

JOHN C. REYNOLDS.

[To accompany Senate bill No. 145.]

FEBRUARY 12, 1841.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred Senate bill No. 145, entitled "An act for the relief of John C. Reynolds, late disbursing agent of the Indian Department," make the following report :

The bill provides that "the Secretary of War be directed to pay to John C. Reynolds, late disbursing agent of the Indian Department, the sum of eleven hundred and twenty-one dollars and three cents, out of any money in the Treasury not otherwise appropriated; it being for that sum stolen from him, while in discharge of his duties as disbursing agent at Fort Crawford, in the month of September, in the year of our Lord one thousand eight hundred and thirty-eight, it having been satisfactorily proved that the loss was not occasioned by any negligence or want of proper care and attention on the part of said Reynolds."

There is no report from the Senate accompanying the bill. The papers accompanying the petition show that, in September, 1838, the petitioner was a disbursing agent of the Indian Department, and was at Fort Crawford, (Prairie du Chien, Wisconsin Territory,) with specie, to pay the annuities to the Winnebago Indians. While at the fort, and on the 24th day of September, 1838, he gave in charge the money to Lieutenant W. M. D. McKissack, who was the acting quartermaster of the post, and a disbursing agent of the Indian Department. He deposited the money in the magazine. It is alleged it remained until the night of the 29th of September, when the fort was entered, the magazine broken open, and specie to the amount of \$15,000 stolen therefrom. Of this \$15,000 alleged to have been stolen from the magazine, \$14,313 75 is stated to have been recovered. The amount not found, the petitioner states, was \$686 25; which, with expenses, amounting altogether to \$1,121 03, the petitioner claims to have paid him, and presents the following account :

United States to John C. Reynolds, disbursing agent Indian Department,

Dr.

September 29, 1838. For the following current or contingent expenses of the Indian Department, viz :

The unrecovered amount of the specie stolen from Fort Crawford, Prairie du Chien, on the night of the 29th of September, 1838, the same being in the custody of the United States garrison. (See certificate of Lieutenant McKissack, acting quartermaster—sub-voucher No. 1; oath of Joseph T.

Mills, clerk to acting quartermaster—sub-voucher No. 2; examination before committing justice, confession of H. Shiels—No. 3; certificate of Major E. A. Hitchcock, principal military disbursing agent—No. 4.)

Amount stolen	-	-	-	\$15,000	00
Amount recovered	-	-	-	14,313	75

Loss	-	-	686	25
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October. Cash paid for expenses connected with the recovery of the above, viz :

Express from Prairie du Chien to Dubuque, (sub-voucher No. 5)	-	-	-	\$20	00
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Amount paid for rewards, (sub-voucher No. 6)	-	-	-	410	41
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Fees of district clerk, (sub-voucher No. 7)	-	-	-	4	37
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434	78
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1,121	03
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Received, June 24, 1839, of John C. Reynolds, disbursing agent of Indian Department, eleven hundred and twenty-one dollars and three cents, in full of the above account.

JOHN C. REYNOLDS, *Disbursing Agent.*

JUNE 24, 1839.

I certify, on honor, that the within account is correct and just; that the loss charged is the exact and true amount; and that the expenses were actually and necessarily incurred.

JOHN C. REYNOLDS,

Disbursing Agent of Indian Department.

For a more minute detail of the evidence on which the claim is founded, the committee refer to the documents annexed. The committee entertain the opinion, that, by sanctioning this claim, a precedent would be furnished, of dangerous tendency to the Government. The numerous agents through whose hands the public money necessarily must pass, in collecting and disbursing the public revenues, renders it proper that they should be held to strict accountability. Unremitted vigilance, care, and circumspection, hitherto have been required from them; and there is nothing in the present case, or in the history of the times, which should induce the Government in the present instance to depart from its former practice in this particular. Cases have existed, in which sound policy as well as a sense of justice demands relief, and which have been attended with some peculiarity which distinguished them from ordinary claims of this kind; but the committee have not been able to discover any peculiar merit in the present claim, which should distinguish it from the general operation of the previous practice of the Government relating to this class of claims. At the 3d session of the 13th Congress, the petition of John P. Cox, a paymaster to a regiment of militia, claiming an allowance for money alleged to have been stolen, belonging to the public, [was presented;] the circumstances attending that claim, and the principle upon which it was disposed of, in some degree resemble the present. In that case, Mr. Young, from the Committee of Claims of the Senate, concluded his report in the following remarks :

"The committee are of opinion that to the prayer of the petitioner there are several objections :

"1st. That the loss of the money, and the amount thereof, are not clearly and satisfactorily shown.

"2d. That the loss, if it actually did take place, was under such circumstances as would constitute negligence on the part of the petitioner.

"3d. 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 late session of Congress. They therefore recommend to the House the following resolution : " (which was, that the prayer of the petitioner ought not to be granted.)

This committee approve of the principle asserted in the concluding part of that report, and think this case is not distinguishable from it ; and therefore propose that the bill from the Senate, for the relief of John C. Reynolds, be rejected.

APPENDIX.

WAR DEPARTMENT, *January 20, 1840.*

SIR : I have the honor to submit the accompanying letter of John C. Reynolds, together with the vouchers therein referred to, relative to a sum of money stolen from him, at Fort Crawford, while in the discharge of his duties as disbursing agent of the Indian Department ; and I beg leave, respectfully, to recommend an appropriation to indemnify Mr. Reynolds in the sum of \$1,121 03—the item in his accounts which has been disallowed by the accounting officers of the Treasury.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. A. H. SEVIER, *Chairman of the
Committee on Indian Affairs, Senate.*

WASHINGTON CITY, *December 6, 1839.*

SIR : Your attention is respectfully asked to the following statement :

That in September, 1838, in the discharge of my official duties as disbursing agent of the Indian Department, I proceeded to Fort Crawford, Prairie du Chien, Wisconsin Territory, with specie to pay the annuity to the Winnebago Indians ; that, having preparatory arrangements to make for said payment, at a point a few miles distant from the fort, I determined to deposit the specie within the fort, as the safest and obviously the most appropriate place, (it being also in accordance with my instructions ;) that, accordingly, I gave it in charge of Lieutenant W. M. D. McKissack, United States army, the acting quartermaster of the post, and himself a disbursing agent of the Indian Department ; that it was by him, with the consent and

approval of the commanding officer, (General Brooke,) put in the magazine, as the most secure place; that it remained there until the night of the 29th of September, when, by the treachery of one soldier of the garrison, and the assistance of two citizens, the fort was entered, the magazine broken open, and specie to the amount of fifteen thousand dollars, in three kegs, stolen therefrom; that, at the time of the robbery, there was within the magazine a quantity of specie (\$5,000) for which the quartermaster's department was accountable, and also some (\$3,000) belonging to the pay department—thus showing that it was by all considered as the safest place for the keeping of the public money; that, after much exertion on my part, I succeeded in recovering the said \$15,000, with the exception of \$1,121 03; that this amount, being charged to the United States, has been disallowed by the accounting officers—who, however, admit, in the fullest terms, the justice of the claim, but do not consider themselves authorized by law to admit it to my credit.

This statement of facts is submitted to the Secretary of War for such action as he may think the justice of the case requires.

It may be proper to state, that, in consequence of the loss above mentioned, I advanced for the United States, at the said Winnebago payment, upward of \$6,000; \$5,000 of which was afterward recovered, and the balance (\$1,121 03) is the amount now claimed.

The accompanying papers furnish the proof in this case, and consist of the following items:

1. Certificate of Lieutenant McKissack, United States army, as to the fact of the deposite of specie with him, the amount of the deposite, the fact of the robbery, amount stolen, and amount recovered.
2. Oath of Joseph T. Mills, clerk of the quartermaster, (who counted the recovered money,) as to the amount thereof.
3. Evidence taken before committing justice; especially confession of Henry Shiels, a soldier, and one of the thieves.
4. Certificate of Major Hitchcock, principal military disbursing agent, as to the matter.
5. Receipts for rewards and other expenses of recovery.

Very respectfully, your obedient servant,

JOHN C. REYNOLDS,
Late Disbursing Agent Indian Department.

Hon. J. R. POINSETT,
Secretary of War.

ASSISTANT QUARTERMASTER'S OFFICE,
Fort Crawford, October 20, 1838.

I hereby certify that, on the evening of the 24th of September, 1838, J. C. Reynolds, disbursing agent of the Indian Department, turned over to me, for safekeeping, six kegs and one box of specie, said to contain thirty-one thousand dollars, (intended for the payment of the Winnebago annuity; also three boxes of specie, containing five thousand dollars, for the payment of different individuals employed in the Indian Department, and for which three boxes I was personally responsible. At the same time, I received from Mr. Fisher one keg, said to contain three thousand dollars, belonging to the Pay Department, and intended for the payment of the troops at this place.

With the sanction of the commanding officer, I deposited the above kegs and boxes in the magazine, (considering it by far the most secure place in the garrison,) where it remained until the night of the 29th of September, when the pickets were undermined, and the lock of the magazine broken, and three kegs, containing each \$5,000, were abstracted; that the three kegs belonged to the Indian Department, and that fourteen thousand three hundred and thirteen dollars and seventy-five cents have been recovered.

W. M. D. McKISSACK,

Lieutenant, Military Disbursing Agent.

TERRITORY OF WISCONSIN, *county of Crawford, ss :*

Before me, James H. Lockwood, one of the justices of the peace in and for the county aforesaid, personally came Joseph T. Mills, who, being duly sworn, deposed and saith: That he, being employed as clerk in the quartermaster's department at Fort Crawford, was present and assisted in the counting of all the money which had been recovered at that time (the 2d day of October) of the \$15,000 pertaining to the Indian Department, and stolen from the magazine of Fort Crawford on the 29th of September, 1838; and that the money so recovered and counted amounted to nine thousand three hundred and thirteen dollars and seventy-five cents. And further saith not

JOSEPH T. MILLS.

Sworn and subscribed to before me, at Prairie du Chien, this 14th day of October, 1838.

J. H. LOCKWOOD.

In addition to the above \$9,313 75, an entire keg, containing \$5,000, was afterward recovered; making the whole \$14,313 75. (See certificate of Lieutenant McKissack, &c.)

JOHN C. REYNOLDS,

Disbursing Agent.

George Evans sworn: Lives in Grant county, Wisconsin Territory; came to Prairie du Chien on Saturday, 29th instant, in company with John Thompson; came on foot, crossed the ferry at about 12 o'clock. Stopped at Hughes's house first after reaching the prairie, then came to Indian agent's office, then went to Curtis's tavern; returned to the Indian agent's office after sundown, then went to Hughes's house to get his coat and Thompson's; left there on their way in; drank some liquor and remained there a short time, then went either to the garrison or Curtis's; cannot tell positively, as he was intoxicated, but thinks he went straight to the garrison from Hughes's house; went in company with Thompson to the gate of the garrison. Thompson went in a few minutes before deponent; remained in the garrison about five minutes; saw Low in the garrison, and spoke to him; saw Thompson speaking with Shiels; came out of the garrison in company with Thompson; thinks Thompson was intoxicated when they went into the garrison; after he left the garrison, in company with Thompson, went immediately to Curtis's tavern, about eight or nine o'clock, drank some there, and does not recollect any thing else until he woke up in the morning; found himself in one of Curtis's beds; remained at Curtis's house all day, drinking; saw Thompson there also; left here near sundown for home, crossed the ferry same evening, and got home; wore a satinet jacket

(blue) when he came in town on Saturday; wore a blue blanket-coat when he went home; got the coat at Curtis's house; took it without leave; saw Shiels at Curtis's house on Sunday; spoke to deponent, and saw him speak with Thompson, and drink together in the bar-room on Sunday; does not know the coat now shown to him; paid two dollars, in Wisconsin money, to the ferry man, on Sunday evening, and Thompson paid one dollar.

Daniel Frost sworn: Says that on Sunday, about ten or eleven o'clock A. M., went from Turner's house to the beach to look after his canoe; saw a crowd of people looking after some money; deponent took a stick and stuck it in the sand in several places in search of the money; found a place where he supposed the money was concealed; went away and left it; in the evening, after sundown, went to the bank of the river, dug down, and found money; put some in his pocket, and went up to Turner's, told the people of the house that he had found plenty of money, and gave five dollars in silver to each, Mrs. Turner and Mary Ann Strame; went down again immediately to the river bank, took up as much money as he could carry, emptied it out on the prairie, and went back for another load; was going off with the second load, when Benjamin Bowles and Fisher overtook him, and carried him to the garrison; Bowles and Fisher took out the balance of the money remaining in the hole; in the morning told General Brooke that if he would send with him some person, he would show where he had put the money which he had dug up; he went with a sentinel and showed where the money was. . . Boards at Turner's; on Saturday ate supper at Curtis's, and went immediately home after supper, between seven and eight o'clock, P. M.; went before supper with a note from Mrs. Curtis to Shiels; saw Shiels in the garrison, near the theatre, on the east side of the garrison; saw Evans and Thompson there; after he had delivered the note to Shiels, went to Curtis's, ate supper, went home to Turner's, and after he was in bed Thompson and Evans came to Turner's; every time he woke up in the night, heard them still there; ate supper there; Shiels was there also; heard Thompson and Evans say that they had left their horses at the house built by the United States on the other side of the Wisconsin; saw Evans at Curtis's about sundown on Saturday evening.

R. Curtis sworn: Thompson and Evans came to his house on Saturday, 29th instant, about sundown; went out from his house shortly after, and did not return until about nine o'clock; took something to drink; Thompson and Evans were a good deal intoxicated at the time; he went out in the yard, while there; Thompson and Evans disappeared, and his wife told him that they had gone to bed; did not see them in the bed that night, but saw them early next morning in bed together; shut up his house that night at about twelve o'clock; some disturbance in the house on Sunday morning between Thompson and a man from the Wisconsin; left his house at about sundown on Sunday, in company with Thompson and Evans, in a one-horse wagon; Thompson gave him three dollars, in Wisconsin bank bills, but deponent would not take it; returned the amount. Shiels came to his house on Sunday, saw him drink and converse with Thompson and Evans; Evans left a satin jacket at his house, and took a blue blanket coat.

Joseph Morre sworn: Says that the dress coat now worn by Thompson is not the same as that worn by him last week, when in his store; that the coat he then wore had a rent in the back, and one of the flaps torn; same as the coat now shown in court.

James Fisher sworn: He saw Thompson at Curtis's tavern on Sunday, about nine o'clock, sitting close to the fire, with his back to it; had no coat on; Sunday evening, about eight o'clock, went to the bank of the river, in company with Bowles, to watch if he could find out any thing about the money; about ten o'clock saw a man looking over the bank; started after and caught him, after running some distance; it was Daniel Frost; saw the place where he had been hauling money from in the sand. Frost offered to share with him and Bowles, if they would say nothing about the money.

Benjamin Bowles sworn: Says that, early in the evening, Daniel Frost gave Mrs. Turner and her niece each five dollars in silver; that it was given to deponent by them, and that he carried the same to Doctor Reynolds at the fort; has heard all that James Fisher has stated, and it is all true; knows the knife now shown in court to belong to Daniel Frost.

Joseph Troutman: Says he was at Turner's Saturday evening, 29th instant; was sick; Frost slept in same bed with him; went to bed about nine o'clock, and Frost same time.

John Thompson sworn: Says he lives in Grant county, Wisconsin Territory; says he came to Prairie du Chien Thursday of last week, and returned on the next day, Friday; left home on Saturday, and came to the ferry at the Wisconsin, crossed the ferry at about twelve o'clock, noon, reached the prairie about two o'clock, put up at Curtis's tavern; George Evans came in company with deponent from his house to prove depredations committed by Winnebago Indians; deponent came on business, and finished his business by sundown on Saturday, 29th instant; after he had got through his business, went to Hughes's house, got some liquor, and then went to the garrison; called there to see Dennis Shiels and O'Donnough; went to the theatre, saw O'Donnough and Shiels there; gave Shiels a pint-flask of whiskey, then walked down with Evans to Curtis's tavern; does not recollect any thing that took place after that, as he was intoxicated; has no knowledge of any thing until he woke up next morning, daylight; heard a great noise in the bar-room; struck the man, and the man knocked him down, cut his eye and head; then went to bed, and lay until nearly sundown; Curtis took him to the Wisconsin ferry at about sundown; crossed the ferry and went home on Sunday evening; Evans returned on Sunday with deponent to their homes; does not know any thing of the coat now shown to him.

Examination of Henry Shiels.

Being sworn, says: On Saturday last, 29th instant, John Thompson and George Evans came into the garrison at Fort Crawford, between six and seven, P. M.; deponent was in the room used as a theatre, and some person came to the door and said that there was a person outside who wished to see O'Donnough, and at the same time deponent was called out; when outside, met Frost, who handed to him a note from Mrs. Curtis; deponent saw Thompson and O'Donnough conversing together, Thompson called deponent aside, and told him that he wished to see him and Sergeant Michaels together, and, walking across the garrison together; told deponent that there was a large sum of money in the magazine; and that he could make a raise if he had help; deponent asked Thompson if Sergeant Michaels was concerned with him, and Thompson said no;

Thompson then told deponent that he was here when the magazine was built, and knew he could get in by digging, in about two hours; deponent told Thompson that he would give an answer after tattoo, and would meet him for that purpose at the wash-houses, on the bank of the river; deponent, after tattoo, met Thompson and Evans on the bank of the river, according to promise; they had a spade and rope with them; deponent, Thompson, and Evans, went together a short distance below, and found a large canoe locked to a boat; broke the lock, and left the canoe at same place; all three then came up to the fort, jumped over the pickets, and commenced undermining the magazine; found they could not get under the foundation of the magazine, and then gave it up; Thompson and deponent then went down to Gilbert's shop, and left Evans to watch; Thompson went in the shop, and brought out three pieces of iron, then went up to the garrison; Thompson went over the pickets, took the irons, and broke the lock of the magazine, and then told Evans and deponent not to be afraid and back out, for he had his hand on the money; Evans and deponent then went over the pickets, and found that Thompson had already rolled out one of the kegs of money; Evans watched at the corner of the magazine; Thompson and Shiels rolled out the other two kegs of money; Thompson then shut the door of the magazine, and went over the pickets from the outside; when the hole was large enough, Shiels and Evans handed the kegs to Thompson, who received them on the outside of the pickets; Shiels and Evans then went over the pickets; then all three rolled each one keg of the money to the road running back of the garrison; Shiels and Thompson then went near General Brooke's quarters, and got a hand-cart, put the three kegs in the cart, and hauled them below the doctor's stable; the deponent then took one keg, and Thompson and Evans went off with the cart and the two other kegs; the deponent then opened his keg and buried the money in five different places in the public garden, back of the garrison; Thompson and Evans, when they left deponent, went in the direction of the river, and told him that they were going to put the money in the canoe and take it below the Wisconsin river, where it would be handy to get at from their farms; deponent then saw nothing more of them until next day about one o'clock P. M.; the deponent, after he had had his share of the money, (one keg,) then came to the garrison and went to bed; it was near daylight. When deponent saw Evans and Thompson next day, it was at Curtis's tavern; Thompson was in bed, and Evans had no coat on; Thompson's face was full of blood; deponent asked him how he got hurt; and he said it was in a fight with one of the boarders in the morning. Thompson and Evans said that the canoe leaked so bad that they could not go on with their money. Evans also said that the head had come out of his keg; said he was obliged to take the money out and hide it along the shore, and that it was secure. Thompson said that he took his keg, in a small canoe, to one of the islands about the mouth of the Wisconsin river, and had hid it there, where it was safe. Thompson told deponent that he was glad he had taken a letter which was in the pocket of a coat found floating with an empty keg in the Mississippi river; that the letter was from Lawyer Burnett to him, and might have been the cause of betraying him.

H. SHIELS.

Sworn and subscribed to before me, at Prairie du Chien, this 2d day of October, 1838.

H. L. DOUSMAN,
Justice of the Peace,
County of Crawford, Wisconsin Territory.

Cross questioned by George Evans and Thompson: About ten o'clock on Saturday evening, while on the bank of the river, in the Durham boat, King passed in a canoe, and Evans spoke to him.

TERRITORY OF WISCONSIN, county of Crawford, ss :

I hereby certify that the foregoing is a correct and true copy of the original examination before the committing justice, as filed by him in my office.

In witness whereof, I have hereunto set my hand and the seal of the [L. s.] district court, at Prairie du Chien, this 17th day of October, 1838.

THOS. P. STREET, Clerk.

St. Louis, November 28, 1838.

I hereby certify that, about the 12th of September, 1838, I furnished Doctor J. C. Reynolds with funds and instructions to make payments under treaties with the Winnebago Indians for the year 1838; that Doctor Reynolds reported from Prairie du Chien a loss by thieves, on the night of the 29th of September, of \$15,000; of which amount he recovered, as he reported, \$14,313 75, attended with expenses in rewards and payment of express, &c., \$434 78½: making the actual loss \$1,121 03. These facts were also reported by Lieutenant McKissack, of Fort Crawford, which, with the evidence in the hands of Doctor Reynolds, leaves on my mind no doubt of the fact that Doctor Reynolds placed the funds in the charge of Lieutenant McKissack for safekeeping, who deposited them, with other public moneys, in the magazine in the garrison of Fort Crawford. This is further to certify, that Doctor Reynolds has accounted to me for the whole amount with which he was furnished by me, having supplied the loss from his private means, for the purpose of securing payment to the Indians; by which means, the faith of the Government was not compromised with the Indians.

As a part of this certificate, on honor, I deem it but an act of justice to Doctor Reynolds to express my unqualified approbation of the whole of his conduct in connexion with this matter, as in the highest degree praiseworthy and honorable.

E. A. HITCHCOCK, Major,
Principal Military Disb'g Agent of Indian Dept.

The United States to Augustin Martell and Theodore Shanvere, Dr.

1838. Oct. 5—8.—For services in going to and returning from Dubuque to Prairie du Chien, Wisconsin Territory, in a canoe, as an express, upon public business : : : : : \$20 00

I certify, on honor, that the above account is correct and just; that the services were rendered, and were necessary for the Indian Department.

JOHN C. REYNOLDS,
Disb'g Agent of Indian Dept.

Received, Prairie du Chien, Wisconsin Territory, October 8, 1838, of John C. Reynolds, disbursing agent of the Indian Department, twenty dollars, in full of this account.

(Signed duplicates.)

\$20.

THEODORE SHANVERE, his x mark.
AUGUSTIN MARTELL, his x mark.

JOHN B. BEAUBIEN.

FORT CRAWFORD, October 16, 1838.

We, the undersigned, do hereby acknowledge to have received of John C. Reynolds, United States disbursing agent of the Indian Department, the sums set opposite our names respectively, being the amount of our share of the reward of five hundred dollars offered for the recovery of fifteen thousand dollars stolen from the magazine within Fort Crawford on the night of the 29th of September, 1838, amounting, in all, to four hundred and ten dollars and forty-one cents.

JOSEPH MOORE,
THOMAS P. STREET,
WILLIAM FISHER,
MATTHEW FAGAN, his x mark.
SAMUEL LOWE,
JOHN THOMAS,
BENJAMIN BOWLES,
BENJAMIN BOWLES,
JOHN BRINKMAN.

Names.	Amount found.	Am't of reward.
Lieutenant W. M. D. McKissack	\$1,999 00	No charge.
Doctor Joseph Moore	776 00	\$25 86
Thomas P. Street	876 50	29 21
William Fisher	1,105 25	36 83
Sergeant Fagan	2,132 00	71 06
Private S. Lowe	46 00	1 53
John Thomas	984 00	32 80
Benjamin Bowles	753 50	25 10
Benjamin Bowles	641 50	*21 36
John Brinkman	5,000 00	166 66
	14,313 75	410 41

* Acknowledged by Frost.

The UNITED STATES to THOMAS P. STREET,
Clerk United States District Court, Wisconsin Territory, DR.

1838. Oct. 17.—For copy of evidence filed by committing justice, certificate, and seal, in relation to the robbery of the United States money at Fort Crawford on the 29th of September, 1838, \$4 37

Received, Prairie du Chien, Wisconsin Territory, October 20, 1838, of John C. Reynolds, disbursing agent of the Indian Department, four dollars and thirty-seven cents, in full of the above account.

\$4 37. (Signed duplicates.) THOS. P. STREET, Clerk.

Enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of four dollars and thirty-seven cents be and lawfully are authorized to be paid out of the Treasury to settle the account of Francis Gibson, late Marshal of Wisconsin Territory, for money paid to certain witnesses, under order of the court in the county of Iowa, in the Indian Territory of Wisconsin, and that the amount found due be paid him out of any money in the Treasury not otherwise appropriated.

That said bill is the following words:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be and they lawfully are authorized and required to settle the accounts of Francis Gibson, late Marshal of Wisconsin Territory, for money paid to certain witnesses, under order of the court in the county of Iowa, in the Indian Territory of Wisconsin, and that the amount found due be paid him out of any money in the Treasury not otherwise appropriated.

There is no evidence in regard to the amount set forth in the bill, other than the report from the Senate, which accompanied said bill, and the bill itself. Miller is the honorable Lord Woodbury, dated February 14, 1840, before the Senate and report.

Miller and Woodbury state that the claim consists of payments made by the Marshal to sundry witnesses, on bills sworn and allowed by the courts or judges, which have been disallowed in the settlement of the accounts, amounting to \$73 10 7. Mr. Miller further says:

The question involved in this case is, whether a witness appointed by a court of the United States is entitled to receive more than one mileage and one per diem compensation for his attendance during any one term of the court, when he is subpoenaed in several cases, or whether he is entitled to mileage and only compensation in each case in which he is summoned? The uniform rule of the accounting officers had been, he would allow more than one mileage and one daily compensation in any case; and this appeared from the papers that were had been paid to the witnesses.

The committee have no evidence before them, of the names, or the names of the persons in whom said mileage was paid, or the amount paid to the different witnesses. The committee think the law upon the subject, approved February 23, 1828, furnishes a rule so plain that the department has been correct.

Holding a high office, as the claimant was, it became his duty to understand the law under which he acted; if he erred in his opinion, such error was necessarily to affect the interest of Government. If he paid out money improperly, he cannot, with propriety, expect others to bear the loss. He ought, rather, to collect it back from those who paid him, and law should not be his law. The committee do not perceive the justice of the claim, and they recommend the rejection of the bill.