

CHARLES P. BABCOCK.

[To accompany bill H. R. No. 134.]

MARCH 27, 1856.

Mr. TODD, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to which was referred a bill authorizing a settlement of the accounts of Charles P. Babcock, late Indian agent at Detroit, in the State of Michigan, submit the following report :

Charles P. Babcock, when Indian agent at Detroit, was charged with the payment of certain annuities to different Indian tribes in the State of Michigan, due to them by virtue of treaty stipulations, which required the payments to be made in specie, and, in one instance, in silver coin. The funds furnished to said agent by the Commissioner of Indian Affairs consisted partly of gold coin, and partly of treasury drafts on Boston, Mass.; and, in making them available for the purpose intended, the said agent paid for premiums on exchanges of gold for silver coin, the sum of \$82 22, and the further sum of \$100 for discounting the drafts on Boston. These several items were allowed in the settlement of said Babcock's accounts with the Indian department, but disallowed by the Second Auditor, for the reason that the payment of premiums was forbidden by the twentieth section of the act of 6th August, 1846; and that the vouchers for the discounts were for gross sums, without specifying the items of expenditure and the services rendered, so as to enable the department to judge of their reasonableness and necessity.

The 21st section of the act of 6th August, 1846, is as follows: "No exchange of funds shall be made by any disbursing officers or agents of the government, of any grade or denomination whatsoever, or connected with any branch of the public service, other than in exchange for gold and silver; and every such disbursing officer, when the means for his disbursements are furnished to him in gold or silver, shall make his disbursements in the money so furnished; or when those means are furnished to him in drafts, he shall cause those drafts to be presented at their proper place of payment, and properly paid according to law, and shall make his payments in the money so received for the drafts furnished, unless in either case he can exchange the means in hand for gold or silver at par." It further provides for the suspension from duty of any officer guilty of a breach of these directions, and his removal by the President.

From a communication received from the department for Indian affairs, it appears that a large part of the moneys due to the Indians connected with Mr. Babcock's agency was payable *per capita*; that payments could not have been made without the aid of a large amount of silver; that the amount procured by him was necessary in making his payments; that it was usual to make payments to the Indians embraced in this agency in silver, because they understood its value better than gold, and because the Commissioner construed the word *specie* in the treaties with them to mean silver. For these reasons, the act of August 6, 1846, was not deemed applicable to the premiums paid for silver, and they were allowed. But in reference to the moneys claimed for discounts on drafts, the objection has more force in it. It is clear that it would have been perfectly competent for Mr. Babcock to have incurred whatever expenses were necessary to have the drafts furnished to him cashed at their place of presentation, and to have claimed a credit for such expenses; yet when he failed to comply with the plain commands of the law, and committed a breach of his official duty, and assumed to act on his own responsibility, and for his own convenience, it is nothing but right that he should be compelled to abide by the consequences of his voluntary act, and to bear, without redress, whatever loss resulted from it. To permit a public officer to override and disregard the law because it suits his convenience to do so, or to permit him to be governed by his individual discretion, in opposition to his official duty, would introduce incalculable mischief and disorder, and result in greater losses to the government than obedience to its laws could possibly bring about. For these reasons, the committee are of opinion that the sum of \$100 claimed as paid for discounts on drafts, ought not to be allowed.

The committee are satisfied that the reasons on which the Second Auditor acted in disallowing a quarter's salary, are not sustained by the testimony in the case. It abundantly appears that the agent's absence from his post was sanctioned by the President, and that this fact was communicated to the Indian department; and further, that the duties of the office were properly discharged during that time. On this account, the committee think injustice has been done to Mr. Babcock, and that he ought to be paid the amount of salary disallowed in his settlement.

For these reasons, the committee report back the bill with an amendment, and recommend its passage.