments made to officers for the use and risk of their horses, and for the hire of servants, which has been disallowed as payments made contrary to law.

The petitioner produces affidavits from officers of the first respectability to show the grounds upon which these payments were made. General Floyd certifies that Mr. Carey, the paymaster, was directed to be governed by the advice of Major Hamlin Cook, then a district paymaster in the service of the United States, and who was present at the time the payments were made; that the payments were in conformity to the construction given to the law by Major Cook, and the other officers present on the occasion. To the same effect, also, is the rest of the evidence exhibited in this case. The petitioner therefore asks Congress to pass a law, directing the allowance of such payments as were made to the troops then in service, and which have been since suspended in consequence of their illegality.

The committee think this claim ought not to be allowed. Paymasters are bound to know the law under which they act. If ignorance of its provisions could be pleaded as an excuse or justification for a violation of the law, there would be no rule obligatory on any portion of the community that might be disposed to commit transgressions either of a civil or criminal nature. By a reference to the list of suspended items, it will be seen that, in some instances, payments have been made twice to the same person; in others, by errors in addition, greater amounts were paid to officers and soldiers than they were entitled to receive. It seems to the committee as reasonable to allow the petitioner for his blunders in arithmetic, his inaccurate calculations, as to grant him indemnity against payments he made in violation of the law. The following resolution is submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 616.

[2d Session.

PAY OF DISBANDED SOLDIERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1823.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Holden W. Prout, administrator of Joshua W. Prout, deceased, reported:

That the petitioner represents that in the years 1815 and 1816, Joshua W. Prout purchased a number of discharges from soldiers who had been engaged in the war against the Creek Indians. In 1817 Mr. Prout, the purchaser, died, without having received payment; the United States failing (as the petitioner alleges) to send a paymaster to Madison county: after this, Holden W. Prout, the administrator, presented the discharges to the paymaster, who refused to make payment on the ground that a power of attorney, after the death of him who made it, ceased to have effect.

The petitioner further alleges that the length of time which elapsed between the discharge of the troops and the arrival of the paymaster in the county of Madison rendered it impossible for him to obtain new powers of attorney, or any other evidence that would be material; as the parties who signed the powers of attorney reside in different counties and States, it would be altogether impracticable for him to procure more testimony than is already exhibited in the original discharges and powers of attorney, which the petitioner thinks ought to be sufficient, under the existing circumstances of the case. He therefore prays Congress to pass an act directing payment to be made.

It appears by a letter from the Third Auditor of the Treasury Department, among the papers referred to the committee, that there were two paymasters in Tennessee, one of whom made payments at Knoxville, from the 11th of March, 1816, to the 18th of October, 1817; and the other at Nashville, from the 20th of February, 1816, to the 4th of November, 1817. How far it was practicable to obtain payment of the discharges by riding from Madison county, in Alabama, to Nashville, in Tennessee, the committee think it immaterial to inquire, for they are not disposed to question any statement the petitioner has made in relation to the failure of the United States to send a paymaster to Madison county. It appears the claim cannot be allowed without the introduction of a principle involving pernicious consequences. The powers of attorney were vacated by the death of him to whom they were made. Congress cannot then pass a law, at this time, which would have a retroactive and binding effect upon the parties at the date of the transaction, or the period when the powers were vacated; if Government should now pay the discharges, it will still be liable to the soldiers whenever they think proper to make a demand. The more correct course for the petitioner to pursue would be, to obtain from the soldiers a renewal of the authority which had been granted to Joshua W. Prout before his decease; should it be inconvenient to do this, it is a misfortune against which no law can or ought to provide; but if he should fail in doing it, he would still have his remedy against the soldiers in the judicial tribunals of the country. The following resolution is submitted:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 617.

[2d SESSION.

CONTRACT FOR REPAIRING AND BUILDING A WHARF.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 4; 1823.

Mr. NEWTON, from the Committee of Commerce, to whom was referred an act for the relief of Alexander Humphrey and Sylvester Humphrey, reported:

That this case is one of contract for repairing an old wharf, and building a new one, at the quarantine ground at Staten Island. The contract was entered into on the 3d day of July, 1820, between David Gelston, collector of the port of New York, for and on behalf of the United States, of the first part, and Alexander Humphrey and Sylvester Humphrey, of the county of Richmond, State of New York, of the second part.

The work contracted to be done was to be completed on or before the 10th day of June, 1821. The United States agreed to pay for the same \$13,499, in the following manner, viz: \$2,500 before the commencement of the work; \$2,500 from time to time, as the work progressed, to the value, at least, of the sum so to be paid, which was to be determined by David Gelston; the residue of the sum of \$13,499 to be paid to Alexander Humphrey and Sylvester Humphrey, their heirs, executors, or administrators, when the whole of the work should be fully completed according to the contract, in a good, substantial, workmanlike manner, and with good and sufficient materials. The contract further provides that the materials should be furnished, and the work be done and completed under the direction of David Gelston or William Van Buren, or such other person or persons as should be appointed by David Gelston to direct the same; and it also further provides that, in case of any difference of opinion concerning the work or materials, the same should be submitted to the decision of two indifferent persons, one to be chosen by each of the parties; and, if they should not agree, an umpire, to be chosen by them, should decide; and a decision of the two, or of a majority of the three, should be final.

Jacob Halsey and Abraham Storm, dock builders, estimated the damage done to the wharves to be \$1,500, and James Guy and others, citizens of Richmond county aforesaid, to more than \$1,500, on account of the increased price of materials.

The petitioners, in support of their claim to indemnity for the losses they have sustained, take the following grounds:

1st. That the person who acted for and in behalf of the United States required them to build the new wharf as far up as half-tide with green hemlock logs, having the bark on, instead of that sort usually employed for the construction of wharves; in consequence of which, the petitioners lost the opportunity of completing the wharf within the time specified by the contract: this requisition of the agent of the United States being, as they conceive, contrary to a fair interpretation of the words of the contract. And,

2d. That, as the damages which the wharves received were the consequences of an uncommonly violent hurricane which prevailed on the 3d of September, 1821, and that as the damages which the new wharf, in particular, received, were owing chiefly to the ship Amphion being fastened to it, by the permission of the agent of the United States, before the wharf was completed, they think they have a just and equitable right to expect indemnification from the United States for the losses which they have suffered.

To the first ground taken by the petitioners, the committee, with great deference, say that a fair and ingenious interpretation of the contract makes it not tenable. The words of the contract are, "that the materials shall be furnished, and the work done and completed under the direction of David Gelston or William Van Buren, or such other person or persons as shall be appointed by David Gelston to direct the same." The true and plain meaning of this clause the committee conceive to be this: That to the agent of the United States was the power given and reserved to decide what sort of timber was or was not proper or fit for the construction of the wharves.

The agent of the United States seems to have been fully apprized that the best timber for insuring durability was green hemlock, with the bark on; that, as the last-mentioned kind was not so liable to the ravages of the worms

as the dry and seasoned hemlock, with the bark off, he required the petitioners, according to the letter and spirit of the contract, to build the wharves of green hemlock logs, with the bark on. To this requisition the petitioners made no objection. If they had objected to it, and insisted that they had a right to use the dry hemlock logs, with the bark off, and that they were not bound to build the wharves with any other, then the parties had, each of them, the power to appoint arbitrators to determine what kind of timber should be used in the construction of the wharves, and the decision of the arbitrators would have been final. But this course was not resorted to by the petitioners, because they were conscious that the meaning given to the contract by the agent of the United States was the only one that could be fairly deduced from the words of it.

If any time was lost which prevented the completion of the work according to the contract, that loss of time was not caused by any act of the Government, but by the failure of the petitioners to procure the timber best adapted to construct the wharves—timber that would make them most durable. It may be urged that the agent of the United States could not require any other timber than what was commonly used for like purposes. To this argument the committee reply that no positive evidence has been offered to prove that dry hemlock logs were commonly used for such purposes; but, for the sake of argument, admit the position taken be correct: in fact, it proves nothing, for the United States have the right, in contracting for work to be done, to prescribe the method according to which it shall be done, and the nature or kind of materials which shall be used; and this appears clearly to have been the intentions of the agent, from the words used in the contract, that the materials were to be furnished under his direction; for, immediately after the contract was concluded and the work about to be commenced, the agent specified the kind of timber of which the wharves were to be built, and his reasons for doing so are conclusive of his previous intentions that green hemlock logs with the bark on should be used, as being most durable and less liable to the destruction of worms. The committee cannot refrain here to remark that, if every agent would regard with as sedulous care the interest of the United States as the agent who made the present contract, and watched in every stage its faithful execution, no opportunity would ever be given to exercise the superintending, and, what will always be painful, the censorial power of Congress; many thousands of dollars would have been saved that have been squandered on works that have perished in as short time as that which it took to erect them. We rejoice that attention and vigilance are now directed to the formation of contracts and to their faithful execution. The committee will now dismiss this part of the subject, submitting the correctness of their reasoning to the candor and judgment of the House.

The second ground taken presents for consideration two points:

1st. The expectation of relief on account of the hurricane which prevailed on the 3d of September, 1821, and which did much damage to the wharves; and,

2d. As the damage which the new wharf received is attributed chiefly to the act of the agent, by permitting the ship *Amphion* to be fastened to it.

To the first point the committee beg leave to make a few general remarks. When men enter into contracts with the Government, or with each other, relating to public business or the concerns of life, they ought to have a presentiment of the casualties to which all human undertakings are subject, and guard, as well as reason and prudence will permit, against accidents. Were the employers to become insurers, ruin would be their inevitable destiny. The immemorial usage of mankind has established the law; by its dictates we must be governed; to abrogate it, would produce a dangerous heresy in politics, create a new order of things, convert the legislative body into an insurance office, and subject the Government to countless impositions by exposing it to the devices and artifices of avarice and rapacity. The tornado of the 3d of September, 1821, spread dismay and ruin over an immense tract of country. We sincerely lament its destructive ravages; but, were we to attempt to repair by legislative acts the losses suffered by those who were employed in the service of the Government by contracts or otherwise, the consequences would be beyond the calculations of human sagacity. We cannot, therefore, recommend to Congress munificently and graciously to do what justice and equity forbid to be done.

The second point deserves attention and examination; it is more within our province, and, if it could be made good, would bring this case within the power of Congress, and give it a claim to relief. It is stated that the greatest damage which the wharf received was from the ship *Amphion*, that vessel having been fastened to it by the permission of the United States' agent before it was completed. The committee have bestowed no little attention to the evidence which the petitioners have offered to support the case presented for consideration, but nowhere is any fact visible that can substantiate the statement made. It is true the ship mentioned was brought alongside of the old wharf, which was finished, or nearly so, to discharge merchandise; that being soon effected, she was about to take her station in the harbor; but, having some ballast on board which the captain wished to discharge, she was hauled to the new wharf to discharge it, for the accommodation solely of the petitioners, who wanted it to fill in that wharf. By a seasonable supply of what was wanted, the petitioners expected to save \$37, which sum they would have been under the necessity of expending for stone for that purpose. This view is supported by the evidence furnished, and clears Mr. William Van Buren from any agency in placing the ship at the wharf. On the 3d of September, when the hurricane came, the ship was alongside of the wharf, and might have, with other causes, contributed to the damage of it; but, as Mr. Van Buren did not order the ship to be placed there, the United States cannot be made responsible for the consequences that ensued.

The petitioners have a reputation for honesty, industry, and enterprise; they will feel sensibly the loss to which they have been subjected by a concurrence of unfortunate circumstances and accidents; but it appears to us, on serious reflection, that we cannot propose any measure, regarding as we ought the public interest, to mitigate the severity of that loss. We must test the case by principle. If we depart in the slightest degree from the observance of what ought to guide us, we expose the Government (having many contracts, necessarily, for national purposes, always going on) to many disadvantages, and not unfrequently to heavy losses. We sincerely regret the situation of the petitioners; but if we open the door to them, we must open it to every contractor that knocks and urges that, by the occurrence of misfortunes or casualties, he has been prevented from fulfilling his engagements. To satisfy all claims that a decision in favor of this will resuscitate, and all those that will hereafter arise, the treasury must have resources that are to us unknown.

From these views and considerations, the committee respectfully recommend to the House not to concur with the Senate to pass the act for the relief of Alexander Humphrey and Sylvester Humphrey.

[17th CONGRESS.]

No. 618.

[2d SESSION.]

INTEREST ON ADVANCES, COMMISSIONS ON DISBURSEMENTS, AND INDEMNITY FOR
LOSSES MADE AND SUSTAINED BY DANIEL D. TOMPKINS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 8TH OF FEBRUARY, 1823.

Mr. EUSTIS made the following report:

The committee appointed to inquire whether any legislative provision is necessary for the final adjustment of the accounts of Daniel D. Tompkins, Esq., beg leave to submit the following report:

The Vice President of the United States has several demands against the Government, a part of which are opposed, not because they are unjust, but because they are not considered as coming within the rules of office, and can only be allowed when a law shall pass authorizing the Departments to admit and settle them.

These demands may be classed under the following heads:

1st. Interest on sums of money advanced by him to the use of the United States from the dates of the advances to the time of reimbursement.

2d. Reasonable commissions for disbursing \$1,982,000, under the orders of Government, in the course of the late war, more than two-thirds of which was procured by himself from individuals and various corporations, under pledges of personal responsibility to make good the payment.

3d. Indemnity for losses incurred by the frauds and failures of subagents to whom money has been advanced through his hands; and,

4th. Reparation for losses actually sustained in consequence of any failure on the part of Government to fulfil its engagements to send money and advance treasury notes to him, to be deposited in banks, as pledges for the repayment of loans taken by him at the request of the Government for the use of the Treasury.

To understand these claims, and form a just opinion of their merits, it will be proper to recollect that the claimant was Governor of the State of New York from the year 1807 until the 28th of February, 1817, when he resigned that office to fill the one which he now holds; that war was declared between the United States and Great Britain on the 18th June, 1812; that the frontier of New York was sometimes invaded, and constantly threatened, from the commencement of hostilities to the end of the war; that large detachments of militia from that State were called out upon requisitions of the General Government, from time to time, from the spring of 1812, until the peace of 1815; that the system established to supply and pay the militia was imperfect, and inadequate to the emergency; and that, consequently, the Governor of New York, in addition to the novel and arduous duties devolving on his station, was compelled to execute extraordinary and perplexing services belonging properly to subordinate officers and agents.

The committee find, from the exhibits, as admitted on each side, that the Governor did disburse \$1,982,000 for the Government, in the course of the late war, for which he was held responsible, and required to account at various bureaus of the Treasury and War Departments. If the items of this aggregate sum had been passed, as they should have been, directly from the War Department, into the hands of proper disbursing officers, the suspended vouchers and rejected claims would have been adjusted by such officers in the usual manner, and the frauds and accidental losses must have fallen on the Treasury, as, in fact, they did in every other case, save that of the present claimant. In all other instances, the contractors, quartermasters, paymasters, and public agents accounted directly with the Departments, and the Treasury had to lose what they failed to vouch for or make good. In this case, and this alone, the Government held the civil and military chief of a State responsible for sums of money which were passed through his hands into those of disbursing agents, a part of whom were acting, not for him or his State, but for the Federal Government and the nation.

In the year 1814 the Governor was intrusted with the command of the military district No. 3, including the State of New York, and other contiguous parts of the Union. On the 15th of September, 1814, a letter was addressed to him by the acting Secretary of War, now President of the United States, in which he says: "General Macomb, at Plattsburg, is in danger from a superior force marching against him, and General Brown is alike exposed to imminent danger. It is in the power of your State to make an exertion that will not only save those armies, but crush the British force employed against them. May I entreat you to call out such a force in each quarter immediately, and hurry it to the scene of action? I do not go into any detail, because you are too well acquainted with all the circumstances meriting attention to require it. General Izard is marching to the aid of General Brown; but as he takes Sackett's Harbor in his route, and depends on a conveyance thence by water, by Commodore Chauncey's flotilla, there is much uncertainty in his movement. I wish your measures to be taken independently of all calculation on him, since the expenses attending them count as nothing compared with the salvation of Brown's army and of the post of Sackett's Harbor, which must also claim your attention. It is the object of the enemy to overwhelm us this campaign; and I have satisfactory reason to believe that they indulge the presumptuous hope of penetrating from the lakes, by Albany, to the city of New York. A vigorous and manly exertion is therefore particularly necessary on your part."

This letter calls for services of no ordinary character, the magnitude of which will not be diminished by recollections of the time. The condition of the treasury, the disasters of the year, the hostile array upon our borders of veteran legions, fresh from the fields of victory in Europe, united to deepen the solicitude and darken the prospect of the moment. At such a crisis was the Governor called upon to take the field in force, and check the adverse tide of war. The treasury was acknowledged to be unable to furnish the necessary funds. The Governor was requested to call out an army that should "crush the enemy," and was obliged to raise the necessary funds, and to execute the service. He found the means of doing both, and from that time to this he has been struggling with embarrassments produced by his engagements and responsibilities for the public.

The committee are satisfied that he made advances to the Government; that he borrowed about \$1,382,827 from various corporations to aid the national treasury and promote the public service; that those loans were procured by him at the earnest entreaties of the President and the acting Secretary of War; that, to aid him in procuring loans immediately, the Government promised to send him treasury notes in *thirty or forty days*, which he was directed to pledge at \$110,000 for \$100,000; that, between the 1st of December, 1814, and the 17th of January, 1815, he found means to borrow \$1,098,500 (part of the foregoing sum) from several corporations, including a loan of \$400,000 from the corporation of the city of New York; for all which it appears that he had to make himself personally responsible by contracts, relying on his part upon the promise of Government to advance the treasury

notes and take up his obligations; that a part only of the notes (say \$850,000) was sent in proper time to relieve him; that the city corporation pressed him for the promised deposit and for repayment, and that he was held up as a defaulter; that the failure of Government put it out of his power to sustain his credit in the banks for such large sums; that his previous attention to public affairs had compelled him to neglect his own; and that the heavy pressure of those loans produced a derangement in his private concerns, which brought upon him, as he contends, an actual and specific loss of \$60,000.

The peculiar and complicated duties which were devolved upon the Governor, as civil and military chief of the State and district referred to, and the special circumstances under which he was called upon to raise and disburse funds for the Federal Government, entitled him to expect an exact and prompt performance of its promises, and a speedy reimbursement to relieve him from his embarrassments.

It is admitted that the public moneys sent to him or raised by him have been faithfully applied to the public service, or kept in deposits in banks or with public agents, ready to be used at any moment. That he served his country faithfully and effectually, is known to all. That he ran imminent risks to serve it, is beyond a doubt. That the Treasury failed to fulfil its engagement with him, is no less certain; and it is manifest that no citizen could sustain himself without loss against the heavy pressure of such large sums. That he foresaw the perils which afterwards assailed him, is proven by the honorable Rufus King, who conversed with him in the autumn of 1814, about "the condition of the public treasury, the unprotected state of the city of New York, and the inability of the General Government to protect it, and urged, from the peculiar situation in which Providence had placed him, that it was his solemn duty to make great exertions, and to assume great responsibilities; that the State in a great measure looked to him for its protection, and that he must call out the militia and find resources to pay them. That the Governor had stated in reply that he was already committed very deeply, and that, if he should go further in pecuniary responsibilities, *he must do it at the risk of ruin*; on which Mr. King solemnly urged him to go on and do his duty, and, if ruin was the consequence, to consent to endure it, and look to the honor and gratitude of his country." He did so; he performed all that was required, and more than was promised or expected from him. This is known alike to the committee and the country, and is recorded in the annals of the day. Your committee must repeat that the Governor foresaw the hazard he was running; that he took that hazard, fearlessly and generously, as became a patriot, trusting to the honor and justice of his country.

On an examination and consideration of the accounts and claims, with all the attending circumstances, it appears to your committee—

1st. That it is no more than an act of justice to allow interest on all moneys advanced by Mr. Tompkins on account of the public from the time of his making such advances to the time of his being reimbursed.

2d. That it would be just and equitable to allow a reasonable commission on all moneys disbursed by him during the late war.

3d. That he should be indemnified for losses sustained by him in consequence of any failure on the part of Government to fulfil its engagements to send him money and treasury notes within the time specified, to be deposited in certain banks as collateral security for loans procured by him at the request and on the account of Government.

4th. That he ought not to be held responsible for losses incurred by any frauds or failures of subagents to whom moneys were advanced through his hands.

With this view of the subject, a bill accompanying this report is respectfully submitted.

17th CONGRESS.]

No. 619.

[2d Session.]

REVOLUTIONARY PENSIONERS.

COMMUNICATED TO THE SENATE, ON THE 10TH OF FEBRUARY, 1823.

SIR:

WAR DEPARTMENT, *February 8, 1823.*

I have the honor to inform you, in reply to your letter of the 6th instant, that, until the month of August, 1818, no particular account was kept of the number of applications for pensions under the act of the 18th March, 1818. Since that time, however, a register of the claimants has been kept, from which it would appear that 27,948 have applied for the benefits of that act, and, since the passage of the act of May 1, 1820, 2,039 have applied under both laws: 18,880 claims have been admitted in all; 2,328 of which have been rejected or dropped from the roll, under the act of the 1st May, 1820. On the 4th of September last, 12,331 were then on the pension list; the remaining 4,221 are either dead, or, from causes unknown to this Department, have failed to exhibit schedules of property. In 1818, the sum of \$104,900 85 was paid to pensioners under the act of that year; in 1819, \$1,811,328 96; in 1820, the sum paid was only \$1,373,849 41, the list of pensioners having been reduced by the operation of the act of the 1st May, 1820; in 1821, the sum of \$1,200,000 was paid; and, in the year 1822, the sum of \$1,833,936 30.

The apparent excess of expenditure in 1822 arises from the circumstance that, in the preceding year, a deficiency was occasioned by a greater number having applied for pensions that year than was anticipated when the estimates were made; \$451,836 of the expenditure of the last year was due the pensioners in the preceding year.

I would respectfully suggest to the committee of which you are chairman the propriety of limiting the commencement of the revolutionary pensions in all cases to the time of completing the testimony, not only in original claims, but where persons have been continued on or restored to the pension roll. At present, the latter class receive their pay from the 4th March, 1820; and the prospect of receiving the amount of three years' stipend at one time opens a door to attempts at fraud, and is no small inducement for many to dispose of their property with a view of receiving pensions.

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

J. C. CALHOUN.

HON. JAMES NOBLE,
Chairman of the Committee on Pensions, Senate U. S.

17th CONGRESS.]

No. 620.

[2d SESSION.]

INTEREST ON ADVANCES AND DISBURSEMENTS MADE, AND EXTRA SERVICES PERFORMED, BY A DEPUTY COMMISSARY OF PURCHASES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1823.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the petition of Amasa Stetson, of Massachusetts, reported:

That the committee made a report in this case at the last session of Congress, which they beg leave to adopt as a part of their report at this time.

Since the last session, the committee have received other documents in relation to this claim. To the letter from the Third Auditor of the Treasury, dated 15th instant, and the accompanying documents A and B, the committee would direct the attention of the House, and ask that they also may be considered as a part of this report.

From these papers the committee think it will appear that the petitioner has no demand against the United States. Government was, at sundry times, in advance to him to a much larger amount than he ever was to Government. If, then, it should be admitted (which the committee are not at all disposed to do) that agents have a right to charge interest on their advances, Government would certainly have a claim, equally just, for interest on its advances.

As to the claim for the difference between specie which the petitioner says he paid, and treasury notes which were refunded to him, the committee can see no liability, on the part of Government, to acknowledge the demand. In the first place, he was never ordered to borrow money; and no agent should be permitted to devolve responsibilities on his Government without authority.

In relation to the claim for interest on the money borrowed, the committee have to remark that the rule by which the petitioner's account has been settled appears to be just and liberal; it is in the following words, viz: "The charges for interest paid by Mr. Stetson to Messrs. Gray & Furber are admitted, but no interest can be allowed on balances due to any of the agents of this Department, nor in any case but when specially authorized by me." Under this decision of the then Secretary of War, (now the President of the United States,) the charges for interest paid, and for which Mr. Stetson produced receipts, were allowed. If he has any similar demand at this time, and can prove that he has actually paid interest, it will be allowed at the Department without the interposition of Congress.

The charge for extra services, if correct and well founded, could also be settled at the Department without the authority of any special law passed for that purpose; but the committee think the petitioner performed no service which did not appertain to the line of his duty. The following resolution is therefore submitted to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *February 15, 1823.*

I have the honor to acknowledge the receipt of your letter of the 10th instant, referring to me the petition and claim of Amasa Stetson, and stating the wish of the committee for information on the following points:

1. The dates or times when the petitioner had funds advanced to him by the Government or its agents.
2. Whether the allegation of the petitioner is correct, when he states the utter failure of Government to supply funds.
3. How great was the amount of purchases made under the authority of letters (in the printed statement) of the 5th October, 1812.
4. Whether the petitioner was, at any time, ordered to borrow money, and whether, notwithstanding his want of orders to borrow money, he has not been allowed and paid interest on all sums borrowed, to meet purchases made pursuant to what he might have considered equivalent to an order "that he should purchase."

In compliance with the wishes of the committee, I have the honor herewith to hand a statement, (marked A,) extracted from the accounts of the petitioner, as settled by the late Accountant of the War Department, which exhibits the sums advanced at different times to the petitioner, and the quarter-yearly disbursements made by him, and the amount of money appearing to remain in his hands at the period of each settlement made of his accounts.

It will be perceived that, on a settlement made on the 14th November, 1814, a balance was found in his favor of \$8,592 41, for which a warrant was issued by the Secretary of War, but, owing to some Treasury arrangements, the amount was not remitted to him by the Treasurer; a remittance, however, of \$12,000, on the same day, it will be observed, was made to him on account. The warrant for \$8,592 41 having been suspended, that balance was not, as will be seen by the subsequent settlements, taken into view until the warrant was finally cancelled, and the amount then credited in the settlement of his account in July, 1815. The statement A contains all the information, it is believed, which is required by the 1st, 2d, and 3d queries, and embraces all the settlements made to the final close of the petitioner's accounts.

As regards the first section of the 4th query, I have the honor to state that there is nothing on the files of this office to show that the petitioner was ordered to borrow money; and, in reply to the second section of the 4th query, I beg leave to refer you to the enclosed copy of an account rendered by the petitioner for interest, (marked B,) by which it will be seen that a claim was made for interest on money advanced, amounting to \$1,599 44, and for interest, actually paid by him on bills for articles purchased, and not paid for at the time stipulated, amounting to \$788 77, making the whole amount charged for interest \$2,388 21. This claim was disallowed by the Accountant. The petitioner, however, having subsequently obtained certificates from the persons to whom the \$788 77 was paid, copies of which are annexed to statement B, the account for interest was submitted, with these certificates, to the Secretary of War, whose decision will be found endorsed on the account B. The \$788 77, by the decision of the Secretary of War, having been allowed, the petitioner received a credit therefor, as will be seen by reference to statement A, settlement 22d February, 1815, and appears to be the only sum for which he has received a credit.

The petition, with the papers which accompanied it, are returned.

Very respectfully, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. LEWIS WILLIAMS, *House of Representatives.*

A.

Statement of the sums advanced to Amasa Stetson, late deputy commissary, and of the amount of disbursements made by him, as appears by the accounts settled in the office of the Accountant of the War Department.

| | | | | |
|--|---|--------------|-----------|--------------|
| This amount, remitted to him between the 29th of June, 1812, (the date of his acceptance), and the 31st December, 1812, | - | - | - | \$135,000 00 |
| This amount, remitted to him between January and 3d November, 1813, | - | - | - | 250,000 00 |
| Received in the above periods from Callender Irvine, commissary general, | - | - | - | 91,573 64 |
| | | | | <hr/> |
| | | | | 476,573 64 |
| He disbursed between the 29th June, 1812, and the 31st December, 1812, | - | \$190,111 53 | | |
| And in the first and second quarters of 1813, | - | 162,068 14 | | |
| | | | | <hr/> |
| | | | | 352,179 67 |
| Leaving in his hands, per settlement made 3d November, 1813, | - | - | - | 124,393 97 |
| This amount was remitted him in November and December, 1813, | - | - | - | 42,800 00 |
| | | | | <hr/> |
| | | | | 167,193 97 |
| He disbursed in the third quarter of 1813 | - | - | 91,086 39 | |
| He disbursed in the fourth quarter of 1813 | - | - | 42,118 04 | |
| | | | | <hr/> |
| | | | | 133,204 43 |
| Leaving in his hands, by settlement, 24th February, 1814, | - | - | - | 33,989 54 |
| Between the 24th February and 31st May, 1814, this sum was remitted to him, | - | - | - | 73,936 10 |
| | | | | <hr/> |
| | | | | 107,925 64 |
| He disbursed in the first quarter of 1814 | - | - | - | 63,065 57 |
| | | | | <hr/> |
| Leaving in his hands, by settlement made 31st May, 1814, | - | - | - | 44,860 07 |
| His disbursements in the second quarter of 1814 amounted to | - | - | - | 31,389 83 |
| | | | | <hr/> |
| Leaving in his hands, on settlement, 16th August, 1814, | - | - | - | 13,470 24 |
| He disbursed in the third quarter of 1814 | - | - | - | 22,062 65 |
| | | | | <hr/> |
| Leaving due to him by a settlement made 14th November, 1814, | - | - | - | 8,592 41 |
| | | | | <hr/> |
| | | | | 107,925 64 |
| For this balance a warrant was issued from the War Department (No. 1,658) on the 14th November, 1814; but, owing to some Treasury arrangement, the remittance on it was suspended, and the warrant finally cancelled. The balance, in the mean time, was not included in the subsequent settlements of his accounts until the settlement made in July, 1815, when it was included to his credit. | | | | |
| A remittance was made to him, on account, on the 14th November, 1814, (the date of the above settlement,) of | - | - | - | \$12,000 00 |
| He disbursed in the fourth quarter of 1814 | - | - | 667 60 | |
| And received a credit, under a decision of the Secretary of War, for interest paid to William Gray and T. Furber on the bills for Russia duck and woollens bought of them, which interest had been previously suspended on a settlement of Mr. Stetson's accounts, | - | - | 788 77 | |
| | | | | <hr/> |
| | | | | 1,456 37 |
| Leaving due, by a settlement made the 22d February, 1815, | - | - | - | 10,543 63 |
| He received for the proceeds of public clothing sold at auction in January and February, 1816, | - | - | - | 10,284 89 |
| | | | | <hr/> |
| | | | | 20,828 52 |
| He disbursed in the first quarter of 1815 | - | - | - | 14,729 76 |
| | | | | <hr/> |
| Leaving in his hands, agreeably to a settlement made on the 13th May, 1815, | - | - | - | 6,098 76 |
| He received for the proceeds of public clothing sold at auction in June, 1815, | - | - | - | 2,724 39 |
| | | | | <hr/> |
| | | | | 8,823 15 |
| He disbursed in the second quarter of 1815 | - | - | 6,148 54 | |
| To which add the balance due him on the settlement made the 14th November, 1814, on which a warrant had issued, was suspended, and now cancelled, | - | - | 8,592 41 | |
| | | | | <hr/> |
| | | | | 14,740 95 |
| Leaving due to him on settlement, 27th July, 1815, | - | - | - | 5,917 80 |
| This balance was transmitted on the 13th October, 1815, | - | - | - | 5,917 80 |
| | | | | <hr/> |
| He received for the proceeds of camp equipage, sold at auction in May, June, and July, 1815, | - | - | - | 3,519 81 |
| He disbursed in the third and fourth quarters of 1815 | - | - | - | 4,812 57 |
| | | | | <hr/> |
| Leaving due him, by a settlement made 31st January, 1816, | - | - | - | 1,292 76 |
| Which sum was remitted on the 31st January, 1816, | - | - | - | 1,292 76 |
| | | | | <hr/> |
| He received a remittance on the 1st February, 1816, of | - | - | - | 9,672 40 |
| He disbursed in the first quarter of 1816 | - | - | - | 10,162 14 |
| | | | | <hr/> |
| Leaving due him by a settlement, 20th May, 1816, | - | - | - | 489 74 |
| Which amount was remitted to him the 20th May, 1816, | - | - | - | 489 74 |
| | | | | <hr/> |
| | | | | 489 74 |

B.

| <i>The United States to Amasa Stetson,</i> | | DR. |
|--|---|-------------------|
| 1813, | | |
| July 12. | To interest at 6 per cent. on money advanced in fulfilment of contracts entered into on account of Government, and paying for supplies urgently required of him for the army, between the 1st day of November, 1812, and the 12th instant, calculated half-monthly, (see statement of interest, marked A, herewith transmitted) | \$1,599 44 |
| March 2. | To cash paid Thomas Furber, being four months' interest on an invoice of woollen goods bought of him, October, 1812, and for which ready cash was promised. As funds could not be obtained from Government, interest was promised and paid to him, (see abstract of purchases, clothing department, rendered 31st March, 1813, voucher 77, and certificate of Thomas Furber, marked B, herewith transmitted,) | 314 77 |
| April 21. | To cash paid the Hon. William Gray, being five months and eight days' interest on his bill of duck bought for ready cash, and, for want of funds to pay, interest was promised and paid to him, (see abstract of purchases in quartermaster's department, rendered 30th June, 1813, voucher 4, and certificate of the Hon. William Gray, marked C, herewith transmitted,) | 474 00 |
| | | <u>\$2,388 21</u> |

BOSTON, *September 30, 1814.*

Received of Amasa Stetson, deputy commissary, two thousand three hundred and eighty-eight dollars and twenty-one cents, in payment for the above account.

AMASA STETSON.

The charges for interest paid by Mr. Stetson to Messrs. Gray & Furber are admitted, but no interest can be allowed on balances due to any of the agents of this Department, nor in any case but when specially authorized by me.

JAMES MONROE.

BOSTON, *October 25, 1814.*

This certifies that, on the 13th November, 1812, I sold A. Stetson, Esq. one thousand pieces ravens duck, which he informed me at the time were bought for the army. I expected to receive the money upon delivery, but he afterwards informed me he was not in funds, therefore promised to pay interest. Upon the 21st April following, he paid me the amount, with interest, which interest was for five months and eight days, at 6 per cent. per annum, and amounted to \$474. During the above-named period, and for some months afterwards, Mr. Stetson paid interest at the State Bank for considerable sums of money borrowed there, which I loaned him, which sums of money I understood he had advanced for army supplies.

WILLIAM GRAY.

BOSTON, *October 25, 1814.*

I, the subscriber, certify that, in October, 1812, I sold an invoice of woollen goods to the United States commissary, which, for the sake of ready cash, and also to close a concern, I sold much lower than goods of a like quality were then selling for. When I called for payment, I was put off several times. At length Mr. Stetson told me, if I would wait till he could obtain funds from Government, it would oblige him, as he knew not how to raise the money, and that he would allow me interest. In March, 1813, the commissary paid me for the goods, and \$314 77, being the interest on them for four months.

THOMAS FURBER.

The Committee of Claims, to whom was referred the petition of Amasa Stetson, of Boston, in the State of Massachusetts, offer to the House the following report:

The petitioner states that, at the beginning of the war with Great Britain, he was duly appointed a deputy commissary of purchases, and continued to serve in the same office during the war, and after its conclusion; that, notwithstanding the efforts he has made, his accounts with the United States have not been finally settled; that he believes only a formal difficulty has precluded an investigation, arising from changes in the persons intrusted with the Department of War; that he therefore applies to Congress for redress.

The petitioner further states that his claim against the United States is, generally, upon the following ground, viz:

For the interest of money actually paid by him for loans indispensably necessary to enable him to comply with the pressing and urgent orders of Government by which supplies were furnished on terms more highly advantageous than could have been procured at subsequent periods when funds were advanced to him by Government.

For various disbursements necessarily made of specie in purchases for Government, whereby great advantages accrued to them, while he received for the same only treasury notes at par, by the depreciation on which great loss was sustained.

And also for various services performed by him, at the request of the Government, not connected with his duties under his appointment, for which he has not received any compensation whatever.

In the documents referred to the committee, it appears there is another item constituting the demand against the Government, viz: "a balance due the petitioner on account of his pay as deputy commissary."

The seventh section of the act passed the 28th March, 1812, under which the petitioner was appointed, is in these words: "That the salary of the commissary general of purchases shall be three thousand dollars per annum, and the compensation to a deputy commissary shall not exceed two and a half per centum on the public moneys disbursed by him, nor in any instance the sum of two thousand dollars."

The plain and obvious construction of the act appears to be this: that the compensation of a deputy commissary shall be two and a half per centum on the amount of moneys disbursed; but when this rule would give more

than two thousand dollars, then the salary should be limited by that sum, and in no instance should go beyond it. But, in opposition to this construction, which the humblest capacity might comprehend, the petitioner is found to have claimed eight thousand five hundred and ninety-five dollars and forty-two cents as a rightful compensation, when two and a half per cent. on the moneys disbursed would give it to him; and when two and a half per cent. would give him less than two thousand dollars, he still claimed it, although by the law he was not authorized to demand it, unless the commission, at the rate of two and a half per cent., would exceed that amount. This part of the claim, therefore, appears to the committee unreasonable and improper. As to interest on the loans to enable him to make purchases for the Government, the committee have this general remark—that he was not ordered to borrow money. He alleges, in justification, that he apprized the officers of the Government of his want of funds; but it is nowhere to be seen, from the documents, that he was directed to obtain a supply by resorting to loans. Equally inadmissible is the claim for a loss sustained by depreciation on treasury notes.

In regard to the claim for services performed beyond the line of his duties, the committee believe it is perfectly in the power of the Department to make just compensation without the interposition of Congress, whenever the allegations of the petitioner shall be properly supported by evidence.

The committee submit herewith, and adopt as a part of their report, a letter from the Third Auditor of the Treasury Department, dated the 2d instant; a copy (marked B) of a letter from the Secretary of War to the petitioner, and statement A of the interest claimed. The following resolution is offered to the House:

Resolved, That the prayer of the petitioner ought not to be granted.

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *March 2, 1822.*

I have the honor to acknowledge the receipt of your letter of the 22d instant, enclosing the petition and accompanying documents of Amasa Stetson; and, with reference to the wish of the Committee of Claims, as expressed in your letter, that I should furnish such information as I may possess respecting the nature and merits of his claim, have to state that the petitioner was appointed a deputy commissary of purchases in 1812, under the act of Congress passed on the 22d March of that year; that, on the settlement of his accounts for receipts and expenditures as such, by the late Accountant of the War Department, deductions were made from his charges for compensation and for interest as hereinafter mentioned.

1st. Mr. Stetson having, for his first year's compensation, ending 30th June, 1813, charged \$8,595 42, as commission at 2½ per cent. on his expenditures within that period, notwithstanding the law under which he was appointed had limited his compensation to \$2,000, the difference between that sum and the amount charged was disallowed, - - - - - \$6,595 42

And he having, for the year ending 30th June, 1815, charged \$2,000, and a commission of 2½ per cent. on his disbursements during that year, amounting to only \$1,082 86, the difference was disallowed, - - - - - 917 14

\$7,512 56

For the year ending 30th June, 1814, he charged, agreeably to law, \$2,000, which was allowed, a commission at 2½ per cent. on the amount of his disbursements exceeding that sum; and for his disbursements from 1st July, 1815, to the 31st March, 1816, he charged a commission at 2½ per cent., which, being conformably to law, was also allowed.

2d. Mr. Stetson having charged for interest paid, "and also for interest, at the rate of 6 per cent. on money advanced in fulfilment of contracts entered into on account of the Government, and paying for supplies required of him for the army between the 1st November, 1812, and 12th July, 1813, calculated half-monthly," - - - - - \$2,388 21

The demand was submitted to the Secretary of War, of whose decision the following is a copy: "The charges for interest paid by Mr. Stetson to Messrs. Gray & Furber are admitted; but no interest can be allowed on balances due to any of the agents of this Department, nor in any case but when specially authorized by me.

"JAMES MONROE."

Under this decision, the charges for interest paid, and for which Mr. Stetson produced receipts, were allowed, amounting to - - - - - 788 77

And the residue - - - - - \$1,599 44
being the amount of a statement exhibited by him, and a copy whereof is herewith furnished, (marked A,) was deducted.

These appear to be the claims made by Mr. Stetson in his accounts, and rejected, and the reasons for their disallowance.

The accompanying copy of a letter, dated 3d April, 1820, from the Secretary of War to Mr. Stetson, shows the ground upon which any further allowance has been refused.

With great respect, your obedient servant,

PETER HAGNER, *Auditor.*

The Hon. LEWIS WILLIAMS, *Chairman of the Committee of Claims.*

A.

Statement of interest at six per cent. on the various sums advanced by Amasa Stetson to meet such of the demands against Government as could not be longer delayed, and to provide supplies required, which were indispensable to the necessities of the army, calculated on balances arising from half-monthly statements, commencing with the 1st day of November, 1812.

| Oct. 31, 1812, | Amount in the hands of A. Stetson, per account rendered 30th September, and amount received since that time, | | Amount expended since 30th September, | |
|-----------------|--|-------------|---------------------------------------|--------------|
| | Amount received, | \$74,528 15 | Do. | \$91,180 57½ |
| Nov. 15, 1812, | Do. | 50,000 00 | Do. | 59,985 79 |
| Nov. 30, 1812, | Do. | - | Do. | 9,509 03 |
| Dec. 15, 1812, | Do. | 10,000 00 | Do. | 501 25 |
| Jan. 15, 1813, | Do. | - | Do. | 2,920 79½ |
| Jan. 31, 1813, | Do. | - | Do. | 1,184 75½ |
| Feb. 15, 1813, | Do. | 10,000 00 | Do. | 6,482 48 |
| Feb. 28, 1813, | Do. | 28,890 15 | Do. | 13,202 92½ |
| March 15, 1813, | Do. | 5,000 00 | Do. | 14,502 39 |
| March 31, 1813, | Do. | 10,000 00 | Do. | 22,456 64 |
| April 15, 1813, | Do. | 20,000 00 | Do. | 25,976 94 |
| April 30, 1813, | Do. | 50,000 00 | Do. | 1,428 52½ |
| April 31, 1813, | Do. | - | Do. | 40,059 64½ |
| June 15, 1813, | Do. | 10,971 31 | Do. | 12,293 43 |
| | | | Do. | 10,047 05 |
| | | | Do. | 11,388 73 |
| | | | Do. | 1,840 90 |

| | Balance due. | Interest. |
|---|--------------|------------|
| Balance due A. Stetson, interest on the same to the 15th November, | \$16,652 42½ | \$41 63 |
| Ditto, ditto, 30th November, | 26,638 21½ | 66 60 |
| Ditto, ditto, 15th December, | 36,147 24½ | 90 37 |
| Ditto, ditto, 31st December, | 26,648 49½ | 66 62 |
| Ditto, ditto, 15th January, | 29,569 28¾ | 73 92 |
| Ditto, ditto, 31st January, | 30,754 04½ | 76 89 |
| Ditto, ditto, 14th February, | 37,236 52½ | 93 09 |
| Ditto, ditto, 28th February, | 40,439 44¾ | 101 09 |
| Ditto, ditto, 15th March, | 26,051 68¾ | 65 13 |
| Ditto, ditto, 31st March, | 43,508 32¾ | 108 77 |
| Ditto, ditto, 15th April, | 59,485 26¾ | 148 71 |
| Ditto, ditto, 30th April, | 40,913 79 | 102 28 |
| Ditto, ditto, 15th May, | 30,973 43¾ | 77 43 |
| Ditto, ditto, 31st May, | 43,266 86¾ | 108 16 |
| Ditto, ditto, 15th June, | 53,313 91¾ | 133 28 |
| Ditto, ditto, 30th June, | 53,731 30¾ | 134 33 |
| Ditto, ditto, | 55,572 20¾ | |
| Interest on the same to the 12th July, when the draft for the \$100,000 was received, | - | 1,488 30 |
| | | 111 14 |
| | | \$1,599 44 |

DEPUTY COMMISSARY'S OFFICE, BOSTON, September 30, 1814.

Errors excepted:

AMASA STETSON, Deputy Commissary.

17th CONGRESS.]

No. 621.

[2d SESSION.

INDEMNITY TO AN OFFICER OF THE NAVY AGAINST CERTAIN JUDICIAL PROCEEDINGS

COMMUNICATED TO THE SENATE, FEBRUARY 23, 1823.

Mr. PARROTT made the following report:

The Committee on Naval Affairs, to whom was referred the petition of Robert F. Stockton, have had the same under consideration, and thereupon make the following report:

That, from the facts set forth in the petition, and the evidence produced before the committee, it appears that the petitioner, having command of the United States schooner Alligator, was, in the year 1821, ordered to cruise on the coast of Africa for the suppression of the slave trade, and, while on that service, in the month of June, a vessel having French colors was captured by him, (under strong suspicion that she was an American disguised with false and fabricated papers,) sent into the port of Boston for adjudication, and libelled in the district court, when a *pro forma* decree was made by that court directing restoration of the vessel to the owners; that the libellants, namely, the United States and the captors, entered an appeal to the circuit court of the United States, where, upon a full hearing, the decree of the district court was reversed; that, previously to this decision of the court, the vessel had been given up, by direction of the President of the United States, as an act of comity to the French Government, whereby the whole expenses in costs and fees, to a large amount, were paid by the petitioner.

That, in the month of November, in the same year, he was ordered on a second cruise on the coast of Africa, during which he was attacked, in an unprovoked manner, by a large armed ship; that the firing upon the Alligator

continued for one hour, the whole of which time the flag of the United States was displayed, and proper demonstrations made of her national character; that the firing did not cease until the Alligator came alongside, returned her fire, and subdued her: she proved to be the Portuguese private armed ship called the Mariana Flora, and was sent into the port of Boston for examination and adjudication, and there libelled for a piratical attack, by the attorney of the district, in the name of the United States; that the district court ordered restoration of the vessel, and awarded damages against the petitioner of upwards of twenty thousand dollars; that, on an appeal to the circuit court of the United States, that court reversed the decree of the district court awarding damages against the petitioner, but directed each party to pay their own costs; and that an appeal from the judgment of the circuit court is now depending in the Supreme Court of the United States.

The petitioner prays indemnity for the expenses which have been sustained by him; that he may be protected against the ruinous consequences of litigations for acts done in the performance of arduous and responsible duties; and that provision may be made for the suit now in the Supreme Court.

The committee, having maturely considered the case of the petitioner, are of opinion that, in the capture and sending in for adjudication of the vessels herein mentioned, he was actuated by an honest determination to discharge in a proper manner the trust reposed in him by the Government; that, in the case of La Jeune Eugenie, the matter libelled having been taken out of court by the interposition of the executive authority of the United States, the petitioner was left without remedy in regard to the expenses incurred; and that, under all the circumstances, indemnity ought to be made to him; and for that purpose they herewith report a bill.

17th CONGRESS.]

No. 622.

[2d SESSION.

PENSION TO INDIANS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1823.

Mr. WALWORTH made the following report:

The Committee on Military Affairs, to whom was referred the petition of Captain Pollard, Blue Eyes, and Jim Robinson, chiefs of the Seneca nation of Indians, in behalf of William Parker, Rock, and Thomas, three Seneca Indians residing at Buffalo, New York, beg leave respectfully to report:

That it appears, by the evidence presented to the committee, that the aforesaid William Parker, Rock, and Thomas were volunteers engaged in the service of the United States during the late war with Great Britain, and attached to the brigade of volunteers commanded by General Peter B. Porter, on the Niagara frontier; that the said Indians, while serving under the command of said Porter, were wounded in the battle of Chippewa, in the month of July, 1814, and that they now severally labor under a disability, occasioned by their said wounds, of at least one-half.

The committee, believing that there is no just cause for distinguishing the cases of these Indians from those of other volunteers who were wounded while engaged in the military service of the United States during the late war, recommend that the aforesaid William Parker, Rock, and Thomas be severally inscribed on the invalid pension roll, at the rate of four dollars per month, each, to commence on the 3d day of February, 1823.

17th CONGRESS.]

No. 623.

[2d SESSION.

DEFALCATION OF THE AGENT FOR THE EXCHANGE OF PRISONERS AT HALIFAX, IN 1812-'13.

COMMUNICATED TO THE SENATE, FEBRUARY 26, 1823.

Mr. HOLMES, of Maine, from the Committee of Finance, to whom was referred the petition of John Mitchell, praying relief in the adjustment of his accounts, reported:

That the petitioner states that he was appointed by the Government, in 1812, agent for the exchange of prisoners at Halifax; that, in that year and 1813, he was at Halifax, under peculiar hardships and embarrassments; that, in order to procure funds, he negotiated a draft on the Government of the United States for \$5,000, to John Osborn, his agent, who, on its acceptance at Washington, promised to credit the petitioner with the whole amount; that the draft was accepted, and charged by the United States to the petitioner, but that the avails have never been received by him from Osborn; and that, by the harsh treatment to your petitioner from the British authorities at Halifax, he incurred great trouble and expense.

It appears to the committee, by the report of the Secretary on the case, as well as by other documents, and the statement of the petitioner himself, that the petitioner was paid, in consideration of the difficulties which would probably attend his negotiations, a salary of \$3,000—a much larger sum than was paid to any other agent; that, as to the negotiation of the draft, if he has not obtained the credits which were expected from Osborn, it was his misfortune to give credit to an irresponsible agent, and he must incur the loss. Your committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

17th CONGRESS.]

No. 624.

[2d SESSION.]

VESSELS SUNK FOR THE DEFENCE OF BALTIMORE.

COMMUNICATED TO THE SENATE, FEBRUARY 27, 1823.

Mr. SOUTHARD, from the Committee on the Judiciary, to whom was referred the petition of John S. Stiles, executor, &c. of George Stiles, deceased, with the accompanying documents, reported:

That, while the enemy were in the Chesapeake, in September, 1814, the Government of the United States caused to be sunk, at the mouth of the harbor of Baltimore, several vessels belonging to citizens of that place, and, among others, three which were the property of the said George Stiles, viz: the schooner *Ann*, the brig *Aid*, and the ship *Fabius*; and in the following summer, after the peace was concluded, these vessels were raised and restored to their owners.

The duty of the Government to make compensation for their detention, and the damages which their owners had sustained, was too manifest to be denied or resisted; and, on the 26th of April, 1822, a law was passed recognising this duty, and providing "that there should be paid to the owners, respectively, or their legal representatives, such sums for the detention as should be found just and reasonable, to be computed from the 17th of February, 1815, to the time when the vessels were respectively delivered to their owners, and from thence to the termination of the period necessary to repair such injuries as were shown to have been done by sinking, and proof of which was exhibited in a copy of the original estimates, verified at Baltimore by Thorndike Chase and John Snyder on the 20th of February, 1820. The law farther provides that the several sums should be ascertained in such manner as the Secretary of the Navy should direct.

The rights of the petitioner depend upon the proper construction and execution of this law; and while he professes to be entirely satisfied with the relief which it was designed to afford, he complains that, in executing it, the Secretary of the Navy has adopted an incorrect mode of calculating the damages, and in a very great degree deprived him of the benefits to which he is entitled under it; and, upon this ground, he asks the interposition of Congress for his relief.

The committee cannot doubt that the relief ought to be afforded, if it appear from the evidence that his complaint is just. The object of the law was to discharge the obligation under which the Government lay; to make a reasonable compensation to the citizen for the injury done to his property; and, if it appear that the *agent* of the Government has erred in ascertaining the proper amount of compensation, the error ought, in good faith, to be corrected.

The law fixes with sufficient precision the time of the detention for which payment was to be made, and directs the Secretary to ascertain what sum was just and reasonable for that time. This just and reasonable sum could be ascertained only in one way—by determining, upon competent evidence, the value of the use which might have been actually made of the vessels during the time. That this is the proper construction of the law and mode of making the estimate, can admit of no reasonable question; and, in conformity thereto, the Secretary of the Navy directed proof to be furnished "as to the use and employment the several owners had for their vessels between the 17th day of February, 1815, and the time when they might have been repaired, after they were delivered;" such proof being deemed necessary to enable him to determine what was a just and reasonable compensation for the detention, as directed by law.

Under this direction, the petitioner obtained the affidavits of the mechanics who made the repairs, as well as of some other persons; and thus fixed, with great certainty, the time necessary for making them, and, consequently, the period for which compensation was to be made, and for this period so fixed claims an allowance.

In order to ascertain what profits he might have made, or rather the use to which his vessels might have been put during this period, and the value of that use, he proves very clearly the condition, quality, and character of his vessels, and exhibits the prices-current at the time, and numerous estimates and affidavits by ship-owners, merchants accustomed to employ freight, and other persons who were well acquainted with the rate of freight, and the number of voyages which were made by equal and inferior vessels during that season. This evidence seems to the committee the competent and proper evidence for the occasion, and to be precisely that which was required by the rule prescribed by the Secretary of the Navy.

By this evidence it is proved that there was, during that period, a steady and active demand for freight; that these vessels were as well as any others fitted for obtaining employment; and that certain individuals wished to employ them; and that they would have been employed had they been in a fit situation for that purpose.

The petitioner then takes the lowest rate of freight actually given for similar vessels, and calculates the amount which would have been received by his vessels at that lowest rate. From the amount thus found he deducts one-fourth, without any other reason which the committee can perceive except to reduce it beyond all question or controversy. From the sum left after this deduction he takes the insurance, losses, disbursements, wear and tear of the vessels, and every thing which, by reasonable calculation, could furnish a reduction of the amount. These insurances, losses, disbursements, &c. he fixes by what was actually paid by other vessels during the same period.

After thus fixing the lowest amount of freight, deducting from it twenty-five per cent., and making allowance for every necessary and probable expenditure, the petitioner claims the balance which remains, amounting to \$16,281 10; and the committee can perceive no fair or valid objection which the Government can make to his claim. Of this sum he has received, by order of the Secretary of the Navy, \$5,486 92; and the committee are of opinion that the remainder, or \$10,794 18, ought to be paid to him. They therefore report a bill for his relief.

17th CONGRESS.]

No. 625.

[2d SESSION.]

INVALID PENSIONS.

COMMUNICATED TO THE SENATE, MARCH 1, 1823.

SIR:

DEPARTMENT OF WAR, *March 1, 1823.*

I have the honor to transmit, in conformity with a resolution of the Senate of the 27th ultimo, a statement showing the number of officers and soldiers disabled in the service of the United States in the late war who have been placed on the pension list since the last session of Congress, together with their names, the State to which each one belongs, the amount of each pension, at what office paid, at what time each application was allowed at the Department, and how far beyond that time each pension commenced, the degree in which each pensioner is disabled, and upon what evidence the disability was ascertained. [The list is omitted.]

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

J. C. CALHOUN.

The Hon. the PRESIDENT of the Senate of the United States.

SIR:

OFFICE OF THE ATTORNEY GENERAL U. S., *July 19, 1822.*

I now understand that the doubt with regard to Colonel Richard M. Johnson's claim of pension relates to the time of its commencement. The second section of the act of 15th May, 1820, declares "that the right any person now has, or may hereafter acquire, to receive a pension in virtue of any law of the United States, be considered to commence *at the time of completing his testimony*, pursuant to the act hereby revived and continued in force." The affidavits which prove Colonel Johnson's title to a pension were taken before Job Stevenson, a justice of the peace of Scott county, in the State of Kentucky, on the 1st day of August, 1816, but it was not until the 5th November, 1820, that the certificate of the clerk of Scott county that Job Stevenson was a magistrate was obtained and annexed to those affidavits. The question is, when was this evidence complete—on the 1st August, 1816, when the affidavits were taken; or on the 5th November, 1820, when the certificate of the clerk was added?

In the short personal conference which we had on this subject, the predisposition which it is almost impossible to avoid feeling in favor of so meritorious a claim led me to take the earlier date in favor of the claimant; but, on reflection, I must recede from this opinion, and abide by those old and plain rules with which we are all familiar, and from which it is always unsafe to depart. The word *complete* is a strong one; nothing is *complete* while any thing of form or substance is wanting. Testimony is never *complete* until it comes in such a shape that its *admissibility* is *unquestionable*. If it be inadmissible in the form in which it is presented, if it want any thing of authentication to render it admissible, it is *incomplete*, and never is it *complete until every objection to its reception is removed*.

Would Colonel Johnson's evidence have been received at the Department without the certificate of the clerk that Job Stevenson was a justice of the peace of Scott county? If it would not, it is not complete, and such, I understand, is the fact, according to the rules of evidence in these cases adopted by the Department. I also understand that, according to these rules, this certificate of the clerk *removed all objection to the testimony*; hence I am constrained to conclude that the testimony was not *complete until this certificate was procured*, to wit, 5th November, 1820. My regret, however, is diminished by the consideration that there can be no moral doubt that Congress would, on application, carry back the pension to the time of the wounds, which will be better for the petitioner than to assume the earliest date which these laws could, by any possible construction, permit.

I have the honor to remain, sir, very respectfully, your obedient servant,

The Hon. JOHN C. CALHOUN.

WM. WIRT.

SIR:

WAR DEPARTMENT, PENSION OFFICE, *December 11, 1822.*

In answer to the inquiry as to what has been the practice in cases of invalid pensioners placed on the lists by special acts of Congress as to the time of commencing the pensions, I have to state that the pension has been made to commence (so far as I have been able to ascertain by a reference to the files) at the date of the last deposition made in support of the claim. The fourth section of the act of the 10th of April, 1806, requires the pension to commence on the day when the claimant shall have completed his testimony before the authority proper to take the same. The second section of the act of the 4th February last declares that the pension shall commence at the time of completing the testimony, pursuant to the act thereby revived.

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

J. L. EDWARDS.

Hon. J. C. CALHOUN, *Secretary of War.*

WAR OFFICE, *December 11, 1822.*

In pension applications hereafter, the rule adopted by Congress, above alluded to, will be adhered to.

J. C. CALHOUN.

SIR:

DECEMBER 9, 1822.

I would thank you to state at what period the pensions have commenced under the act which is revived by the act of May, 1820.

Your obedient servant,

J. L. EDWARDS, Esq., *Pension Office.*

RICHARD M. JOHNSON.

SIR:

PENSION OFFICE, *December 9, 1822.*

In answer to the above inquiry, I have to inform you that pensions under the above-named act have always commenced on the day on which the evidence was closed.

I am, respectfully, your obedient servant,

Hon. R. M. JOHNSON.

J. L. EDWARDS.

"The day on which the evidence was closed" is not sufficiently explicit. The question is, when the evidence is closed: is it at the date of the deposition, or the date of the certificate as to the justiceship or authority of the person before whom the depositions were taken? To settle the practice, reference must be made to cases in which the date of the depositions and the date of these certificates is different; if, in such cases, the long-standing practice has been to take the date of the depositions in contradistinction to the date of the certificates, I should have no hesitation in yielding my former opinion to such settled practice. If the Secretary of War will make a new statement, with the additional fact of this standing practice, I will give a formal answer to this effect, if it is desired; and, as my former opinion is recorded, it would be better that this course should be taken.

W. W.

17th CONGRESS.]

No. 626.

[2d SESSION.]

CONSTRUCTION GIVEN TO THE ACT FOR THE RELIEF OF JOHN H. PIATT, LATE
ARMY CONTRACTOR.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 3, 1823.

Mr. SERGEANT, from the committee to whom was referred the memorial of the representatives of John H. Piatt, deceased, praying that an appropriation may be made for paying the balance found due to him by the accounting officers of the United States, under the act passed on the 8th day of May, 1820, entitled "An act for the relief of John H. Piatt," reported:

That they have had the case of John H. Piatt under consideration, and have endeavored to inform themselves fully and accurately of all the facts which have a bearing upon the several questions to which it has given rise, as well as to understand and duly appreciate the views which have been taken by the officers of the Government, to whose notice it has been in its progress submitted. The claim has now become not a little complicated, involving questions of fact, questions of evidence, and questions of strict legal justice, as well as of that enlarged justice which it is sometimes the province of the Legislature to dispense, in order to sustain the public policy by judicious liberality, and mark its sense of the value of services rendered in times of great national exigency.

Under these circumstances, it is not easy to present a statement that shall be perspicuous without being tedious. But as it is the first duty of the committee, in a case of this magnitude, to lay before the House a full exhibition of the grounds upon which the judgment of the House must probably be formed, they do not consider themselves at liberty to condense this report at the probable expense of omitting something which may be material to a right conclusion.

They have therefore decided to endeavor, in the first place, to give a statement of the principal circumstances of the case, as nearly as may be, in chronological order; and then to state the deductions they have made as to the rights and obligations of the respective parties arising out of the facts.

On the 26th day of January, A. D. 1814, the late John H. Piatt entered into a contract with the Secretary of War, by which he stipulated to supply and issue all the rations that should be required for the use of the United States, at all and every place or places where troops were or might be stationed, marched, or recruited, within the limits of the States of Ohio and Kentucky, and the Michigan Territory and northern vicinity, from the 1st of June, 1814, to the 31st day of May, 1815, both days inclusive. The rate of the ration, as well as of its component parts, is fixed by the contract, and it is understood to be from twenty to twenty-five per cent. lower than in the previous contract, which was with other persons. It is also said that the previous contractors had failed to comply with their contract. Of these facts the committee have been informed in the course of their investigation, but cannot speak of them with entire confidence, as they did not very minutely examine how far they were capable of being proved.

The contract did not expressly stipulate for any advance by the Government, nor for any term or time of payment. These things, of course, were left to a reasonable interpretation, according to the usage of the Department, which is understood to have been well established, and invariably to make large advances. Indeed, the nature of the service in most instances, exceeding in amount the probable means of an individual, seems of itself to imply an engagement on the part of the Government to aid the contractor with means to fulfil the contract. On this point there appears to have been no dispute.

Mr. Piatt went on to execute the duty he had undertaken; and it may be well, once for all, to state that he performed it throughout with such punctuality that not a single instance of failure, or even delay, has ever been imputed to him. When all the circumstances of discouragement and difficulty which will hereafter appear come to be considered, it will not be too much to say that this was an instance of unexampled fidelity; and when the temptations that were offered to Mr. Piatt to pursue a different course, and the reasonable apology he might have found for doing so, are also weighed, it will be impossible to avoid the conclusion that he was strongly influenced in his conduct by motives and feelings the most honorable. In fact, it is fully proved that Mr. Piatt was not only a man of activity and zeal, but of the most lofty patriotism; and it is probable that his fortune and his health were ultimately sacrificed to an invincible determination, at every hazard, to uphold the cause of his country in the interesting quarter to which his contract applied.

Not very long after this contract was entered into, the face of affairs underwent a change, more violent, more rapid, and, to the fulfilment of its stipulations, more disastrous than the most gloomy imaginations could have anticipated. The pressure of the war in the fall of the year 1814 produced various effects, all of which were ruinously concentrated in their operation on this contract. The suspension of specie payments, and an increased demand for provisions, suddenly raised their price to more than double what had been stipulated, as appears from the letter of Quartermaster General Swearingen. The necessary movements of the troops in that quarter, and the expectation of being obliged to strengthen the posts, produced at the same time a greatly increased demand upon the contractor; and, at this moment, the condition of the United States treasury disabled the Government to afford him

any aid, or even to do him justice. In the month of December, the bills of Mr. Piatt on the Government, to the amount of no less a sum than \$210,000, were dishonored, and lying under protest in Washington from the mere inability of the Government to pay them.

It is not, and never has been, alleged that Mr. Piatt had not a right to draw these bills. On the contrary, his right has always been admitted; and the only reason assigned for not paying them was the want of money. The Government, therefore, at the period now mentioned, was in default; had broken the contract; and thereby liberated Mr. Piatt from the obligation imposed upon him.

In this state of things, Mr. Piatt, in December, 1814, came on to Washington. Some of his friends advised him strongly to relinquish the contract, from which he had become entitled to extricate himself by the failure of the Government to comply with its engagements. His agent wrote to him, giving the same advice, and pointing out to him very plainly, as a result, that he might, by so doing, realize a great deal of money, instead of suffering a ruinous loss. The consequences of such a step to the Government are some of them very obvious, and others might have flowed, from weakening the arm of the country on that frontier, which are not to be estimated. That this was, nevertheless, the politic course for Mr. Piatt, is not to be doubted; and it must be admitted that it would not have been unjust. It has been stated to the committee that another contractor, in circumstances somewhat similar, availing himself of the necessities of the Government, shook off the incumbrance of his contract, and made a large fortune by means of a new arrangement, in which he was enabled to make his own terms. Another, who had gone on to comply with his engagement at some loss, is stated to have been allowed a credit of \$60,000 by the Secretary of War, in the summer of 1814, by way of remuneration, though in his case there had been no failure on the part of the Government.

Other friends of Mr. Piatt, it would seem from representations made to the committee, feeling strongly what disastrous consequences must inevitably follow a failure of supplies to our troops in the quarter embraced by the contract, advised him to go on, and held up to him as an inducement the known liberality of the Government, and especially the instance already mentioned of relief to a contractor; and, finally, they recommended to him to converse with the Secretary of War.

Mr. Piatt, accordingly, had one or more interviews with the Secretary of War, and received from him certain assurances, the precise import of which the committee will not now undertake to characterize. They are proved by the evidence of Judge McLean, Daniel Parker, and James Morrison, (Nos. 1, 2, and 3.) There is also annexed a statement of Tench Ringgold, (No. 4.)

But of the fact that Mr. Piatt called upon the Secretary of War; that he called upon him for the purpose of ascertaining, upon the best authority, how far he might calculate upon the support and aid of the Government, in case he should decide to go on with the supplies; and that, after his interviews with the Secretary, he did decide to continue to furnish the supplies, and did continue to furnish them, there seems to be no doubt. Whether these facts are to be connected as cause and effect, is a question upon which one would not be naturally led to entertain a doubt, unless there were something more in evidence than has appeared to the committee. It would seem reasonable to conclude, in the absence of any thing to the contrary, that the determination of Mr. Piatt was materially influenced, if not entirely brought about, by what he understood to be the true meaning and import of the conversations with the Secretary of War. This inference coincides exactly with the statement of Mr. Piatt, to which he has uniformly adhered, and with the evidence of Judge McLean, General Daniel Parker, and Colonel James Morrison.

On the 10th day of January, 1815, Mr. Piatt replied to the letter of his agent. A copy is hereto annexed, (marked A;) and it would not be doing justice to the memory of a meritorious and faithful public agent to withhold from that letter the tribute of unqualified commendation which its generous and patriotic spirit deserves. When it is considered that Mr. Piatt was in an humble and unambitious station, where the most punctual performance of his duty and the greatest sacrifices could obtain for him no reward of honor or applause; where, too, it is common to impute, and perhaps very common to find, no better motive governing the conduct of a contractor than the desire of gain, too much stress can scarcely be laid upon the patriotic alacrity with which Mr. Piatt devoted himself, his fortune, and his credit, under circumstances of no ordinary discouragement, to the maintenance of the cause of his country. It cannot be doubted that he rendered the most essential services, confiding in the liberality of his country duty to appreciate them, and eventually to do him justice, if not according to his merits, at least to the extent of his pecuniary sacrifices.

That he did receive assurances, however, and that those assurances were of a nature to enlarge his claims upon the Government beyond what they would have been if founded merely on his contract, and thus to form a proper subject of consideration in the settlement of his accounts, is now no longer to be questioned, being, as the committee believe, distinctly admitted by the provisions of the act of the 8th of May, 1820. He is, by that act, allowed a credit in terms for assurances, as a separate head of allowance, differing from what he would otherwise have been entitled to be credited, and increasing his claims to the whole extent of such difference.

From that time forward Mr. Piatt went on to furnish the supplies wherever called for. The requisitions, in some instances, were unexpectedly large, and, as it is believed, so far exceeded what was probably contemplated when the contract was entered into, that objection might, perhaps, have been made on that ground to complying with them. They were all promptly and cheerfully complied with, as has been already intimated, and it is understood that no complaint whatever was at any time made against Mr. Piatt.

It has been stated in a former part of this report that, from the causes there referred to, provisions had greatly advanced in price, as well as the cost of transporting them; and that, if the Government had been driven to the necessity of obtaining supplies without the aid of Mr. Piatt, the ration would have cost from forty-five to fifty cents. It is proper farther to state, upon the authority of the personal knowledge of one of the committee, that it is very doubtful whether they could have been got at any price to the extent and at the points required. The subject is known to have been one at that time of very deep interest, and to have engaged the anxious attention of the Legislature of Ohio upon the inquiry what means could be devised to furnish supplies in case Mr. Piatt had abandoned or refused to go on with the contract.

The war being happily ended, Mr. Piatt found himself in a state of extreme embarrassment, occasioned, he has always said, by his exertions and losses in the public service. On the other hand, it has been rumored that he made money by his concerns with the Government, and lost it by subsequent speculations. The committee supposed that, in some aspects of the inquiry referred to them, it might be material to ascertain how far this rumor was well founded, and, with that view, they addressed letters to three respectable gentlemen known to have been acquainted with Mr. Piatt and with his concerns. Their answers are hereto annexed, (marked B, C, D,) and they seem plainly to lead to a conclusion that, whatever may have been the effect of other causes, the exertions and sacrifices he made for the country were sufficient to have occasioned the ruin with which his affairs were overwhelmed.

On the 16th day of July, 1816, a settlement took place of the accounts of John H. Piatt, finding a balance due from him of upwards of \$48,000. This balance consisted principally of a balance due from him on his account

as commissary, which had been owing to a draft made by an agent in his absence, without his consent, and against his wishes. It appears that Mr. Piatt endeavored to prevent the payment, but his notice to the Department was too late, though given as soon as he had information of the draft.

His own account, made out about the same time, and bearing date the 23d February, 1816, claimed a balance due to him from the Government of upwards of \$100,000. These two accounts, together with the statement of suspensions and disallowances, will show what the differences were, and they are material to the right understanding of what has since occurred.

In the year 1820 Mr. Piatt was in the city of Washington, and reduced to the greatest extremity of distress. A judgment had been obtained against him by the United States for the balance before stated; he was in the custody of the marshal, and his creditors (for debts contracted, he alleges, in the service of the Government) were pursuing and threatening him with rigorous measures of compulsion when he was entirely destitute of means to satisfy their claims. His application for relief was before the Senate, and a bill had been reported or prepared, which proposed a settlement of his accounts, by giving him a credit equal to the amount of the balance. If such a law had passed, and, had been accepted by Mr. Piatt, there must have been an end of the question. But he addressed to the chairman of the committee of the Senate a letter, which the Second Comptroller rightly considers as a respectful protest, in which, admitting that the extreme urgency of his situation scarcely left him a choice, he nevertheless intimates that it would not be right thus to cut off the balance of his claims.

The bill then underwent an alteration, and the proviso assumed the shape in which it passed both Houses of Congress, and now stands in the act of the 8th May, 1820. The committee will not say that the change was owing to Mr. Piatt's letter; but it seems to them reasonable to ascribe it to that cause, and thence to infer that the law did not intend to cut off any part of Mr. Piatt's just claims, but only to limit the credit to be given to him for what were termed "assurances," leaving him the full benefit of every other just item of credit which he could establish, according to the usage of the Department, or the decisions in his own particular case, or upon the equitable principles which the act expressly extended to him.

The particulars above stated will be found in the report of the Second Comptroller, among the printed documents accompanying the letter of the Secretary of the Treasury laid before the House on the 3d of January last, and the proofs are among the papers in the Second Comptroller's office.

Under this act of the 8th May, 1820, the accounts of John H. Piatt were submitted to the proper accounting officers of the United States. A copy of the account he presented is hereto annexed, (marked E.) The Third Auditor, on the 14th June, 1820, stated an account, showing a balance due to the United States of \$34,708 15. This account, with the remarks of the Third Auditor, was submitted to the Second Comptroller, who disallowed some of the debits, and allowed several additional credits, and finally, as he is authorized by law to do, settled the account, making a balance due to Mr. Piatt of \$63,620 48. Of this settlement, and the balance found due by it, Mr. Piatt obtained an official certificate, to which of course he was entitled.

With the certificate in his hands, and the opinion of eminent counsel upon the construction of the act of May, 1820, Mr. Piatt obtained considerable advances of money to relieve his pressing necessities, by making assignments of portions of his claim upon the United States; and, in one instance, a creditor, in consideration of a similar assignment, surrendered securities he had previously held. These assignees have thus become interested in the claim to an amount which does not exactly appear, but is known to be very large. Mr. Piatt died some time after, in the city of Washington, where he was attending to endeavor to get an appropriation to pay the balance found due to him. He has died insolvent, and the assignees above mentioned have no chance of obtaining any satisfaction but through the medium of a provision to be made by law. That they should not suffer by their kindness in relieving him from his great distress, was among the latest wishes expressed by Mr. Piatt.

The general question presented is, whether an appropriation ought to be made to pay the balance thus found due, and now standing to the credit of John H. Piatt? And this may be considered under two views:

- 1st. As between the United States and the late Mr. Piatt, or his representatives.
- 2d. As between the United States and the assignees of the late John H. Piatt.

1. It is not the intention of the committee to go into a particular examination of the differences between the Third Auditor and the Second Comptroller. By law, the decision of the latter is the superior and the final decision; and the committee are not aware of any sufficient reason for withholding from it, in the present instance, its full legal effect.

For the purpose of ascertaining the balance of the account, this settlement would be deemed conclusive; so conclusive, that, if there had been an appropriation, or if there had been money at the disposal of the Department for the payment of "arrears," under the general authority for that purpose given, it is believed, from the statement of the Second Comptroller, that the balance would have been paid without hesitation; and, of course, it is to be understood that the settlement leaves no question as to the debt. If so, the United States are legally liable for the amount; and it may be suggested for the consideration of the House whether, in such case, there ought to be any question about the inclination of the Government to pay.

It must, at the same time, be admitted that, in making the settlement, the Comptroller acted under the limited authority given by the act of May, 1820; and, if he manifestly transcended the authority so given, the same effect ought not to be ascribed to his official act.

But the committee are far from thinking that the Comptroller did exceed his authority, or misunderstand the duty which it required him to perform. On the contrary, after carefully weighing the reasons assigned by him for his opinion, as well as those which are urged by the Third Auditor on the opposite side, they agree with the Comptroller in the construction he has given to the act, and in the application of its provisions to the items of account in controversy; and they think there can be no doubt that, in a court of justice, acting either upon the most rigorous or the most liberal interpretation of the act, the construction would be the same.

The object of the act seems to have been to extend to John H. Piatt the benefit of two distinct provisions: 1. That his accounts should be settled upon equitable principles; and, 2. That he should be allowed a credit for the "assurances." If these affirmative provisions had stood alone, it must have been conceded that Mr. Piatt would have been entitled to a credit, 1st, for whatever, upon the ordinary principles of accounting, would have gone to his credit without the aid of the law; 2d, for whatever, upon equitable principles, would have gone to his credit; and, 3d, for the assurances; and, under each of these heads, he would have been entitled to credit, without limitation, for whatever it fairly embraced.

The only limit assigned is that which is contained in the proviso; and that is expressly and specifically applied to the head of "assurances," and to that alone, leaving the others wholly unlimited. Can it, then, be extended to the other heads of credit? The terms of the act will not allow of such a construction. This seems too plain to be doubted. The fair intention of the act is equally opposed to it; for then it might happen that nothing would be allowed for "assurances" at all; or it might even happen that all could not be allowed to which Mr. Piatt was entitled upon equitable principles. The former would occur, if the allowance, upon equitable principles, should equal

the balance of the former account; and the latter, if it should exceed that balance. It is impossible, the committee think, to believe that it could have been the intention of the act, in any event, to allow nothing for "assurances;" and it is quite impossible to suppose that it could have been intended to allow Mr. Piatt less than, upon "equitable principles," he might prove himself entitled to be allowed. It may also be remarked that the construction adopted by the committee does not, by any means, render the proviso inoperative. Without the limitation assigned by it, that is to say, giving credit for all Mr. Piatt could claim under the head of "assurances," the balance in his favor would be more than \$100,000.

The act, it is true, has in it certain other words, which have been thought to have a bearing upon the question. These words are as follows: "giving all due weight and consideration to the settlements and allowances already made." It seems to the committee not unreasonable to suppose, as these words are arranged in the same sentence with others which are obviously designed for the benefit of Mr. Piatt, that they were intended rather to operate in his favor than to his prejudice. The whole clause is as follows: "giving all due weight and consideration to the settlements and allowances already made, and to the assurances and decisions of the War Department."

In point of fact, there had been *decisions* of the Department, the benefit of which, as *decisions*, had already been extended to Mr. Piatt; such, for instance, as the damages on the protested bills of exchange. There had been *allowances* also; such, for instance, as that for supplies to the distressed inhabitants. But these were not conceded to Mr. Piatt by reason of any "assurance" he had received, nor, it is supposed, as a favor to him, but in common with all other accountants similarly circumstanced, and as a matter of right. The decision, as to damages particularly, was a general decision of the War Department, establishing a rule for the accounting officers in all cases of bills dishonored and protested on account of the inability of the Government to pay; embracing, therefore, all protested bills which the parties had a right to draw. Under this decision or general rule of the Department, the damages were allowed to Mr. Piatt, and not in consequence of any "assurance."

The allowance for supplies to the distressed inhabitants was also, it is believed, a matter of right, upon the established principles of the Department. The contractor was not bound, by his contract, to furnish them, and therefore could not be bound to furnish them at the contract price. He was entitled to a reasonable compensation, and that is what was allowed.

It appears to the committee that it could not be the design of the act either to retract the credits which had thus been given, or to alter their character so as to arrange them thenceforward under the head of "assurances," instead of "decisions," or "allowances." That would be to suppose that the act was passed merely to change the name, and, under color of allowing something for "assurances," only to alter the words in the account. The plain meaning seems to be, that Mr. Piatt was not to be deprived, by the new grant, of the benefit of any former allowances, settlements, or decisions; and this construction is fortified by the fact that the act was deemed necessary to give Mr. Piatt the benefit of the "assurances," which implies that this could not be done without the authority of a special law; and, therefore, further implies that it had not been done before.

If this reasoning be correct, it must be apparent that the Comptroller has rightly interpreted the proviso as applying only to "assurances;" and of that opinion are the committee.

It would extend this report to an unreasonable length to go into the items of account in detail. The committee have already sufficiently expressed their opinion of two of them, namely, the damages, and the supplies to distressed inhabitants, to show that they concur with the Comptroller; and, as far as their inquiry has extended, they cannot say that they differ with him as to any of the items.

But what the committee would further submit for the consideration of the House is, that, in settling the account of John H. Piatt, a liberal estimate ought to be made in his favor, having a just regard to the very meritorious services he rendered, and the sacrifices he made for the public good, at a most critical and interesting period. They think, too, that, at all events, the Government ought not to be gainers by the loss, and perhaps the ruin, of a patriotic citizen. They have therefore caused three *pro forma* accounts to be made out by the Comptroller, and three by the Auditor, to show what the operation would be of a settlement of the accounts upon different principles. These accounts, with the communications accompanying them, are hereto annexed, (marked F, G, H.) They have also annexed a copy (marked I) of the account made out by Mr. Piatt himself.

From these accounts, it will be seen that, with the utmost allowance made to Mr. Piatt, the Government will still be gainers by his good conduct, for they will pay less, by a sum exceeding ———, than it would have cost them to obtain the supplies if he had abandoned the contract. And he will be no gainer, for it must be clear that he will get no more than the provisions cost him, and not so much as he might have obtained if he had chosen to take advantage of the Government; and even the cost will be allowed him only to a limited amount short of what he actually furnished. The committee are obliged, however, to say that there is not any exact proof of the cost by vouchers, nor could it be reasonably expected, considering the circumstances of the country and of the contractor, and considering, too, that he could not be supposed to anticipate that any such proof would be required. This is more especially true of the purchases made before the "assurances" were given, with respect to which he could not suppose he should have to account. The same remark applies with equal force to purchases made by his agent before his return from Washington. But the price of provisions in the country at the time affords, in the opinion of the committee, a guide as satisfactory as could be expected, and sufficient for the purpose of justice between the parties; and this is proved, not only by General Swearingen's letter, but by thirteen depositions remaining in the Second Comptroller's Office. Besides, there can be no danger that, from want of precision in the evidence, the Government will pay more than is just, for the proviso limits the allowance under the head of "assurances" to \$48,000; and no estimate can, it is believed, be made which would bring the cost below that sum. It would probably be more than double.

The committee are not inclined to favor the distinction which has been attempted between the provisions purchased after the assurances, and those which were then on hand, and which proposes to allow for the former but not for the latter. It is entirely arbitrary, and seeks to put the narrowest possible construction upon the act.

The plain equity of the "assurances," according to any interpretation that can be put upon them, seems to forbid such a distinction. If the contractor was only to be indemnified, (which is the least either party could desire,) it must be considered that the rise in price had taken place before that time, and of course was, in all probability, the price at which these provisions had been actually purchased. If the probable cost to the United States be regarded, it must be considered that they would have been obliged to pay the same. But the just rule between the parties is to estimate fairly what these provisions were worth to the contractor; what could he have got for them if, liberating himself from all engagement to the public, he had offered them for sale. It cannot be doubted that he might have got the market price; and the difference between what he might have sold them for, and what the Government have allowed under the contract, is the precise measure of indemnity to the contractor, as it is also the most favorable measure possible of the gain by the Government. The committee, therefore, agree with the Comptroller in the credits he has allowed for provisions; and they must again repeat that, even with these credits to the full extent the proviso will permit, it may be doubted whether justice is done, inasmuch as the limitation

cuts off more than half the amount of what would be due if the assurances were to operate upon the whole of the supplies.

The committee, in the course of their investigation, have met with another objection which has been urged to Mr. Piatt's claim. It has been represented that Mr. Piatt had no reason to complain of the Government on the score of advances; that, in truth, he had always received as much money as he was entitled to; and it has even been doubted whether he had any right to draw the bills that were protested. The committee think that, in this statement, there must be some such misapprehension as is very apt to take place after a length of time, unless contemporaneous facts are duly considered in forming an opinion. They think so, because the right of Mr. Piatt to draw for the \$210,000 was admitted at the time, and the dishonor of the bills was ascribed entirely to the want of funds to pay them. And, again, in the year 1816, when the transactions were comparatively recent, and the recollection of them fresh, the damages were allowed to Mr. Piatt without hesitation, which could not have happened, or would have been wholly indefensible, if, in truth, he had not had a right to draw. Each of these facts is, therefore, a contemporaneous or nearly contemporaneous admission that he had not had the aids in money to which he was entitled; and the advances that were made to him after he came to Washington, in December, 1814, are further and unequivocal evidence of the same thing.

But all this, it is believed, is disposed of by the passage of the act of May, 1820. The suggestion referred to was distinctly presented to the consideration of Congress at the time, in a form that demanded, and no doubt received, the most respectful attention; and if it had any value as an argument, it was to show that Mr. Piatt ought not to have had any "assurances," and that no act ought to be passed for his relief on the ground of his having received them. As such, it was weighed and rejected; and it cannot now be admitted to affect the interpretation of the act, the very passage of which necessarily implies its rejection.

It would be superfluous further to remark that the death of Mr. Piatt, himself perhaps the only person capable of giving satisfactory explanations of doubtful points of fact, should make us hesitate now to admit objections which we may reasonably suppose to have been heretofore made and refuted, or to allow the just operation of the act of 1820 to be restrained by the influence of suspicions which it is almost certain he must have been able to remove.

All these circumstances duly considered, the committee are of opinion that the balance found by the Comptroller is justly due and ought to be paid; and, referring again to the accounts F, G, H, I, they are of opinion that, upon original grounds, and independently of the act of May, 1820, it would be difficult to show that Mr. Piatt was not entitled to a much larger sum.

2. Between the United States and the *bona fide* assignees of Mr. Piatt, for a valuable consideration, the case is somewhat varied, and the claims of the assignees are even stronger than those of Mr. Piatt himself. The settlement of the account was by the proper accounting officer of the Government intrusted and authorized to make it. The certificate of the balance found due was the evidence of a debt of the most authentic character. The only question that could possibly arise would be, whether this settlement was within the limits of the authority given to the officer. If it was, good policy, and a due regard to the credit of the Government, no less than the obligations of good faith, require that there should be no doubt entertained of its being paid. Between individuals similarly circumstanced, and amenable to the ordinary tribunals of justice, it is believed that there could be no doubt that its payment would be compelled.

Upon the point of authority, the persons who advanced their money upon the faith of the settlement could only consult the act of May, 1820, or, if they distrusted their own judgment, have recourse to those who, by their peculiar learning and experience, are deemed qualified to advise, and are resorted to for aid. The opinion of eminent counsel was accordingly taken, and it was clear and unhesitating. A copy of it is hereto annexed, (marked K.) In that opinion the committee fully concur, for reasons already stated; and the conclusion they are brought to is, therefore, inevitable, that, as between the United States and the assignees of John H. Piatt, the settlement ought to be decisive.

In presenting this view, however, the committee wish it to be understood that they do not mean to impair or weaken the conclusion they have come to under the former head. They do not mean to admit that the account, if open, ought to be otherwise settled than it has been. On the contrary, they believe the settlement to be right in itself, and such (so far as the proviso of the act of 1820 would permit) as it became a just Government to make in the case of a meritorious individual, who was the wreck of a tempest to which he had generously exposed himself in the service of his country.

The committee regret that the subject came to their hands so late as to preclude a hope of its being acted on this session, and they submit the following resolution:

Resolved, That a committee be appointed to bring in a bill appropriating the sum of \$63,620 48, with interest from the 7th day of July, 1820, for the payment of the balance awarded by the settlement of that date in favor of the late John H. Piatt, and interest thereon; such payment to be made, in the first place, to those who are entitled by assignments from the said John H. Piatt, and the residue to his personal representatives.

To the honorable the Senate and House of Representatives of the United States in Congress assembled: The memorial of Benjamin M. Piatt and Nicholas Longworth, of Cincinnati, administrators of John H. Piatt, deceased, respectfully sheweth:

That, on the 8th day of May, in the year 1820, Congress passed an act for the relief of John H. Piatt, by the provisions of which the proper accounting officers of the Treasury Department were authorized and required to settle the accounts of the said John H. Piatt in the manner specified in said act; and the said accounts having been so settled, the Second Comptroller, on the 7th day of July following, certified a balance to be due by the United States to the said Piatt, amounting to \$63,620 48. Said settlement was communicated by the Second Comptroller to the said John H. Piatt, by letter of even date with the certificate or report of the said balance, and on the succeeding day (the 8th of July) the warrant clerk of the War Department, Lewis Edwards, Esq., certified that the accounts of the said John H. Piatt had been adjusted at the War Department in conformity with the aforesaid act of Congress; and that, by the certificate of the Second Comptroller, there appeared to be a balance in his favor to the amount above mentioned, which could not at that time be paid, as a special appropriation by Congress was wanted for that purpose. Your petitioners further state that the said John H. Piatt, being then deeply embarrassed, and in custody on some claims prosecuted against him, and being also anxious to obtain certain goods, wares, and merchandise, and other advances, to enable him to meet the heavy debts due by him in the western country, by a pledge of the said balance, and being also desirous of securing certain debts then due by him, to prevent the same being put in suit, did, on the 29th day of July, in the same year aforesaid, for the above consideration, assign and transfer to William M. Walker (who came under certain acceptances for said

Piatt, to discharge him from imprisonment) all his claim upon the Government of the United States, under and by virtue of said act of Congress, and the settlement of his accounts by the proper accounting officers of the Government, funding due to him the balance aforesaid, in trust for the purposes above specified, as by reference to said assignment will more fully appear. Your memorialists further show that the said John H. Piatt departed this life in the month of February last, leaving his estate subject to debts to the amount of \$500,000, or nearly that sum. All his valuable and productive real estate is under a mortgage to the Bank of the United States, which, with the accruing interest to this time, exceeds \$300,000. A re-lieu of the equity of redemption to the mortgaged property has been tendered by the representatives to the bank, on condition of their receiving it in full satisfaction of the mortgage. A part of the property not covered by the mortgage to the Bank of the United States is under mortgage for its full value to secure certain debts due individuals; and the small portion of his property not covered by mortgage is bound by sundry judgments, and, among others, by a judgment in favor of the Bank of the United States, for a separate debt, due by said Piatt and three others, exceeding \$60,000. The personal estate of said Piatt is inconsiderable. Your memorialists, as relatives, personal friends, and administrators of the deceased, participate in the anxiety evinced by the deceased, in his last moments, that his debts should be paid; and particularly that the persons holding claims under the assignment should not suffer for their friendship to the deceased. There being existing liens against the estate more than sufficient to exhaust it, the creditors claiming under the assignment have no other source from which they can be indemnified. Your memorialists trust it will be taken into consideration that Mr. Piatt entered the service of the Government in good health and independent circumstances; that, as commissary and contractor, in times of great difficulty, he complied with every requisition. The health of Mr. Piatt became greatly impaired from exposure on the northwestern frontier, and so continued till his death. So far from having made money by his contracts with the Government, his estate is insolvent.

Your memorialists respectfully pray that a law may be passed making the necessary appropriation for the payment of said balance.

All which is respectfully submitted.

N. LONGWORTH,
B. M. PIATT,
By N. LONGWORTH, } Administrators of J.
H. Piatt, deceased.

No. 1.

SIR:

WASHINGTON CITY, January 5, 1816.

In compliance with your suggestion, and the request of Mr. Piatt, I submit you a statement of the substance of a conversation had between us in January last, on the subject of furnishing supplies to the northwestern army.

I have not a distinct recollection of the precise words made use of in the conversation, but believe I can state it substantially. In the beginning of January last, Mr. Piatt and I called to ascertain whether any advances could be made to him by the Government. Mr. Piatt, I understood, at that time was in advance upwards of \$250,000. This sum he informed me he had obtained, partly on his personal responsibility, and partly by drafts on the Government, from the western banks. His drafts were not paid, but protested, I understood, at the above time, for want of funds, and he was held liable for the money by the banks, with damages on account of the protest. The above drafts, I understood, amounted to \$150,000. I understood from Mr. Piatt that he had furnished supplies exceeding in amount by \$50,000 the sum stated to have been advanced by him prior to the conversation. These circumstances were stated. Mr. Monroe stated the great difficulties he had to encounter for want of funds; that he had made use of much exertion in obtaining money by temporary loans and otherwise to enable the Government to go on. He promised to do every thing in his power for Mr. Piatt, and requested him to furnish the supplies, under any circumstances that should occur, and observed, as I understood, that he should have justice done him, or that he should not be injured, or words to that import. I well remember that Mr. Piatt observed to me, after we left Mr. Monroe, that he was determined to rest on the assurance given, and to go on in furnishing all the supplies required if the Government did not advance him a single dollar; that he thought he could do this from his influence with the banks and the credit of his friends. I recollect Mr. Monroe stated the consequences would be dreadful to the northwestern frontier if the army supplies were to fail in that quarter.

I believe, on the strength of the assurances given by Mr. Monroe, Mr. Piatt directed his agents to make their purchases and continue their supplies. A copy of this letter I had the honor, yesterday, of handing Mr. Monroe.

Mr. Piatt wishes to be paid the actual cost of the ration, and a reasonable compensation for the service of his agents, from the forepart of January until the close of his contract. The supplies of this time, I understand from Mr. Piatt, were furnished without any advance from the Government; that the sum he received in the month of January did not cover the purchases he had made prior to its reception.

Mr. Piatt possesses numerous documents to show his exertions and the exertions of his agents to comply with every military requisition. Indeed, I very much doubt whether any man could have been found who would have furnished the same supplies with equal promptitude under the same circumstances. His own fortune and the property of his friends were pledged to the banks to raise the necessary funds. I believe there was no failure.

One circumstance I would beg leave to mention: Mr. Piatt was ordered to issue rations to the inhabitants of Detroit and Malden; this, by his contract, he was perhaps not bound to do; he complied, although the issues then made cost him upwards of \$7,000 more than his contract price for the ration. His papers substantiate this fact.

It is my opinion that Mr. Piatt, on the failure of the Government to make advances, was no longer bound by his contract. Had he withheld his supplies, he would not have been liable to damages. This course was suggested by one of his agents, and, at the same time, the advantages held out to him that he could derive by selling the supplies to the commissioners of the army. He might have accumulated a fortune had he adopted this advice; but he spurned it as dishonorable and unjust to take advantage of the necessities of his Government, declaring that he would go on with the supplies, and trust to the justice of the Government for remuneration.

With great regard, your obedient servant,

JOHN McLEAN.

Hon. Mr. MONROE.

No. 2.

SIR:

WASHINGTON, January 27, 1820.

On the repeated application of Mr. John H. Piatt, and your approval of such communication, I have to state that, in the fall of 1814, Mr. Piatt, who had been a deputy commissary in the army, and at the head of the department with the northwestern army during the first two campaigns, and was then a contractor for supplying rations,

called on me, and said he had come to this city to abandon his contract, which, from the rise of provisions, had become ruinous to him; that he was justified in doing so by the Government having failed to make him the necessary remittances; and that he was advised to such course by his friends, and by lawyers whom he had consulted as to the extent of his obligations under the contract.

I viewed a failure in that quarter at that time as peculiarly disastrous, and remonstrated with Mr. Piatt against such a course; I also urged the importance of his communicating promptly and fully his embarrassments to you as Secretary of War. He replied he had attempted to do so, but had not seen you. I introduced him, and informed you of his former services and the extent of his contract, which embraced one of the most important parts of our frontier, Ohio and Michigan.

In a day or two he again informed me he was confirmed in his determination to abandon the contract, for he had not been able to communicate with you on the subject, having been repeatedly informed you were too much occupied.

I spoke to General Ringgold, who then lodged in the house with me, and was frequently a visiter in your family, that he might represent at some leisure moment the embarrassment which seemed inevitable if there was a failure of supplies for the army on that frontier. A few days after Mr. Piatt informed me he had seen you with some of his friends in Congress from Ohio, and had received assurances of indemnity against loss on his further supplies, which fully satisfied him, and he should devote his property and credit wholly to the service on those assurances. During all Mr. Piatt's stay in this city he lodged in the same hotel with me, and I saw him every day; I have known him as an able officer and agent since the commencement of the war, and have always heard him highly spoken of by all who have served with him.

I have the honor to be, with perfect respect, your obedient servant,

D. PARKER.

JAMES MONROE, *President of the United States.*

No. 3.

Questions by John H. Piatt to Col. James Morrison, late quartermaster general of the northwestern army, relative to his supplying the northwestern army with rations in 1814 and 1815.

1st. After my arrival in Washington, in December, 1814, did I not inform you that, in consequence of the failure of the Government to pay my bills, and by their not making reasonable and current remittances, I felt assured of being exonerated from my contract, and had determined to abandon it?

2d. On your patriotic remonstrances and representations of the disasters that would attend a failure of supplies of provisions to that army at that time, and your flattering assurances of my peculiar fitness for making those supplies to the greatest advantage to the Government, did I not show you the report of my agent, stating the ruinous consequences to me if I attempted to continue the supplies under the existing circumstances?

3d. After thus making known to you my situation and embarrassments, and the failures of the Government, did you not urge my application for relief and instruction from the Secretary of War, giving me your advice and opinion that I would receive assurances of indemnity against loss, which it appeared I was justly entitled to receive, under all these circumstances, before I involved myself in the threatened ruin?

4th. After I had seen Mr. Monroe, Secretary of War, did I not tell you that I had explained to him the failure of the Government and all my embarrassments, and I received from him assurances that, if I went on to supply the army and troops in Ohio, and Michigan, and Canada, on the upper lakes, I should suffer no loss on the provisions and supplies so furnished? and did I not after repeat to you that I was induced to involve all my property and credit solely on the assurances of Mr. Monroe that I should receive indemnity and sustain no loss?

5th. Did I not make all the supplies of rations to the army and troops in that quarter, without any failure, until the peace and the reduction of the army? and do you not believe that the northwestern army was sustained on the frontier by the great exertions and sacrifices made by me on those assurances made to me by the Secretary of War, on which I implicitly relied by the advice of my friends?

Answers to the annexed interrogatories of John H. Piatt, Esq.

WASHINGTON CITY, February 16, 1820.

1st. Yes. I recollect you showed me, when here in the winter of 1814-'15, a communication from your agent, in which he urged you to make no further advances of your own funds, and that, as Government was unable or unwilling to make remittances, you were released from the stipulations of the contract. He then pointed out a plan by which you would clear a large sum, viz: by keeping the provisions you had engaged and those on hand, not to issue, but to sell to the quartermaster's department, which would necessarily be compelled to purchase at a high price.

2d. I did urge you to strain your means and credit to supply the troops, assuring you that Government would amply reward your exertions to promote their views and interest at a time our country was involved in war, and their pecuniary affairs embarrassed. I strongly recommended that you should wait on the now President, at that time the Secretary of War, and state your situation, which you did; and you said to me, after one or two interviews with him, that he had given you such assurances of remuneration that you would supply the troops to the utmost of your capacity, and forego the plan recommended by your agent.

3d. I have before said that I did use many arguments to persuade you to take no advantage of the wants and embarrassments of the Government; and I again repeat that I did urge you to call on the Secretary of War, whose exertions were unremitted to keep up a respectable force on our frontiers; and I did understand that he had given you such verbal assurances of remuneration as induced you to give him a promise that you would endeavor to sustain the northwestern army with provisions.

4th. The purport of this interrogatory has been already answered. I will, however, again repeat that you did say to me that you had received assurances from the Secretary of War; and I overtook you at Pittsburg, and descended the river in the same boat. We had many conversations on this subject; that you often expressed fears of sustaining ultimate loss, as you had no written instructions or assurances from the Secretary of War (owing to his indisposition) before you left Washington. To these doubts I uniformly replied that you encountered no risk, save the chances of the Secretary's death; and that, in that event, I felt confident Congress would do you justice.

5th. As I left the army in the month of May, 1815, I am unable to say any thing as to my knowledge of your supplying the northwestern army with rations other than by report; and I never heard that you did not supply the army satisfactorily.

The above answers have been prepared in haste. I hope they will be deemed satisfactory.

I am, sir, your obedient servant,

JAMES MORRISON.

JOHN H. PIATT, Esq.

No. 4.

Remarks respectfully submitted to the President on the claim of Mr. J. H. Piatt, late contractor of army supplies.

Mr. Piatt came to this city in December, 1814, and made the most urgent applications for the payment of money which he alleged he had advanced for supplies furnished by him to the northwestern army; and also for the payment of sundry bills or drafts drawn by him on the Secretary of War, which bills were lying over under protest for non-payment. Mr. Piatt stated to the Secretary of War, and afterwards to me, that, unless these bills were promptly paid, and large sums advanced to him, it would be out of his power to furnish supplies for the northwestern army.

The Treasury of the United States was at this time incompetent to pay all the demands on it; and Mr. Monroe, who was well aware of this fact, and apprehending that it would not be in his power to meet the wishes of Mr. Piatt, as above expressed, told Mr. Piatt "to go on, [as stated by Mr. McLean,] and that he should not be the loser by it;" meaning, I presume, by these words, that, if it was not in his power to pay the drafts, or advance cash to Mr. Piatt, he would remunerate him, and the banks which held his protested drafts, by allowing them legal interest on any amount of money actually advanced by him or them for the Department. I well recollect that Mr. Monroe directed me to assure Mr. Piatt he would have an immediate investigation of the state of his accounts, and ascertain the situation of the drafts; and, further, that he would endeavor to obtain from the Secretary of the Treasury such funds as would be sufficient to pay the drafts which were lying over, and likewise to place Mr. Piatt in possession of cash enough to enable him to continue his supplies.

Having ascertained from Mr. Piatt the amount which he wanted in cash, which was (I am pretty confident) \$50,000, and also the amount of the protested drafts, which was \$100,000, in the hands of the cashiers of banks in this District, in obedience to orders given me by Mr. Monroe, I waited on Mr. Dallas, and represented to him the urgent necessity that existed to place Mr. Piatt in funds to pay the drafts, as well as of paying him a large sum in cash. Mr. Dallas very promptly placed at the disposal of the War Department the sum of \$150,000, sufficient to pay the protested drafts, and to supply Mr. Piatt with \$50,000, the amount which he asked for. The drafts were immediately paid, and cash given to Mr. Piatt to the amount of \$50,000.

As Mr. Piatt declared himself perfectly satisfied with the payments made to him at this time, and took leave of me before he commenced his journey to Ohio, I had been under the impression for several days that he had left Washington. In a few days, however, he called again at the War Office, and requested me to inform Mr. Monroe it would not be in his power to get along with the supplies for the army without a further payment of \$20,000. Mr. Monroe immediately ordered me to obtain that amount from the Bank of the Metropolis, and it was paid without delay to Mr. Piatt. A few days after this payment I accidentally discovered that Mr. Piatt had made use of this money in the purchase of Metropolis Bank stock, for his own use, instead of *supplies for the northwestern army*. I have also been informed that at this period he was a large subscriber to the loan of the United States. It is very certain that he has made a *large fortune* by his contract.

It is proper to observe that, after the war was ended, the Secretary of War paid the legal interests on all Mr. Piatt's drafts to the different banks which held them.

Mr. Piatt wishes to be paid the *actual cost of the rations* supplied by him, and *reasonable compensation for the services of his agents*. I apprehend that neither the President nor the Secretary of War has the power to pay a higher price than the contract stipulates for rations. This was determined in the case of Camillus Griffith, late contractor, whose claim was a strong one; and he has, in consequence, petitioned Congress for relief, where I think Mr. Piatt ought to go, if he thinks his an equitable claim for remuneration.

The fact of Mr. Piatt's being largely in advance for the Government does not entitle him to any remuneration from it more than many other contractors, many of whom, upon the final settlement of their accounts, had immense sums due them, and never received any remuneration therefor. Mr. Anderson, late contractor for New York, had paid to him, on the final settlement of his accounts, upwards of \$250,000, but he had no damages or extra prices for rations allowed him in consequence of the advances he made.

All which is respectfully submitted by

TENCH RINGGOLD.

DECEMBER 7, 1817.

A.

SIR:

WASHINGTON CITY, January 10, 1815.

Your letters of 16th and 26th December have been received, and their contents duly considered. In answer to the first, I am well aware of the sacrifice I am making in continuing the supply of the army. I am also aware of the Government having failed in their part of the contract, and well know that I am not responsible for any purchases that might be made on account of the contract. But my duty as a citizen, and the confidence reposed in me since the declaration of war, compel me to continue the supply of the army. You speak of the advantages you can derive by having command of the entire resources of the country, and that without my aid the army cannot be supplied. It is incompatible with the duty of a public agent in any capacity to take an advantage of the embarrassments of his Government; you will therefore continue the supply of the army, and meet every wish of the general commanding with the utmost promptitude in your power, disregarding any necessary expense. I shall rely solely on the liberality of my Government for remuneration for any losses I may sustain.

In answer to yours of the 26th, concerning the general requisition for an additional supply of 800,000 rations, I can only add that the provisions must be forwarded with the least possible delay. You must obtain such loans as will enable you to meet the demand.

Respectfully, &c.

JOHN H. PIATT.

HUGH GLENN, Cincinnati.

SIR:

HOUSE OF REPRESENTATIVES, *February 8, 1823.*

It has been frequently said that the late Mr. John H. Piatt made a very large sum of money out of his contract and concerns with the United States Government during the late war, and that his embarrassments were owing to imprudence and mismanagement in his other affairs. An argument has thence been drawn unfavorable to the claim of his representatives, of the force and justice of which the committee appointed on the memorial of his representatives have formed no opinion. But, being desirous to know how the fact is, they have directed me to inquire of such respectable gentlemen here as may have it in their power to give information. I have, therefore, taken the liberty to trouble you, and beg you to state, as fully as you may think fit, whatever knowledge you may have in relation to the inquiry mentioned.

The committee will meet again on Monday morning, at ten o'clock, by which time they would be glad, if convenient to you, to receive your answer.

I am, very respectfully, your most obedient servant,

JOHN SERGEANT, *Chairman.*

To Judge BURNET.

[A similar letter was addressed to Judge McLean and Jesse Hunt, Esq.]

B.

SIR:

WASHINGTON, *February 9, 1823.*

I was intimately acquainted with the late Mr. John H. Piatt before the late war, and had some knowledge of his property. From what has come within my observation, I have reason to believe that Mr. Piatt made some money when connected with the army commanded by General Hull; but, under his contract to furnish supplies, out of which the present application to Congress has arisen, his loss was very great. When he entered into this contract, he possessed a very handsome estate; now, all his property, with the aid of the sum claimed from Congress, will not enable his representatives to pay his debts. In my opinion, \$100,000, in addition to the sum claimed as above, would not more than repair the loss he sustained under the above contract. So far from Mr. Piatt's embarrassments having been occasioned by imprudence and mismanagement in his other affairs, I am confident, had he not possessed resources in this particular superior to almost any other man, he must have failed before the termination of his contract. The judicious management of his other affairs, and the speculations he made, sustained his credit, and enabled him to meet the most extraordinary expenditures in complying with his contract. I have always believed that Mr. Piatt did more than any other man in the western country could have done in furnishing supplies for the army at the most critical period of the late war.

In the winter of 1814-'15, when the credit of the Government had become so much impaired that such funds could not be paid to Mr. Piatt as would enable him to purchase provisions on the assurances of indemnity which he received, he resolved to continue the supplies, regardless of the heavy loss which he knew would result. Had he withheld these supplies, which he might have done without legal responsibility to the Government, he would have secured a very large sum. The provisions of the country were under his control, and he might have fixed his own price for every article. Although this course was strongly urged upon him by Mr. Glenn, one of his agents, he, without hesitation, declined it, as injurious to the Government and dishonorable to himself. I have always felt a strong solicitude in his behalf, for I contributed more than any other person to induce him to rely upon the justice of his country.

For many years past I have had a pretty intimate acquaintance with Mr. Piatt's affairs. I have investigated many of his causes at the bar and on the bench, and I have never found the semblance of dishonesty in any of his transactions. Since my first acquaintance with him, I have never doubted that he was a man of strict integrity, and the transactions of the late war authorize me to say of exalted patriotism.

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

HON. JOHN SERGEANT.

JOHN McLEAN.

C.

SIR:

WASHINGTON, *February 8, 1823.*

Your letter of this day has been received. I was well acquainted with the affairs of the late Mr. John H. Piatt at the time he entered into his contract for the supply of the troops in the western country, and I have no hesitation in stating that, in my opinion, he was at that time worth from fifty to sixty thousand dollars. I do not know what has been the result of his business since the close of the late war, and therefore cannot say whether it has been profitable or otherwise, but have understood, and believe, that his estate at this time will be insolvent if his representatives should fail in the application they have recently made to Congress.

I am, very respectfully, your obedient servant,

HON. JOHN SERGEANT.

J. BURNET.

D.

SIR:

WASHINGTON CITY, *February 10, 1823.*

In reply to your note of the 8th instant, I can say I have known the late Mr. John H. Piatt from an early period of his life. About the year 1806 he commenced selling goods in Cincinnati, Ohio. He imported from Philadelphia, from time to time, large amounts of merchandise, and made advantageous sales; and, from his close application to business and economy, in the year 1812 he had acquired a large real estate, besides an active capital in money, debts, and merchandise; and about this time (1812) he entered into a contract to supply General Hull's army, then about to march for Upper Canada. In that contract it was understood (and no doubt) he made a considerable sum of money; and I believe there is not any doubt his estate, in the year 1813, was worth (after satisfying all his debts) from one to two hundred thousand dollars. During the whole of Mr. Piatt's life, and particularly while in business, he was prudent in his bargains, and used much economy and industry.

In the year 1814 he contracted with the Government to supply the northwestern army, and, owing to a failure on the part of the Government, as I have been informed, (I know Mr. Piatt was compelled to make great sacrifices, to extend his credit to a large amount,) together with a great rise in the price of provisions, his losses were great, and he thereby became embarrassed, and the loss of his fortune was, as I have reason to believe, in a great measure owing to that contract. I do not believe any of his speculations, except in the contract, materially injured his estate. It is now pretty well understood that Mr. Piatt's estate will not pay his debts, but will prove insolvent. In that event, his wife would be reduced to a dependant situation, as I am informed the greater part of the estate was mortgaged in his lifetime, and she had relinquished her right of dower.

I am, sir, with much respect, your obedient servant,

HON. JOHN SERGEANT.

JESSE HUNT.

The United States in account with John H. Piatt.

Dr.

Cr.

| | | | | | |
|---|--------------|--|--|-------------|--------------|
| To amount of provisions issued to the regular troops, militia, &c. under my contract with the Department of War, dated 26th January, 1814: | | | By the following sums received on account of my contract with the Department of War, dated 26th January, 1814, viz: | | |
| Per abstract A, - | \$47,648 58 | | For a bill of exchange in favor of S. W. Davies, - | \$25,000 00 | |
| Do. B, - | 68,063 20 | | Do. do. O. M. Spencer, - | 5,000 00 | |
| Do. C, - | 15,885 40 | | Do. do. do. - | 20,000 00 | |
| Do. D, - | 10,740 33 | | Do. do. S. W. Davies, - | 25,000 00 | |
| Do. E, - | 17,600 60 | | Do. do. O. M. Spencer, - | 35,000 00 | |
| Do. F, - | 2,099 76 | | Do. do. S. W. Davies, - | 35,000 00 | |
| Do. G, - | 10,537 00 | | Do. do. do. - | 40,000 00 | |
| Do. H, - | 156,156 09 | | Do. do. O. M. Spencer, - | 40,000 00 | |
| Do. I, - | 85,851 95 | | Do. do. do. - | 48,000 00 | |
| Do. K, - | 69,918 50 | | Do. do. William Whann, - | 22,000 00 | |
| Do. M, - | 29,298 53 | | | | \$295,000 00 |
| Do. N, - | 4,674 53 | | For a warrant on the Treasurer for - | 50,000 00 | |
| | \$518,474 47 | | Do. do. - | 50,000 00 | |
| To amount of miscellaneous charges, (per abstract L,) - | 66,945 90 | | Do. do. - | 100,000 00 | |
| To extra allowance for provisions issued at Detroit to the distressed inhabitants, to the Indians, and for the mounted expedition under General McArthur: | | | Do. do. - | 20,000 00 | |
| Per abstract No. 1, - | \$14,429 80 | | | | 220,000 00 |
| Do. No. 2, - | 6,074 46 | | By this amount of provisions received from Messrs. Orr & Greely, - | 10,984 56 | |
| Do. No. 3, - | 7,790 90 | | Do. do. William Evans, - | 5,664 48 | |
| | 28,295 16 | | Do. do. William Oliver, - | 2,818 08 | |
| To deposit of 1,292 barrels of flour at Malden, (per voucher No. 6,) - | 18,168 24 | | Do. do. Piatt & Wallace, - | 11,430 56 | |
| To damages suffered by non-payment and return of my bills on the Secretary of War to the amount of \$175,000, at ten per cent. (per voucher No. 5,) - | 17,500 00 | | | | 30,897 68 |
| To do. for one other bill for \$35,000, - | 3,500 00 | | By 1,076 barrels of damaged flour received from Captain James McCloskey, at Detroit, on the 2d August, 1814, (per statement herewith,) - | - | 3,929 52 |
| To balance of interest account, (per voucher No. 4,) - | 12,456 60 | | Balance due John H. Piatt, - | - | 115,513 17 |
| | \$665,340 37 | | | | \$665,340 37 |
| To balance, per contra, - | 115,513 17 | | | | |
| To deposit of 99 barrels of whiskey at Malden, (per voucher No. 8,) - | 5,568 00 | | | | |
| | \$121,081 17 | | | | |

E. E. May 18, 1816.

JOHN H. PIATT.

SIR:

HOUSE OF REPRESENTATIVES, *February 14, 1823.*

I am directed by the committee on the claim of the representatives of John H. Piatt, deceased, to request that you will furnish them, as soon as it can conveniently be done, with the following *pro forma* accounts:

1. An account between the United States and Mr. Piatt, settled upon equitable principles, taking no notice of alleged *assurances*.

2. An account settled upon equitable principles, considering the assurances to apply to all rations afterwards issued, whether the provisions were purchased before or after the assurances.

3. A statement showing what it would have cost the Government to furnish the same number of rations which were supplied by Mr. Piatt after the assurances, deducting therefrom what you have credited on the same account.

The object of these statements being only to arrive at results, (that is to say, the actual balance of the account between the Government and Mr. Piatt,) stated in each of these ways, you may make them as general as you think compatible with a clear exposition of your views on each.

A similar note has been addressed to the Third Auditor.

You will be pleased to observe that these accounts are to be stated without any reference to the act of 1820, upon original grounds.

I am, very respectfully, your most obedient servant,

JOHN SERGEANT, *Chairman.*

The SECOND COMPTROLLER.

F.

TREASURY DEPARTMENT,

SIR:

SECOND COMPTROLLER'S OFFICE, *February 17, 1823.*

I have the honor to forward the enclosed statements, made out *pro forma*, in pursuance of your letter of the 14th instant, viz:

A statement of the late John H. Piatt's account, settled upon equitable principles, without regard to the assurances alleged to have been given to him in 1814 or 1815.

A statement of the late John H. Piatt's account, settled upon equitable principles, considering the assurances to apply to all rations issued after the 1st of January, 1815.

Also, a statement of said account, showing what it would have cost the United States to purchase the same number of rations which were supplied by Mr. Piatt after the assurances made, deducting therefrom what has been credited under the proviso of the act of the 8th of May, 1820, passed for his relief. In fixing the price of the ration, the best evidence that could be had has been resorted to—the bills of purchase produced by Mr. Piatt, the official report of the quartermaster general, Colonel Swearingen; (see his letter dated 21st December, 1814, fixing the contract price from forty-five to fifty cents per ration;) also, the depositions of thirteen other respectable inhabitants of Ohio, under oath, averaging about the same price.

The following observations will show the light in which the allowances made in the settlement of Mr. Piatt's accounts, now before the honorable committee, were considered by the Second Comptroller. They should have been submitted with the original report made on the 14th February, 1821.

By the act of the 8th May, 1820, authorizing and requiring a settlement of Mr. Piatt's accounts upon just and equitable principles, the accounting officers were required to give "all due weight and consideration to the settlement and allowances already made, and to the assurances and decisions of the War Department." The first question which presented itself was a consideration of the settlements already made. Upon an examination of his accounts, it appears that the first settlement was made on the 16th July, 1816; again in 1818. No difference of opinion existed between the accounting officers and Mr. Piatt with regard to the amount to be charged to Mr. Piatt, nor to the credits, so far as they were admitted. An error was discovered in Mr. Piatt's having obtained a credit twice for a quantity of provisions delivered Major Whistler; first, for the amount when delivered in bulk; and, secondly, in his abstracts: the error was corrected, and the amount thereof charged to Mr. Piatt's account, to which he readily assented, as it appears clearly to have been an error. The debit of his account then stood corrected, to the satisfaction of all parties, \$61,086 14, making his supplies amount to \$550,361 61, at his contract price. The next question was the consideration of the allowances already made. The following official statement from the Third Auditor was among his papers, stating the amount passed to his credit as allowances in addition to his contract price, amounting to \$43,919 12, viz:

| | | | | | |
|--|---|---|---|---|--------------------|
| The difference between the cost, and price allowed by his contract, of provisions collected in Upper Canada, | - | - | - | - | \$7,659 27 |
| The difference between the purchase and sale of 245 packhorses, | - | - | - | - | 4,559 12 |
| For this amount, allowed him for premiums paid the Farmers and Mechanics' Bank of Cincinnati for negotiating bills on the Secretary of War, | - | - | - | - | 3,750 00 |
| For this amount, being for premiums paid the Miami Exporting Company at Cincinnati for negotiating bills on the Secretary of War, | - | - | - | - | 4,320 00 |
| For this amount allowed him, being the difference between the cost, and the price allowed by the contract, of provisions furnished to the distressed inhabitants of Michigan Territory at Detroit, | - | - | - | - | 2,630 73 |
| For this amount, being 10 per cent. on bills protested by the Government, say \$210,000, | - | - | - | - | 21,000 00 |
| | | | | | <u>\$43,919 12</u> |

The first item of the above list of allowances arose from the following circumstances: The Government ordered the commanding officer at Detroit (see Hickman's proclamation directing the contractor) to collect all the surplus provisions among the inhabitants in the neighborhood of Malden, and to pay to them the current price, lest the provisions should fall into the hands of the enemy. The contractor was ordered to pay the money. He did so. The provisions thus collected were brought to head-quarters, and turned over to the contractor at the contract price. This allowance of \$7,659 27, so called, was the difference between the price given to the inhabitants of Canada and the contract price. The Government was liberal in paying the enemy for the provisions taken from them. It cannot be supposed, even for a moment, that they intended to make this contractor liable for the difference of price. This account should have been settled, without considering the difference of price as an allowance to the contractor.

The second item of this list of allowances was for the purchase of two hundred and forty-five packhorses, forage, &c. It appeared that General McArthur contemplated a mounted expedition into the enemy's country; he ordered the contractor to purchase horses for that object; the horses were purchased, used, and afterwards sold, by order of the commanding general. The difference between the cost and sales is stated as an allowance (\$4,559 12)

to Mr. Piatt. In the opinion of the Comptroller, Mr. Piatt was in no shape or manner liable in this case. He should have been credited with the purchase, and charged with the nett amount of sales. The difference was the legitimate and proper loss of the Government. To consider this as an allowance to Mr. Piatt, was incorrect.

The third item was for premiums paid the Farmers and Mechanics' Bank of Cincinnati, (\$3,750.) If the credit of the Government was unfortunately so bad at that moment that they could not pay the money, and that the contractor could not negotiate bills on them without paying a premium, it was not his fault; he gained nothing by this transaction; it was the proper loss of the Government, and should not be held out as an allowance to Mr. Piatt, except upon its true merits.

The fourth item of this list of allowances was for a premium paid to the Miami Exporting Company, (\$4,320,) under circumstances as above stated, and should not be considered as an allowance. It was for the benefit of the Government, to enable them to supply their contractor with funds to which he was entitled.

The fifth item of this list (\$2,630 73) was for the additional cost of rations issued to the distressed inhabitants of Michigan at Detroit. This was justly considered as an allowance by which the contractor gained something, and the only one out of this whole list of allowances already made.

The sixth and last item of allowances (\$21,000) was for damages on bills protested. I am aware that Government pay no interest or damages in ordinary cases, because they are supposed to be ready to pay when justly called upon. In this case no doubt exists but that Mr. Piatt had a right to draw, and that the Government could not pay. The act passed for Mr. Piatt's relief required the accounting officers of the Treasury Department to settle his claim upon just and equitable principles. The universal practice and laws of nearly the whole civilized world have settled it as a just and equitable principle that the interests and damages should follow a protested bill. The Second Comptroller did not think it just and equitable to allow interests and damages, and then take the amount again out of the cost of the rations. It is also said that no damages were paid by Mr. Piatt. This is a question never asked by the drawer of a bill. The fact of a bill being protested is always considered as of equivalent damage to the holder to the amount allowed. This item was considered as an allowance on its own merits; it did not more than remunerate the contractor for the damages sustained in having his bills protested.

In taking into view the allowances already made, the Second Comptroller considered the allowance of \$2,630 73 as the only real allowance made to Mr. Piatt which would go to extenuate the extra price of provisions supplied to the northwestern army. The other allowances (so called) grew out of the particular circumstances of the Government, and stand upon their own merit.

Accompanying this you have the accounts made out, as requested by the committee, (marked Nos. 1 and 2.)

I am, very respectfully, your most obedient servant,

RICHARD CUTTS.

Hon. JOHN SERGEANT, *Chairman of a Committee of the House of Representatives.*

Statement of the account of the late John H. Piatt, settled upon equitable principles, without regard to the assurances alleged to have been given to him in 1814 and 1815, made out pro forma, at the request of the chairman of the select committee to whom the subject has been referred.

Dr.

Cr.

| | | | | | | |
|---|-------------|--|-----|---------------------|------------|-------------|
| To balance due the United States on settlement of 24th February, 1818: | | By sundry bills for transportation admitted by the Third Auditor, | - | - | \$3,249 00 | |
| On his account as deputy commissary, | - | Do. | do. | Second Comptroller, | - | - |
| On his account as contractor, | - | | | | 13,363 89 | \$16,612 89 |
| | 2,118 21 | | | | | |
| | \$48,230 77 | The above credit was a legal claim arising under the third article of his contract, suspended on former settlement, generally for the want of the certificate of the officer at the post where the provisions were delivered. The commanding officer's order to remove the provisions, and the teamster's bill and receipt for the service performed, were produced. The only informality was the want of the above certificate. The teamster's and Mr. Piatt's agents neglected to take the officer's receipts, believing the order for the removal, and the teamster's bills paid, would be sufficient vouchers for the contractor to obtain the necessary credits. | | | | |
| To amount of corrected error in former settlement for provisions delivered Major Whistler, (see former settlement,) | - | By this sum, being the amount of part of 1,076 barrels of flour turned over to the contractor's agent from the deposits made by the former contractor; (it was in a damaged state when turned over, as deductions were made by the surveyor for that part of it which was damaged. In a short time after the officers refused to make use of it, and called a second surveyor, who condemned the flour. As the flour was evidently in a perishing state when turned over by the Government to the contractor, it was thought but just and reasonable they should bear the loss.) | | | | 3,361 08 |
| To balance due the late John H. Piatt, | - | By amount of interest paid the Farmers and Mechanics' Bank of Cincinnati for moneys borrowed on account of the failure of the Government to pay his drafts, | | | | 4,707 21 |
| | 15,389 71 | By allowance for 45 head of beef cattle lost out of the bullock-pen through the misconduct of Indians attached to the United States army. This allowance was thought just and equitable, under the 6th article of the contract, which says "that all losses sustained by the depredations of an enemy, or by means of the troops of the United States, shall be paid for at the contract price of the rations." As the Indians were attached to the army, it was thought the United States should be equally responsible for their conduct, as it regarded the contractor's property, | | | | 1,071 00 |
| | | By allowance for 30 head of beef cattle, which were lost from Fort Gratiot on the 27th July, 1814, for want of a guard, (see 7th article of the contract,) | | | | 864 00 |
| | | By this sum, being the difference between the cost and contract price of the provisions furnished at Detroit to the distressed inhabitants, the Indians, and to McArthur's mounted expedition. These supplies were not considered as embraced in the contract, and, of course, to be left to an equitable adjustment; the contract price, however, had been passed to his credit in a former settlement. Considering the depreciated currency of the country, the cost of the provisions, as established by the testimony of thirteen creditable persons, that the issues, as above, took from the contractor the provisions which he had to replace for his regular supplies at a higher price, this allowance was thought just and reasonable, | | | | 25,664 43 |
| | | By this sum, being the difference between the cost and contract prices of 1,292 bbls. of flour and 99 bbls. of whiskey, deposited at Malden, per order of General McArthur, | | | | 23,736 24 |
| | | By this sum, allowed by the Secretary of War for the payment of a quantity of flour damaged in the mill of John Semple, | | | | 459 00 |
| | \$76,475 85 | | | | | \$76,475 85 |
| | | By balance, per contra, due the late John H. Piatt, | | | | \$15,389 71 |

G—No. 2.

Statement of the account of the late John H. Piatt, settled upon equitable principles, including the assurances alleged to have been given to him in 1814 and 1815.

DR.

| | | | | | |
|---|---|---|---|-----------|---------------------|
| To balance due the United States on settlement of 24th February, 1818, viz. | | | | | |
| On his account as deputy commissary, | - | - | - | \$46,112 | 56 |
| On his account as contractor, | - | - | - | 2,118 | 21 |
| | | | | | <u>\$48,230 77</u> |
| To amount of corrected error in former settlement for provisions delivered Major Whistler, (see former settlement,) | - | - | - | - | 12,855 37 |
| To balance due John H. Piatt, | - | - | - | - | 192,498 65 |
| | | | | | <u>\$253,584 79</u> |
| Total amount of rations, 730,070 ¹ / ₁₀ , at 45 cents, | - | - | - | \$328,531 | 54 |
| From which deduct the contract price, | - | - | - | \$148,791 | 87 |
| And the amount allowed under the assurances, | - | - | - | 48,230 | 77 |
| | | | | | <u>197,022 64</u> |
| | | | | | <u>\$131,508 90</u> |

CR.

| | | | | | |
|--|--------|---------|----|------------------------------------|--|
| By amount of sundry bills for transportation, admitted by the Third Auditor, | - | \$3,249 | 00 | | |
| By do. admitted by the Second Comptroller, | - | - | - | 13,363 | 89 |
| | | | | | <u>\$16,612 89</u> |
| By this sum, being the amount of part of 1,076 barrels of flour turned over to the contractor's agent from the deposits made by the former contractor, (the same damaged,) | - | - | - | - | 3,361 08 |
| By amount of interest paid the Farmers and Mechanics' Bank of Cincinnati for moneys borrowed on account of the failure of the Government to pay his drafts, | - | - | - | - | 4,707 21 |
| By allowance for 45 head of beef cattle lost out of the bullock-pen through the misconduct of Indians attached to the United States army, | - | - | - | - | 1,071 00 |
| By allowance for 30 head of beef-cattle, which were lost from Fort Gratiot on the 27th July, 1814, for want of a guard, (see seventh article of the contract,) | - | - | - | - | 864 00 |
| By this sum, being the difference between the cost and contract price of the provisions furnished at Detroit to the distressed inhabitants, the Indians, and to McArthur's mounted expedition, | - | - | - | - | 25,664 43 |
| By this sum, being the difference between the cost and contract prices of 1,292 barrels of flour and 99 barrels of whiskey, deposited at Malden, per order of General McArthur, | - | - | - | - | 23,736 24 |
| By this sum, allowed by the Secretary of War for the payment of a quantity of flour damaged in the mill of John Semple, | - | - | - | - | 459 00 |
| By amount of provisions issued and placed in deposite from and after the 1st January, 1815, viz. | | | | | |
| At Upper Sandusky, &c. \$34,950 86, equal, at 19 cents, to | | | | 183,951 | rations. |
| At Detroit, &c. \$98,954 63 | | | | | |
| Deduct amount of provisions collected from the inhabitants of Upper Canada, | 14,807 | 01 | | | |
| | | | | 84,147 | 62, equal, at 20 cents, to |
| At Ft. Gratiot, &c. 61,174 82 | | | | | 420,738 do. |
| Deduct amount of provisions collected as aforesaid, | 1,088 | 29 | | | |
| | | | | 60,086 | 53, equal, at 23 cents, to |
| | | | | | 261,245 do. |
| | | | | 179,185 | 01, equal to |
| | | | | | 865,934 do. |
| From which deduct— | | | | | |
| Issued to Indians, \$4,264 40, equal to | - | - | - | 21,322 | rations. |
| Issued to distressed inhabitants, \$32 32, equal to | - | - | - | 161 ² / ₅ | |
| To do. \$1,407 06, equal to | - | - | - | 7,035 ⁶ / ₂₅ | |
| Deposited at Malden, \$24,639 36, equal to | 30,393 | 14 | | 107,345 | — 135,863 ⁹ / ₁₀ do. |
| | | | | \$148,791 | 87 |
| | | | | | <u>730,070¹/₁₀ do.</u> |
| Which 730,070 ¹ / ₁₀ rations, at 45 cents, amount to | - | - | - | \$328,531 | 54 |
| From which deduct the amount of contract price, as above. | - | - | - | \$148,791 | 87 |
| *And this sum, heretofore allowed on account of issues to distressed inhabitants, | - | - | - | 2,630 | 73 |
| | | | | | <u>151,422 60</u> |
| | | | | | <u>\$177,108 94</u> |
| | | | | | <u>\$253,584 79</u> |
| By balance, per contra, due John H. Piatt, | - | - | - | - | <u>\$192,498 65</u> |

* This sum of \$2,630 73 has been deducted heretofore, and left the within credit of \$25,664 43, and should not again have been deducted. Mr. Piatt's balance will, of course, be increased that sum.

TREASURY DEPARTMENT, SECOND COMPTROLLER'S OFFICE, February 18, 1823.

RICHARD CUTTS.

H.

SIR: TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE, *February 18, 1823.*

I have the honor to submit the following statement in relation to the accounts of John H. Piatt, deceased, called for by your letter of the 14th instant.

1st. You require "an account between the United States and Mr. Piatt, settled upon equitable principles, taking no notice of alleged assurances."

In relation to which, I have to observe that, on the settlement of Mr. Piatt's accounts prior to any application to Congress, the principles of equity had been extended to him by the Secretary of War (as it was competent for him to do in relation to contracts formed by him) to a very large amount; (see statement of extra allowances, amounting to \$43,912 12, filed with the papers marked No. 4;) consequently, no additional allowances, in my opinion, are admissible under this head, except of items then suspended for want of proper vouchers. Of these the sum of \$3,249, for transportation of provisions, is the only item under his contract which I deem to be admissible upon equitable principles. The other charges under this head were so unsatisfactorily vouched, and so devoid of the necessary testimony of their accuracy, that I did not consider either of them admissible. (See my reasons, particularly stated, opposite each charge in my statement No. 5 in the printed documents, No. 104, of the Senate of the last session, the original of which I do not find among the papers from the committee.) There is, besides, one additional item appertaining to his account of commissary which I deemed admissible, amounting to \$459. (See my statement of his account in the same documents above referred to.) His account, then, under this view of it, and under the requisition of the committee, would stand thus:

| | | | | |
|---|---|---|---|--------------------|
| Balance due the United States, for which suit was instituted, | - | - | - | \$48,230 77 |
| To which add the double credit given him on former settlement, discovered on settlement of his account under the act passed for his relief, | - | - | - | 12,855 37 |
| | | | | <u>61,086 14</u> |
| From which deduct credits as above stated, | - | - | - | 3,708 00 |
| Leaving a balance due to the United States of | - | - | - | <u>\$57,378 14</u> |

It will be recollected that at the time the act passed for the relief of Mr. Piatt he was only charged with \$48,230 77, and that this is the sum referred to in that act as a limitation of the credits to be allowed him under assurances, as the act has been construed; consequently, the additional sum of \$12,855 37 (being a subsequent debit) could not, it is presumed, be allowed under the term "assurances."

In relation to your second requisition, calling for "an account settled upon equitable principles, considering the assurances to apply to all rations afterwards issued, whether the provisions were purchased before or after the assurances," I have to observe that no evidence of the cost of the *complete ration* to Mr. Piatt after the alleged assurances has been established. The bills and receipts which he produced are confined to the cost of a limited quantity of beef and flour, the amount of which, after deducting what had already been credited to him on that part of the ration, has been admitted to his credit in my statement of his account. It is, therefore, impracticable, without other evidence, to arrive at the necessary facts by which the statement called for by the committee could be made. Conceiving it probable, however, that the committee desire to be informed what the state of Mr. Piatt's account would be according to the rate charged by himself in his statement rendered under the act passed for his relief, a copy of which is herewith furnished, I proceed to show the result of a statement made on that data under the second requisition of the committee.

| | | | | |
|--|---|---|---|---------------------|
| 781,480 complete rations issued after the 1st January, 1815, at 31 cents $3\frac{1}{10}$ mills, being the extra price claimed by him after deducting 20 cents per ration, already credited to him, | - | - | - | \$244,681 38 |
| Deduct 3 cents per ration allowed him beyond 20 cents at posts where he has been allowed 23 cents, and adding an allowance of 1 cent where the contract price was 19 cents, | - | - | - | 6,139 79 |
| | | | | <u>238,541 59</u> |
| Also extra allowances made him by the Secretary of War, per statement No. 4, | - | - | - | 43,912 12 |
| | | | | <u>194,629 47</u> |
| Also the balance standing to his debit as before stated, | - | - | - | 57,378 14 |
| Making a balance in his favor of | - | - | - | <u>\$137,251 33</u> |

NOTE.—The number of rations actually issued, and of those placed in deposit by Mr. Piatt after the 1st January, 1815, to the end of his contract, amounts to 865,935 rations; he claims, however, the extra price only on 781,480, which is taken as the data in the above statement.

In regard to the third requisition, calling for "a statement showing what it would have cost the Government to furnish the same number of rations which were supplied by Mr. Piatt after the assurances, deducting therefrom what I have credited on the same account," I have to state, as in the preceding case, that I have no data upon which to predicate such statement, the Government having made no purchases at the time in that section of the country. The report of Colonel Swearingen, relied upon by Mr. Piatt as evidence of what it would have cost the Government to make the purchases, is not that kind of evidence which I should consider myself justified in taking to establish the data upon which to predicate the statement called for by the committee; but should the committee desire an estimate predicated upon that report, the following result presents itself:

| | | | | |
|--|---|---|---|---------------------|
| Taking the number of rations actually issued, 781,480, at 45 cents, as charged by Mr. Piatt, | | | | |
| amount to | - | - | - | \$351,666 00 |
| Deduct the price allowed, | - | - | - | 162,435 79 |
| Difference, | - | - | - | <u>\$189,230 21</u> |

All of which is respectfully submitted.

PETER HAGNER, *Auditor.*

I.

The United States in account with John H. Piatt, under the act of Congress passed for his relief.

Dr.

For this sum, being the difference between the actual cost of the provisions and the contract price allowed on the rations issued from the 1st of January to the 31st of May, 1815, deducting therefrom 151,127½ rations, which are already allowed by the Third Auditor, and are contained in the duplicate receipts, amounting to \$75,976 27, at the following places, claimed under the assurances of the Secretary of War, and confirmed by the act of Congress aforesaid, viz:

| | | |
|---------|-------------------------------------|---|
| 238,272 | complete rations issued at Detroit. | |
| 272,179 | do. | Malden and Fort Gratiot. |
| 271,035 | do. | { Forts Wayne, Winchester, Meigs, Stephenson, and Upper and Lower Sandusky. |

| | |
|----------|---|
| 781,486 | From which deduct the above-mentioned 151,127½ already allowed by the 3d Auditor. |
| 151,127½ | |

| | | | | | | | | |
|----------|------------------|---|---|---|---|---|---|--------------|
| 630,358½ | at 31 cents, 3¼, | - | - | - | - | - | - | \$197,491 31 |
|----------|------------------|---|---|---|---|---|---|--------------|

Being the actual cost, after deducting 20 cents a ration, which has already been allowed me under any contract. The above account is supported by the letter of the commanding general, Duncan McArthur, Quartermaster General Swearingen's reports, Samuel Nusell, Jacob Fowler, Hugh Glenn's deposition, and the duplicate receipts for \$75,976 27, allowed by the Third Auditor, and the abstracts of the actual issues after those assurances were made, which have all been examined and passed to my credit at 20 cents per ration, and no more.

True copy:

PETER HAGNER, Auditor.

FEBRUARY 18, 1823.

Cr.

| | |
|---|-----------|
| By amount claimed by United States on former settlement, and for which suits have been instituted, for the following items which come under the decision of Mr. Crawford, and are charged in the miscellaneous abstract, viz: | 48,330 77 |
|---|-----------|

| | | |
|---|---|-----------|
| Amount of issues to distressed inhabitants, Indians, and McArthur's mounted expedition, | - | 28,295 16 |
| Amount of 1,292 barrels of flour and 99 do. whiskey deposited at Malden, | - | 23,736 24 |

| | | |
|---|---|------------|
| For this sum brought to my debit agreeably to the decision of the Third Auditor, | - | 100,262 17 |
| Also for the sum of \$21,000, deducted by the Third Auditor from the credits given in his statement under the assurances of the War Department, | - | 12,855 37 |
| | - | 21,000 00 |

| | | |
|---|---|------------|
| From which deduct the amount allowed by the Third Auditor on the duplicate receipts for \$75,976 27, when it fully appears my loss was \$45,750 75 on the purchase of only 151,127½, and nothing is allowed me on 630,358½, because there were not receipts for the actual purchases; and, at the same time, my abstracts for the whole amount is admitted at 20 cents for the issues after the date of the assurances, | - | 134,117 54 |
| | - | 45,750 75 |

| | | |
|----------|---|--------------|
| Balance, | - | 88,366 79 |
| | - | 109,124 52 ½ |

JUNE 16, 1820.

JOHN H. PIATT.

K.

SIR:

BALTIMORE, July 2, 1820.

I have considered, very carefully, the act of the last session of the Congress of the United States, entitled "An act for the relief of John H. Piatt;" and am not able to find any thing in its phraseology which admits of doubt.

Independently of the proviso, its effect would be to authorize the proper accounting officer of the Treasury Department to settle your accounts (including those for transportation) on just and equitable principles; giving all due weight and consideration to the *settlements and allowances already made*; and to the *assurances and decisions* of the War Department.

This effect is, however, limited by the *proviso*; and the only question would seem to be to what extent does the *proviso* so limit it?

The language of the *proviso* is so precise and *explicit* that it leaves no room for construction. It is, "that the sum allowed under the said *assurances* (dropping the word "*decisions*") shall not exceed the amount now claimed by the United States, and for which suits have been commenced against the said John H. Piatt."

Subject to this single restriction, which has exclusive reference to allowances under the *assurances* of the War Department, and leaves every other branch of the subject to the full effect of the enacting clause, you are entitled to have your accounts settled and paid.

I suppose it to be plain that *decisions* and *assurances* are not the same thing. The enacting clause would not have used both those words if one of them was believed to be exactly equivalent to the other; and the *proviso* would not have failed to repeat each of those words if it was not the intention to confine it to one of them.

When the language of a law is clear, conjectural interpretation is inadmissible. The letter being positive, it ought to be fulfilled. But the reason of the thing is also clear, and in conformity with the letter of the *proviso*. The claim, which depended on the word *assurances* of the War Department, might be considered of less strength than the rest; and especially that position which was sanctioned by the *decisions* of the same Department. While Congress, therefore, admitted for the claim under new *assurances*, due weight and consideration, it was not unnatural that it should subject it to a defined limit.

I do not know that these suggestions will be of any use to you in the settlement of your accounts; but you are at liberty to submit them to the consideration of the accounting officer, who will, I am sure, do you justice, without this assistance.

Very respectfully, sir, your most obedient, humble servant,

WM. PINKNEY.

Mr. PIATT.

