

ment, including the amount for which said drafts had been drawn, and recovered a judgment therefor; that he made no defence to the action, by reason of being misinformed as to the time of the sitting of the court in which the suit was pending; and prays relief from the judgment.

The petition was presented to the House of Representatives on the 10th of February, 1818; was not acted upon, and has been presented several times since.

The petitioner produced to the committee evidence that he paid to the attorney of the Government for the Kentucky district, on the 30th May, 1818, the full amount of the judgment recovered against him, amounting to the sum of \$336 04, including costs. He has also produced several affidavits to the committee tending to prove the following facts, to wit:

That James Westerfield was the mail carrier in the district of country in which the petitioner was postmaster; that he had drafts drawn by the Postmaster General in his favor on McBride in the year of 1811 or 1812: that McBride was a merchant, and one Hard was his partner, in 1809 and 1810, and had a store account on book against Westerfield, amounting to £14 16s. 8d.; that McBride and Hard dissolved their partnership; that McBride continued the business alone; that Westerfield continued to trade, and opened an account with McBride; that, in the fall of 1810, McBride sold Westerfield a horse at the price of \$30 or \$35, and also a saddle; that it was the understanding between them that Westerfield should have a credit at McBride's store, to be settled and paid by drafts, to be obtained by him from the Postmaster General, on McBride; that, from the books of McBride, there appears to be a balance against Westerfield of £54 0s. 1¼d., and an entry in McBride's book, and in his handwriting, without date, opposite the account, "to be credited by drafts in the hands of Westerfield;" that the balance of McBride and Hard's account against Westerfield, as appears by their book, is £14 16s. 8d.; that Westerfield was dissatisfied with the accounts of McBride; that, after the judgment was obtained and collected, the Postmaster General paid Westerfield his demand out of that money.

The facts alleged in the petition, and attempted to be proved, admitting them to be fully proved, present two subjects for the consideration of the committee: 1st. In regard to the sum of \$108 45, claimed to have been recovered and received by the Postmaster General, by means of an erroneous statement of the account between the petitioner and the Post Office Department, the committee are of opinion that the petitioner has failed to furnish evidence that such error ever existed. 2d. In regard to the propriety of the conduct of the Postmaster General in suing and recovering from McBride, and paying to Westerfield, the amount of the two drafts, amounting to \$145.

The main reason urged by the petitioner against the conduct of the Postmaster General is, that the Government, by reason of the great delay which Westerfield had suffered in not returning the drafts protested, was legally discharged from all liability to Westerfield for the amount of the drafts; and that, therefore, the Postmaster General, representing the Government in this matter, was a volunteer in the unjust collection of that amount from the petitioner, to put into Westerfield's pocket, when he (Westerfield) was indebted to him in a sum equal, if not greater, than the amount of the drafts; and that justice required that Westerfield should have consented to the application of the drafts in the payment of so much of the demands of the petitioner against Westerfield. The committee do not deem it important either to affirm or deny the equity claimed as between the petitioner and Westerfield; but they do deny that it was the business of the Postmaster General to settle and adjust the private dealings and disputes between the petitioner and Westerfield. It was the duty of the Postmaster General as well to compel payment of the balance due from the petitioner at the close of his office, as also to pay Westerfield any balance that was due to him as the carrier of the mail; and that the returning of the drafts by Westerfield to the Department furnished sufficient evidence of their protest and non-payment to authorize the Postmaster General to consider them unpaid, and to institute legal proceedings against McBride for the collection of the amount; and that it did not become the Postmaster General, at his peril, to ascertain whether any, and what, equitable claims McBride might have had against Westerfield, arising in consequence of his having had such drafts: that if the petitioner has, or shall finally suffer a loss of the amount of his account against Westerfield, it is properly chargeable to his careless manner of transacting his own business, and not to the Government, and for which the Government is in no way responsible.

The committee, therefore, report against granting the prayer of the petitioner.

22d CONGRESS.]

No. 115.

[1st SESSION.]

**A DEPUTY; POSTMASTER, WHO WAS PROSECUTED AND CONVICTED OF A LIBEL, ASKS REIMBURSEMENT OF DAMAGES AND COSTS.**

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1832.

Mr. CHARLES C. JOHNSTON made the following report:

The Committee on Post Offices and Post Roads, to whom was referred the petition of John Trafton, have examined the same, and report thereon:

That the petitioner states in his petition that he now is, and has been for ten years last past, postmaster at Emery's Mills, in the county of York, in the State of Maine; that, in the summer of 1828, a certain Samuel Batchelder contracted with the Post Office Department to transport the mail on route No. 563, including the post office of which the petitioner was postmaster. That the petitioner, knowing the said Samuel Batchelder to be subject to fits and intemperate in his habits, and not fit to be trusted with the conveyance of the mail; and believing himself required by his duty as postmaster, under the twenty-first section of the eighteenth instruction from the Post Office Department, dated March 11, 1828, to make a representation of the character and habits of the said contractor Batchelder, he, with others, made such a representation of the character and habits of the said Batchelder as induced the Postmaster General to deprive the said Batchelder of his contract for transporting the mail.

That the said Batchelder afterwards brought an action against the petitioner for a false and scandalous libel for his making the said communication to the Post Office Department; and that, after various proceedings in the court of common pleas for the county of York aforesaid, in which court the action had been brought, the cause was taken up by appeal to the supreme judicial court of the State of Maine, where, after a full examination and argument, a verdict and judgment was rendered against the petitioner for the sum of \$125 damages and \$170 41 costs. The petitioner states that his costs, expended by him in his defence, amounted to \$382 72.

The petitioner prays that an act may pass, refunding to him the amount of the damages and costs of the said action, averring that he has paid up the full amount thereof, and that he has incurred this heavy loss by a discharge of his duty as postmaster.

Your committee deem it altogether unnecessary to examine the question how far the Government is bound to reimburse a public officer for damages recovered against him by individuals, for acts done by him under the authority of the Government, or in the discharge of his ordinary duties. This case involves no such inquiry, for it sufficiently

appears here that the judgment was recovered by the said Batchelder against the petitioner for a *false and scandalous libel*. It appears, from the record, that the only and proper issue made up between the parties was, whether the representation made by the petitioner to the Post Office Department was true or libellous. The cause was fairly investigated, and decided on the production and examination of a great number of witnesses on each side. The testimony of the witnesses was contradictory, and the jury was the only proper tribunal to weigh the credit of the witnesses on each side. The jury, with the whole case before them, decided that the petitioner had made a false and libellous communication to the Post Office Department against the plaintiff. The judge who tried the cause, in effect, certifies to these facts: he does not say that he disapproved of the verdict; he only states that he expected a different one. It was competent to the court to have awarded a new trial if the verdict was against evidence, but no motion for a new trial was submitted by the defendant's counsel, who seemed to acquiesce in the correctness of the verdict.

It appears, therefore, to your committee, that the petitioner has incurred the penalty of the violation of private rights, without even a pretence to the protection of the Government; they, therefore, report the following resolution:

*Resolved*, That the said petition of the said John Trafton is unreasonable, and that the same be rejected. All which is respectfully submitted.

22d CONGRESS.]

No. 116.

[1st SESSION.

## POSTAGE ON NEWSPAPERS AND PERIODICALS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 13TH FEBRUARY, 1832.

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled: The memorial of a number of citizens of Boston, engaged or interested in the publication of newspapers and other periodical works, respectfully shows:*

That your memorialists being informed that the subject of the reduction of postage is now under discussion before the Congress of the United States; and being engaged or interested in the publication and circulation of various periodical works, both in the newspaper and pamphlet form, which are usually conveyed by mail; and being also persuaded that this question is one of vital importance to the progress of the knowledge of our country, would respectfully submit the following considerations:

While your memorialists cannot unite with those who desire the *entire abolition* of postage, and believe that the security of transmission and delivery would be increased by giving to each postmaster a direct interest in the safety of every package, they would respectfully offer some reasons which appear to them decisive in favor of a *reduction of postage* on newspapers and other periodical publications.

It appears from the late report of the Postmaster General that, during the past year, the Post Office Department has produced a nett revenue of \$47,000.

It appears also that, in former years, there has been a surplus revenue, which has been applied to the establishment of new routes.

It is also stated that there are profits derived from the transmission of letters and periodicals on the great routes, which are constantly applied to pay the expenses of unproductive routes.

In addition to this, it is well known that a large mass of public documents, both written and printed, are continually conveyed by mail, free of postage, to the Government, and to its officers in every part of our country.

All these, your memorialists conceive, are objects of *universal interest*, which ought to be accomplished at the public expense.

In contradiction to this simple principle of a republican government, your memorialists find, on examining the facts above stated, that those who transmit and receive letters or newspapers and other periodicals by mail, on the great and productive routes, not only pay for the transportation of *their own packages*, but for those of the *Government*; not merely for the *entire transportation on these routes*, but for the deficiencies of others which are unproductive; and, in addition to this, they have paid during the past year a *direct tax* of \$47,000, over and above these expenses; and in former years a sum sufficient to defray the expenses of establishing new routes.

Your memorialists would respectfully present this as an *unequal distribution of the public burdens*. They appeal to your honorable body whether it be just that that portion of the community who receive and transmit communications by mail should be taxed exclusively for the transmission of public documents, more than for any other expense of the Government. They would also respectfully inquire whether it be just that the charge for establishing new routes, or sustaining those on which there is too little intercourse to support them, should fall entirely on those who employ the mail on the great routes, rather than upon the Government and the country at large, for whose benefit they are equally designed.

Your memorialists would, therefore, respectfully request that your honorable body would consider whether, by charging to the country at large, through the treasury, the expense of transmitting the public documents, of establishing new post routes, and of maintaining those on which the communication is not sufficient for their support, there would not be more exact justice done; and whether there would not remain a considerable balance to be deducted from the charge on periodical publications, both in the newspaper and pamphlet forms, which now operates as an onerous tax on knowledge.

But, in addition to the claims of public *justice*, your memorialists conceive they may appeal to your honorable body for a reduction of postage on newspapers and pamphlet periodicals on grounds which involve our national interests.

Without the means of transmitting knowledge with *ease*, and *rapidity*, and *cheapness*, a nation, however free in name, must become the blind followers of the wealthy and the well-informed, or the tools of the designing. Every means, therefore, which renders the access to knowledge more difficult or more expensive, directly *increases the power of the few, and diminishes the influence of the many*, and thus tends to weaken the foundations of our Government.

Your memorialists would, therefore, respectfully petition that, at a moment when the prosperous state of our finances allows the duties on some of the luxuries of life to be diminished, this virtual tax on the knowledge which gives life and breath to a republic may also be reduced. Upon those cheap periodicals which are especially designed for the mass of the community, this tax is nearly equal to the original cost of the work.

But, while your memorialists consider the reduction proposed as of high importance to the improvement and character of our country, they do not desire to see it accomplished at the expense of retarding the progress of the mail; and they have found the apprehension entertained by some, that the number of periodicals would be so much increased by a reduction of the postage as to render their transportation, at the present rate of travelling, impracticable.