

NEW YORK, *January 30, 1830.*

We, the subscribers, being well convinced, from circumstances, that the above petitioner, Patrick Green, has, in his foregoing petition, represented a true statement, do most cordially recommend him as a person highly deserving some remuneration from the Government for services rendered by him in protecting the United States mail.

J. MORTON,
JOHN LOZIER,
M. M. NOAH,
ROBERT WHITE,
R. RIKER,
H. ECKFORD,
ROB'T McQUEEN,

THOMAS MOONEY,
SAM. S. GOUVERNEUR,
THOMAS WHITFIELD,
JEROMUS JOHNSON,
A. W. LENT,
PETER J. NEVINS,
S. CAMBRELENG.

BALTIMORE, *June 30, 1829.*

We, the subscribers, have no hesitation in saying that the bearer, Patrick Green, is the person who risked his life in defending the great eastern mail, while on its way from Philadelphia to Baltimore, in the year 1823, July 8th, against three robbers, namely, Emenheizer, Ward, and Moore. Two of said persons were convicted; one turned States' evidence. Emenheizer and Ward are now, and have been since their conviction, confined in Baltimore county jail.

JACOB SMALL, *Mayor City of Baltimore.*
JOHN C. WHITE,
WILLIAM LORMAN,
J. S. SKINNER,
DAVID BARNUM,
J. I. COHEN, JUN. & BROTHERS,
WILLIAM PATTERSON.

BALTIMORE, *June 30, 1829.*

Patrick Green, the person named in the within note, and who is bearer of this, was employed by us as mail guard at the time mentioned. We take pleasure in bearing testimony to his good conduct on that occasion. His defence of the mail was so spirited, that he wounded two of the robbers, which led to their apprehension on the following morning, and to the recovery of every package of the stolen mail.

STOCKTON & STOKES.

21st CONGRESS.]

No. 93.

[1st SESSION.]

CLAIM FOR MAKING THE POST ROAD FROM MOBILE TO PASCAGOULA.

COMMUNICATED TO THE SENATE, APRIL 28, 1830.

Mr. BIBB made the following report:

The Committee on the Post Office and Post Roads, of the Senate, to whom was referred the petition of Thomas Rhodes, respectfully report:

That, on the 17th June, 1828, the Postmaster General advertised for proposals for carrying the mails between Mobile and New Orleans thrice a week, for four years.

On the 16th August, 1828, Thomas Rhodes made his proposals, by letter, for carrying the mails for four years, from Mobile, by Pascagoula bay, to New Orleans, at the sum of \$14,000 per year; the road from Mobile to Pascagoula, a distance of forty miles, to be made by or at the expense of the United States. This road he proposed to make, and keep in repair for four years, for \$4,000, or \$100 per mile, the money to be paid at the completion of the work; the mails to be carried on horseback from Mobile to Pascagoula until the road was completed, and afterwards in stages, and from Pascagoula to New Orleans in steamboats.

By letter of the 7th of October, 1828, Thomas Rhodes was informed, "The Postmaster General has decided to accept your proposal to transport the mail by land and water between Mobile and New Orleans at the rate of \$14,000 per annum. You will begin with all practicable expedition, and convey the mail upon a plan designated by the postmasters of Mobile and New Orleans. A contract will be made out, and sent for you to execute."

The contract was made out at the Department, bearing date of the 1st October, 1828, and is signed by Rhodes as of that day; but the bond with security for his performance was not executed until the 30th March, 1829.

The contract, as prepared and signed, is for carrying the mail "from Mobile, by Pascagoula, to New Orleans, and back, thrice a week, in stages and steamboats," at \$3,500 per quarter, to commence on the 15th December, 1828, and to continue until the 1st November, 1832.

On the 16th February, 1829, Rhodes's claim for compensation for opening the road was answered by a letter from the Department, informing him that it could not be paid without a special act of Congress for that purpose.

It appears that Rhodes opened the road, at great expense, between Mobile and Pascagoula, so that the mail could be conveyed in stages over that part of the route as marked out by the postmasters at Mobile and New Orleans, under the direction of the Postmaster General. And it further appears that this road is yet used for the transportation of the mails, so that the labor and money expended upon that road has been for public benefit.

Mr. Rhodes commenced the transportation of the mails; but, on the 14th of April, 1829, other proposals were invited by advertisement, and Mr. Rhodes was informed of the forfeiture of his contract. He now petitions for compensation for opening the road, which the Department has not paid, for want of the authority of law to make such compensation.

The circumstances under which Mr. Rhodes expended his labor and money in opening this road appear to the committee to form a just basis for some compensation. The route over land to connect the transportation of the mails by steamboats was laid out under the superintendence of the Post Office Department. The road was through an uninhabited country. Stages could not pass until the road so marked out was opened, causewayed, and bridged. The proposals were to carry the mails over this part of the route on horseback, until the road was opened for stages, and then in stages; the road to be opened by or at the expense of the United States; and the proposal further was,

that he (Rhodes) would open it, and keep it in repair for a stated price per mile. The proposals, embracing the transportation of the mails at a stated price, and also the opening of the road at a stated price, were generally accepted by letter. When the contract was drawn out in form at the Department, it was to carry the mail "in stages and steamboats." This was impracticable, unless the road was opened; the proposal was, that the expense of opening the road should be paid by the United States. Although the contract, as drawn out, was silent as to the expense of the road, that contract was based upon proposals and acceptances, in which the road was expressly provided for at the cost of the United States. The silence of the formal contract does not appear sufficient to warn Mr. Rhodes that his proposal as to the road was rejected, much less to impose upon him the necessity to open the road for stages at his own expense, in direct hostility to his accepted proposals. The letter informing him that his proposal was accepted, and requiring him to "begin with all practicable expedition, and convey the mail upon a plan designated by the postmasters of Mobile and New Orleans," was well calculated to impress upon Rhodes the belief that he was to be paid for opening the road.

The committee are not unmindful of the evil consequences of an example which might encourage mail contractors to lay out money in improving roads to facilitate them in the performance of their contracts, with an expectation that Congress would reimburse the expense; nor of a like evil example, which might have a tendency to unbridle the discretion of the Postmaster General. But a payment to Mr. Rhodes, under the peculiar circumstances of his case, would not be a precedent pregnant with such evil consequences. The Postmaster General was faithfully endeavoring to effect the transportation of the mails along a route established by law between two points, and to overcome difficulties and obstructions which had retarded the mails. In doing so, he abstained from committing the Department by any express stipulations exceeding the authorities conferred by law; yet it is equally true that Mr. Rhodes acted under the belief that he was to be compensated for making the road. And, however wise and proper it may be to establish, as a general rule, that every citizen is bound to know the laws of his country, and the authority conferred on the officers of Government by those laws, yet that spirit of equity and mercy with which the administration of the laws should be tempered requires that exceptions should be allowed to that general rule.

Under all the circumstances of this case, the committee recommend that Mr. Rhodes be paid a reasonable compensation for his labor and moneys expended in opening the road out of the funds of the Post Office establishment. A bill is accordingly reported.

21st CONGRESS.]

No. 94.

[1st Session.

SURETIES OF A DEFAULTING DEPUTY POSTMASTER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 29, 1830.

Mr. CONNER, from the Committee on the Post Office and Post Roads, to whom was recommitted the report of the said committee in the case of Stafford and Yates, of 25th January last, made the following detailed report:

That the petitioners set forth that, in the year 1816, John V. N. Yates and Spencer Stafford, in conjunction with John Stafford, now deceased, executed a bond with Solomon Southwick, as his sureties, to the Postmaster General of the United States, in the sum of \$6,000, conditioned that the said Solomon Southwick should well and truly execute the duties of postmaster at Albany, in the State of New York, &c.; that, in 1822, Solomon Southwick was found to be a defaulter to the amount of \$6,353 88, when he was removed, and a suit instituted by the Postmaster General against Solomon Southwick and his sureties, in the circuit court of the northern district of New York, to recover the penalty on said bond.

The petitioners claimed to be allowed, by way of setoff, the following items:

1st. For receiving and despatching foreign mails from 1816 to 1821, being twenty-two quarters, at \$25 per quarter,	-	-	-	\$550 00
2d. To receiving night mails from 1816 to 1821, at fifty per cent. additional,	-	-	-	1,250 00
3d. To keeping mail register of arrival and departure of mails, for five years and six months, at 10 cents,	-	-	-	30 80
4th. To hire of two bedsteads, beds, and clothes, for five and a half years, at \$20 per year,	-	-	-	110 00
5th. To washing bed clothes, and cleaning bed room, two hundred and eighty weeks, at \$1 50,	-	-	-	420 00
6th. To finding and washing towels for the same period,	-	-	-	35 00
E. F. Backus's receipt for post office rent,	-	-	-	625 00
J. B. Southwick, for salary,	-	-	-	750 00
Jos. Wands, 2d,	-	-	-	600 00
D. F. Pruyn, for salary,	-	-	-	500 00
S. W. Southwick, for salary,	-	-	-	500 00
H. C. Southwick, for salary,	-	-	-	500 00
G. Wood, for salary,	-	-	-	500 00
S. Rice, for salary,	-	-	-	116 70
Total,	-	-	-	\$6,577 50

Of this account, two items, the 1st and 3d, were admitted by the counsel for the United States, but were not permitted by the court to be deducted from the penalty of the bond. The petitioners state that, had this account of \$6,577 50 been allowed, it would have exonerated them from the liability on the bond; but was refused, without proof of an agreement on the part of the Postmaster General to allow the same; the damages of the Postmaster General were assessed by the court at \$6,000: that the cause was removed by writ of error to the circuit court of the United States for the southern district of New York, and was brought from that court, on a certificate of the judges of disagreement of opinion, to the Supreme Court of the United States, who, without argument, decided in favor of the Postmaster General: that, acting under the advice of counsel, they caused a writ of error to be sued out, by virtue of which the record and proceedings in the said circuit court were removed to the Supreme Court; and, by motion of the Attorney General of the United States, the writ of error was dismissed for want of jurisdiction. The petitioners further state that, in January, 1820, through their representative, application was made to the Postmaster General to know, among other things, if Solomon Southwick was a delinquent postmaster; and received the following answer: