

JAMES B. ESTES.

JUNE 10, 1854.—Laid on the table, and ordered to be printed.

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

REPORT.

The Committee of Claims, to whom was referred the petition of James B. Estes, of Wisconsin, report:

That, after a careful investigation of the papers in this case, they have determined to adopt the report made by Mr. Vance at the first session of the twenty-eighth Congress. That report states the facts with minuteness and accuracy, and the committee concur unanimously in the conclusion therein stated—that the petitioner is not entitled to relief.

MAY 24, 1844.

The Committee of Claims, to whom was referred the petition of James B. Estes, of Wisconsin, report:

That this claim is for compensation for services performed by the petitioner for the United States, from the 11th day of May, 1832, to the middle of the following August; for a horse furnished a volunteer in the service of the United States; and for wheat in the stack, and oats in the field; and for poultry, bees, household furniture, &c., taken and used, or destroyed, by the troops from Michigan and Illinois, in the service of the United States. The petitioner says his loss exceeded \$6,250, and prays relief for that amount.

As it was, very naturally, a matter of surprise that a claim for so large an amount should be permitted to remain dormant for twelve years, instead of bringing it promptly before the War Department or before Congress for payment, a letter was addressed to the Third Auditor of the Treasury, for information throwing light upon it; and his very full reply thereto is appended to, and made a part of, this report.

The committee are of the opinion, that for the services of the claimant the laws of the United States have already made provision. Besides, it is most manifest that he has already been paid, and his receipt therefor is in the possession of the government. The same remark will apply in relation to the claim set up for the payment for a horse.

It is alleged by the petitioner that he sustained a great loss in the

destruction of bees, garden vegetables, poultry, and furniture, said to have been taken by the troops, and used or destroyed.

Without stopping to inquire whether such a depredation was or was not committed by the troops, as specified in this item of the claim, it is sufficient to say that the acts complained of do not appear to have been at all warranted by law, or by the necessities of the public service. The committee regard them as lawless outrages and trespasses upon private property, for which the wrong-doers alone are accountable. The claim against the United States for indemnity could only be allowed upon a principle that would make the government responsible for the trespasses or other lawless acts of those employed in its service. Such a responsibility, it is believed, has never been recognised or acted upon; nor could the committee, consistently with their sense of public duty, recommend its assumption, even where the wrong is flagrant, and most deserving of rebuke and indignation. But the United States cannot be regarded as the authors of such wrongs and outrages, and all their responsibility must rest upon their perpetrators.

The claim set up for wheat and oats remains to be considered.

The most obvious, distinct, and well-established ground, recognised by this and by all other civilized nations, is, that when the private property of the citizen has been taken and used by the nation for the common purposes of all, and, in consequence of such employment, it has been destroyed or endamaged, the government of the nation is bound to make good the loss. This principle was, in the early history of our government, deemed so sacred and so just, that it was incorporated into one of the amendments to the federal constitution, where it is, in terms, provided that no private property shall be taken for public use without just compensation.

Were the wheat and the oats of the petitioner taken for and applied to public uses? or was the taking a mere wanton and unlawful depredation?

An investigation into the truth of the latter branch of the inquiry is, at this time, unnecessary; for it appears, from the able report before cited, that in April, 1833, he presented a bill for 200 bushels of wheat, at \$1 per bushel, to the quartermaster, and was paid. If he had a valid claim for more than \$6,000 against the United States, it is *remarkable*, to say the least of it, that he should have allowed *that* to remain unrepresented, and yet to have so zealously prosecuted his claim for the horse, the wheat, and the personal services rendered by himself, and for which he received payment. For the same services, the same horse, and, to all appearance, for the same wheat, (largely multiplied in amount,) he asks, twelve years after they were taken, and when it is difficult to ascertain facts, to be *again* paid. It is also worthy of remark, that the evidence lately taken, and after the lapse of so many years, values the wheat at \$1 25; and is based upon the supposition that, in the summer of 1832, all of the crop of 1831 remained in the stacks unthreshed and unused—and that, too, in a country where wheat is represented as scarce and dear; whereas the claimant, in April of the next year after the war, put in his bill for only 200 bushels of wheat, and at \$1 per bushel. If wheat had been worth more than \$1 per

bushel, or if he had furnished or lost more than 200 bushels of wheat, surely the claimant would have rendered his account accordingly.

The committee offer the following resolution for the adoption of the House :

Resolved, That the prayer of the petition ought not to be granted.

TREASURY DEPARTMENT,
Third Auditor's Office, April 17, 1844.

SIR: I have the honor to acknowledge the receipt of your letter of the 30th ult., enclosing the petition and papers of James B. Estes, and inquiring whether there be any evidence in this office to show that he was in the service of the United States in 1832; that he furnished a horse to a volunteer in said service, and for the use of the United States, as charged; that his wheat and his oats were taken and used, and to the amount, or to any amount, as claimed; and that his furniture, poultry, and bees, were destroyed, as set forth; and if so, whether he has received any compensation therefor, and to what amount; and whether any money has been paid to him for the wheat or the oats, &c., by any officer connected with the Illinois militia at that time in the United States service. And your letter concludes with a request for an early reply to the foregoing interrogatories, and for any *other information* which I may, after examining the papers in the case, deem necessary to enable the Committee of Claims to pass understandingly upon the claim.

It is represented in the petition, dated January 1, 1843, and not verified on oath, that the petitioner, from 1828 until then, resided in the Territory of Wisconsin; that in the spring of 1832, upon the breaking out of hostilities with the Sac and Fox Indians, (or what is usually called the Black Hawk war,) General Atkinson made a requisition upon Colonel Henry Dodge to raise all the forces in his power to suppress the threatened danger; that upon the requisition of Colonel Dodge, the petitioner, on the 11th May, 1832, volunteered his services for the defence of the country, and immediately, for the safety of his family, removed them from his plantation in Iowa county to Prairie du Chien, where he supported them during the war at his own expense, while the family of almost every other settler in the country was supported during that time at the expense of the government out of the public stores; that having provided a safe retreat for his family, he immediately left all his business and his plantation, upon which were growing seventy-three acres of oats, then worth at least \$1,500, and upon which he had also 2,500 bushels of wheat in the stack, worth at that time at least \$4,000; that he left at his house a valuable lot of household furniture, and furnishing himself with his own horse and equipments, provisions, arms, and ammunition, he joined Colonel Dodge, and was employed during the war in carrying expresses through the country, from one part to another, which was the most dangerous kind of service; that he continued in this manner until the termination of the war, about the middle of August, devoting his whole time, energies, and means to the service of his country; that while he was thus engaged himself in serving his country,

the mounted troops in the service of the United States quartered on his plantation, and turned their horses into his growing crop of oats, and foraged them upon the wheat in the stack, and literally destroyed the whole of both; that the troops also destroyed all of his household furniture, which was appraised, under the direction of Colonel Dodge, at \$650; that he has never received any compensation whatever for his services, or remuneration for his losses; and that he prays to have made to him such an appropriation for his services and losses as shall be reasonable and just. With the petition, there is an affidavit of William Davidson, dated 23d January, 1843, and also four other affidavits dated in January of the present year.

William Davidson has testified that he was well acquainted with the petitioner, who lived in the vicinity of Dodgeville, in the Territory of Wisconsin, and had improved an extensive farm; that in the summer of 1831 he had harvested a large crop of winter wheat, which was standing in stacks at the breaking out of the Sac and Fox Indian war in the spring of 1832, and was considered worth \$1 25 per bushel to deponent's own knowledge, and [had] a large crop of oats sown that spring; that the company from Platteville, then under deponent's command, was ordered to the farm of said Estes to recruit and rest their horses; that after a few days they were ordered to march; that deponent was there several times after, and found the grain was used or destroyed by the troops from the mines and Illinois, ordered there to recruit their horses; and that the average price of flour in the season of 1832 at Galena, fifty miles south, the only place it could be had, was from \$8 to \$15. In one of the other four affidavits, signed "James H. Gentry, late captain," the deponent has testified that he has been well acquainted with the petitioner from the year 1828 to the present time; that the petitioner lived in the vicinity of Dodgeville, and had improved an extensive farm; that in the summer of 1831 he harvested a large crop of winter wheat, which was standing in the stacks at the breaking out of hostilities with the Sac and Fox Indians in the spring of 1832; that deponent commanded a company during the war, and by order of Colonel Dodge, who then commanded the troops of the mining district, he was frequently sent to the farm of the petitioner for the purpose of recruiting the horses; that grain of all kinds bore a very high price at that time; that the horses belonging to the service were fed on the wheat from the stacks standing on the premises of the petitioner, of which there were a large number; that the petitioner was absent from his farm during the whole of the war, and was actively engaged in procuring horses and arms for the service, and in the carrying of expresses, from the commencement to the termination of the war, thereby rendering great service to his country. Two other of the affidavits appear to have been made by Andrew Whitaker, and who, in one of them, has testified that he has been well acquainted with the petitioner from 1828 to the present time; that petitioner lived in the vicinity of Dodgeville, and had improved an extensive farm; that in the summer of 1831 he harvested a large crop of winter wheat, which was standing in the stacks at the breaking out of hostilities with the Sac and Fox Indians in the spring of 1832; that deponent was at said farm previous and during the Indian war frequently, and saw numbers of horses, then in

the service of the United States, fed upon the wheat taken from the stacks standing on the premises of the petitioner; that there were sown on the said farm, in the spring of 1832, seventy-three acres of oats, and when said oats were nearly matured, a large number of horses that were then in the service were turned into said oats promiscuously, in consequence of which the whole crop was entirely destroyed; that deponent is well acquainted with farming in all its various branches, and as regards the wheat crop, he could not, from the number of acres seeded, and the great yield which followed, estimate it at less than 2,500 bushels, and verily believes it would have turned off 3,000 bushels, the whole of which was destroyed and used by the troops quartering upon the premises; that in regard to the crop of oats, he would state that the land was very good upon which they were sown, and well cultivated; and at the time the horses were turned in, they were fully headed out, and looked very promising; that he should think thirty bushels to the acre would be a very moderate estimate; that grain of all kinds bore a very high price at that time in the country; that deponent knew of a great many sales of oats and wheat from 1832 to 1834; that oats sold readily at 75 cents per bushel, and wheat at \$1 25 per bushel; that petitioner had a large quantity of valuable furniture, all of which was destroyed by the troops then quartering at the house, and was, deponent verily believes, worth not less than \$650; that petitioner had about twenty stands of bees, all of which were destroyed by said troops, as well as all his garden vegetables, and a large quantity of fowls; that, in fact, the whole place was completely robbed of everything valuable upon it; and that the damages, independent of the grain, could not have been less than \$1,000. He has, in his other deposition, testified that he was well acquainted with a bright bay horse, about sixteen hands high, and well proportioned, owned by petitioner; that at the breaking out of hostilities with the Sac and Fox Indians, said horse was furnished by petitioner to a volunteer of the name of David Shay, then in the service of the United States, commanded by Colonel Henry Dodge; that he saw said Shay receive said horse, who left Mineral Point, as was said, on an expedition to Rock river, in the State of Illinois; that on the return of the troops, said Shay informed deponent that said horse was lost during the trip, which was confirmed by others belonging to the company; and that said horse was worth at that time not less than \$125. The remaining affidavit appears to have been made by Thomas Jenkins, and who has therein testified that he was well acquainted with a bright bay horse, about sixteen hands high, well proportioned, and owned by petitioner; that at the time of the breaking out of hostilities with the Sac and Fox Indians, a volunteer by the name of David Shay rode the above-described horse, and used him in the service of the United States; that said Shay belonged to a company commanded by Captain James H. Gentry, which belonged to the regiment commanded by Colonel Henry Dodge; that Shay rode the horse on an expedition to Rock river; that on that trip five or six horses were lost, (supposed to have been stolen by the Indians,) and among them the horse above described; that deponent was one of fifteen or sixteen detailed to pursue said horses, and followed on the trail some fifteen or sixteen miles to Rock river, when it was ascertained that the horses had

crossed over, and the pursuit was abandoned; and that deponent believes said horse to have been worth \$125.

With the papers there is also found to be a letter to you from the Hon. Henry Dodge, having appended thereto a statement of the Hon. Augustus C. Dodge. The former represents that the petitioner resided, during the continuance of the Sac and Fox war of 1832, in the immediate vicinity of the residence of the writer; that the inhabitants of that region of country were forted, and many of them were obliged to leave their stock and other property at their homes exposed to the hostile Indians, as well as to the wants of the mounted troops, then in the service of the United States, who used the stock of the inhabitants, the grain and forage of those who were obliged to abandon their homes from fear and dread of the Indians; that the writer was the commanding officer of the Michigan volunteer mounted troops for the protection of what was then called the mining country; that Capt. Davidson commanded one of the volunteer companies under his command; that he has the most entire confidence in the truth of Capt. Davidson's statement under oath; that the price of wheat at the time it was taken from the farm of the petitioner, for the use of the mounted troops, was \$1 25 per bushel; that the writer had directed Captains Davidson, Gentry, and Rountree, commanding mounted companies of the regiment, to recruit the horses of their companies at the farm of the petitioner, as his was the largest and the only farm in the neighborhood where forage and grain could be procured; that the writer has no hesitation in stating that he believes the affidavit of Mr. Whitaker is true, and that the estimate of his personal property is correct as stated in the petition; and that the petitioner acted under the orders of the writer during the war referred to, and was actively engaged in the performance of public duties, in procuring arms and munitions of war, horses, and provisions for the mounted troops, at the hazard of his life and the loss of his property, and is desirous to be paid for his losses. In the statement of the Hon. A. C. Dodge, he has expressed himself to be acquainted with most of the facts and circumstances set forth in the letter, and has declared that he bears evidence to their truth; that he knows the price of wheat to have been at the time as it is therein stated; that he knows nothing of the quantity of the articles furnished, but does know that they were furnished; for he was several times at the farm of the petitioner during the continuance of the Black Hawk war, (so called,) and saw the mounted volunteers in the service of the United States using his grain to feed their horses upon; that the petitioner was not a squatter nor an intruder upon the public lands; that he was invited, as were all other persons settled in that district of country, by proclamation of an authorized agent and officer of the government, to make his settlement; that a lease was granted to him by the before-mentioned officer for his premises, and one-tenth in the first instance, and a sixth in the second, of all the lead made by him, was paid to the government of the United States; and that the writer, at any moment, is ready to make oath to the truth of the above statement.

In the searches in relation to this case, it has been found that on the rolls of one of the companies of Colonel Dodge's regiment of Iowa mounted volunteers, the petitioner was mustered as a private therein,

from the 11th May to the 9th October, 1832, (4 months and 28 days;) that on the receipt roll his pay and allowances are thus made up:

Pay	\$32 65
Use of horse at 40 cents per day	60 00
Rations and forage at 25 cents per day.....	38 00
	<hr/>
	130 65
Stoppage.....	34 75
	<hr/>
	95 90
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and that the balance of \$95 90 is receipted for by him. A general remark on the roll, as to the stoppages, shows them to have been for one ration per day for the company throughout; forage received in kind; horse-shoeing for the company, done by order of Colonel Dodge, and paid by quartermaster's department, &c., &c. Many of the members of the company are shown to have had no horses of their own, but to have been furnished with horses belonging to other persons; and as to these, the stoppages extended to the sums payable for the use of them, and payments thereof were made by the quartermaster's department to the owners, upon a separate roll. The rolls of Captain Gentry's company contain entries evincing a private to have served therein, of the name of David Shay, and the sum entered for stoppage against his name included the amount of the allowance for use of the horse he rode, thus indicating that it was not his own. But there is no remark expressing it to have been furnished by the petitioner; nor does the roll of payments by the quartermaster's department to the owners of horses furnished for the use of volunteers of the company, show the petitioner to have either been, or sought to be, paid for the use of a horse furnished by him to either Shay or any other of the volunteers belonging to it.

In 1834, several claims appear to have been received at this office from R. W. Brush, of Galena, and among them one in the name of James B. Estes. The letter to Mr. Brush, returning them, appears by the record to have been dated 21st August, 1834, and to have contained as follows: "As to the claim of James B. Estes, there are duplicate accounts and receipts purporting to have been signed by him, for \$110 for a bay horse, saddle and bridle, expressed to have been lost in the service of the United States during the late war, accompanied by certificates of Colonel Dodge and Captain James H. Gentry. The certificate of Colonel Dodge, dated 19th August, 1832, states that Estes had a bright bay horse, saddle, and bridle, valued in the service of the United States at \$110; and that the horse was lost on one of his (the Colonel's) mounted expeditions to Rock river. At what time or in what manner the loss happened, his certificate does not explain, and the loss of the horse only is therein mentioned. Captain Gentry's certificate is dated 10th October, 1833, and states that he knew the horse certified to by Colonel Dodge; that he was appraised at \$110; and that he served in his company, and was taken by the Indians at Hickory Point on the 8th of June, about 29 miles from Rock river. His

certificate is also silent as to the loss of the saddle and bridle ; and for the loss of a horse in the way described the law does not provide. Had it done so, Captain Gentry's certificate (it not having been given till after he had ceased to be in the United States service) would have had to be sworn to before it could have been received as evidence; and a deposition, too, from the claimant, such as the regulations call for, would have been needed." Captain Jouett, of the United States army, appears to have presented the claim to me again, with others, in February, 1835, and when the same were returned to him, in a letter referring to the one addressed to Mr. Brush. No new testimony accompanied them, and no further trace thereof can be found.

A voucher for a payment of \$110 to James B. Estes, by Major J. B. Brant, quartermaster, for a "sorrel horse delivered to Colonel H. Dodge, for the use of the Iowa county (Michigan Territory) militia in the service of the United States," has been met with in Major Brant's accounts, and annexed to which there is a certificate of Colonel Dodge, wherein he has stated that Captain James B. Estes about the 20th April voluntarily furnished to him a sorrel horse for the public service of the United States; that he would estimate its value at \$110; that it had remained in the public service since that period; and that he [the Colonel] rode him, while in his possession, between 600 and 700 miles, the greater part of the time forced marches; and at the bottom of the certificate there is a memorandum signed "W. W. Woodbridge, late adjutant Iowa militia," expressing the horse to have been retained by Colonel Dodge, and turned over to dragoon service. The certificate of the Colonel is dated 19th August, 1832, and the receipt for the \$110 on the 19th September, 1833.

Of any services by the petitioner other than as a private of Captain Gentry's company, no evidence whatever could be found; and had he performed any entitling him, either by law or regulation, to additional compensation, I am not aware of any cause which could have prevented its obtainment, as disbursing officers were on duty with funds for the payment of all proper expenses during and for a considerable time after the expiration of the campaign; and in 1833 a board of commissioners for receiving and examining claims growing out of the campaign sat for many weeks at Galena, and to which a claim of the petitioner of \$110 for a horse (the one, it is presumed, already shown to have been paid) appears by the register of the board, now on file in this office, to have been presented.

With the accounts of Major Brant, the disbursing officer before named, a bill has been found, in which the United States are debited \$200 "for two hundred bushels of wheat, furnished as forage for the use of Captain James H. Gentry's company of Iowa mounted volunteers, in the service of the United States, at \$1 per bushel." At foot of it there is an affidavit of James B. Estes, expressed to have been sworn to by him on the 27th of April, 1833, before "J. Brisbois, justice of the peace" in and for the county of Crawford, Territory of Michigan; wherein he has declared that the bill is accurate and just, and that he had not given receipt for the same, or any part thereof, nor, by power of attorney or otherwise, authorized any person to receive the same for him, or in his name. And below the affidavit there is a re-

ceipt of Estes for the \$200 from Major Brant, dated the 25th of May, 1833.

To this voucher another is annexed in this form, and as corroborative of what appears therein :

“UNITED STATES,	To JAMES P. ESTES, Dr.
“To 200 bushels of wheat, at \$1 per bushel, for the use of the Iowa mounted volunteers.....	\$200
“JULY 1, 1832.	

“I certify that the above wheat was furnished as above stated, and the charge is moderate.

“JAMES H. GENTRY,
“*Captain of Iowa Mounted Volunteers, M. T.*”

No evidence of any other payment of this nature to the petitioner has been discovered on the searches; nor could any be found of the obtainment from him, for military purposes, of further supplies of any description.

He appears to have, with his family, moved away from his plantation; but whether or not he left any manager, or other person, in charge of it, the papers do not evince. If he did, the name of such manager, or other person, would need to be known, in order to ascertain whether any payments were made to him. If additional supplies of any kind were duly procured for public use from the plantation of the petitioner, and not paid for to any manager or other person on his behalf, I can imagine no adequate reason for his omitting to insert a charge for them in the bill already shown to have been verified by him in April, 1833, and afterwards paid.

On resort to the rolls of the regiment of Iowa volunteers in service of the United States in the summer of 1832, under the command of Colonel Dodge, there does not appear to have been in it any company commanded by an officer of the name of Wm. Davidson. A volunteer of that name is shown, by the aforesaid rolls of the company of Captain James H. Gentry, to have been mustered and paid therein as a private, from the 17th of July to the 9th of October, 1832; and a volunteer of the same name is found to have been mustered and paid as a private, on the rolls of Captain J. H. Rountree's company, from the 17th of May to the 17th of June; and on the rolls of Captain J. H. Dixon's company, from the 17th of June to the 17th of July, 1832. The entries on these rolls, as well as on those of Captain Gentry's company, include money allowances for forage of the horses of all the members for the entire periods of service; and the payments, except so far as the stoppages for forage in kind extend, appear to have been made accordingly.

The aggregate amounts of the stoppages for forage so furnished are set down on the rolls thus: as to Gentry's company, \$945 93; Rountree's, \$43 82; and Dixon's, \$23 68.

In the same degree as the volunteers received the money allowance for forage, they, of course, were bound to provide it themselves at their own expense.

No remuneration could have been paid by the disbursing officers,

nor could any allowance have been made by the accounting officers, in respect of any depredations of the soldiery, or any unauthorized taking or destruction of the property of the petitioner by them.

He is observed to have assigned no reason in his petition for permitting a claim of such a magnitude as is therein indicated to remain dormant for more than ten years. Any proper claim, duly vouched, presented at the time, might have been readily paid.

The petition and papers are returned.

With great respect, your most obedient servant,
PETER HAGNER, *Auditor.*

HON. JOSEPH VANCE,
*Chairman of the Committee of Claims,
House of Representatives.*

HOUSE OF REPRESENTATIVES,
January 26, 1844.

SIR: I respectfully represent to your committee that Captain James B. Estes, whose petition has been referred to you, asking to be compensated for property used and destroyed, and forage taken for the use of the mounted troops in the service of the United States, during the Sac and Fox war of 1832, resided in Iowa county, Territory of Wisconsin, in the immediate vicinity of my residence, during the continuance of that war; that the inhabitants of that region of country were forted, and many of them were obliged to leave their stock and other property at their homes, exposed to the hostile Indians, as well as to the wants of the mounted troops then in the service of the United States, who used the stock of the inhabitants, and the grain and forage of those who were obliged to abandon their homes from fear and dread of the Indians.

I then was the commanding officer of the Michigan volunteer mounted troops, for the protection of what was then called the mining country. Captain Davidson commanded one of the volunteer companies under my command. I have the most entire confidence in the truth of Captain Davidson's statement under oath. The price of wheat at the time it was taken from the farm of Captain Estes, for the use of the mounted troops, was one dollar and twenty-five cents per bushel. I had directed Captains Davidson, Gentry, and Rountree, commanding mounted companies of my regiment, to recruit the horses of their companies at the farm of Captain Estes, as his was the largest and the only farm in the neighborhood where forage and grain could be procured. I have no hesitation in stating that I believe the affidavit of Mr. Whitaker is true, and that the estimate of his personal property is correct, as stated in his petition. Captain Estes acted under my orders during the war referred to, and was actively engaged in the performance of public duties, in procuring arms and munitions of war, horses and provisions, for the mounted troops, at the hazard of his life and the loss of his property, and deserves to be paid for his losses.

I have the honor to be, with great respect, your obedient servant,
HENRY DODGE.

HON. JOSEPH VANCE, *Chairman of the Committee of Claims.*

HOUSE OF REPRESENTATIVES,
 March 7, 1844.

I am acquainted with most of the facts and circumstances set forth in the foregoing letter, and bear evidence to their truth. I know the price of wheat to have been, at the time, as it is therein stated. I know nothing of the quantity of the articles furnished, but do know that they were furnished; for I was several times at the farm of Captain Estes during the continuance of the Black Hawk war, (so called,) and saw the mounted volunteers, then in the service of the United States, using his grain to feed their horses upon.

Captain Estes was not a squatter nor an intruder on the public lands. He was invited, as were all other persons settled in that district of country, by proclamation of an authorized agent and officer of the government, to make his settlement. A lease was granted to him, by the before-mentioned officer, for his premises. One-tenth in the first instance, and a sixth in the second, of all the lead made by him, was paid to the government of the United States.

The undersigned is ready, at any moment, to make oath to the truth of the above statement.

AUGUSTUS C. DODGE.

HOUSE OF REPRESENTATIVES,
 February 14, 1854.

SIR: Will you oblige the Committee of Claims by informing them whether the seventy-three acres of growing oats, the two thousand five hundred bushels of unthreshed wheat, the twenty stands of bees, the large quantity of fowls, and all the garden vegetables of James B. Estes, alleged by him to have been taken, used, or destroyed by troops in the service of the United States, were, *within your personal knowledge*, taken, used, or destroyed by order of the commanding officer of said troops?

Most respectfully, &c.,

J. LETCHER.

HON. HENRY DODGE, *U. S. Senate.*

SENATE CHAMBER, February 15, 1854.

SIR: Yours of the 14th instant is this moment received, and in reply I respectfully refer you to my letter to Governor Vance, bearing date January 26, 1844, on file in the papers touching the claim of Captain J. B. Estes, in the House of Representatives. That letter contains all the evidence I can give on the subject.

Very respectfully and truly yours,

HENRY DODGE.

HON. J. LETCHER,
House of Representatives.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled :

The petition of James B. Estes, of the county of Iowa, and Territory of Wisconsin, respectfully represents, that he has resided in the present Territory from the year 1828 until the present time; that in the spring of 1832, upon the breaking out of hostilities with the Sac and Fox Indians, or what is usually called the Black Hawk war, General Atkinson made a requisition upon Colonel Henry Dodge to raise all the forces in his power to suppress the threatened danger; and upon the requisition of Colonel Dodge, your petitioner, on the 11th of May, 1832, volunteered his services for the defence of the country; and immediately, for the safety of his family, removed them from his plantation, in Iowa county aforesaid, to Prairie du Chien, where he supported them during the war at his own expense, while the family of almost every other settler in the country was supported during that time at the expence of the government, out of the public stores.

Your petitioner having provided a safe retreat for his family, immediately left all his business and his plantation, upon which was growing seventy-three acres of oats, which were then worth at least fifteen hundred dollars, and upon which he had also twenty-five hundred bushels of wheat in the stack, which was worth at that time at least four thousand dollars. And your petitioner also left at his house a valuable lot of household furniture; and furnishing himself with his own horse and equipments, provisions, arms, and ammunition, he joined Colonel Dodge, and was employed during the war in carrying expresses through the country from one part to another, which was the most dangerous kind of service. Your petitioner continued in this manner until the termination of the war, about the middle of August, devoting his whole time, energies, and means to the service of his country. Your petitioner further shows, that while he was thus engaged himself in serving his country, the mounted troops in the service of the United States quartered on his plantation, and turned their horses into his growing crop of oats, and foraged them upon the wheat in the stack, and literally destroyed the whole of both; the troops also destroyed all of his household furniture, which was appraised, under the direction of Colonel Dodge, at the sum of six hundred and fifty dollars.

Your petitioner further shows unto your honorable body that he has never received any compensation whatever for his services, or remuneration for his losses; and he humbly prays your honorable body to make him such an appropriation for his services and losses as shall be reasonable and just; and, as in duty bound, will ever pray.

JAMES. B. ESTES.

JANUARY 1, 1843.

To the Senate and House of Representatives of the Congress of the United States :

The undersigned, a citizen of the State of Wisconsin, would respectfully represent that, in the year 1843, he petitioned Congress to pass

an act to remunerate him for a large quantity of forage furnished to the mounted volunteers who were engaged in the Black Hawk war (so called) during the campaign of 1832; he also prayed for remuneration for the loss of a horse furnished by him for the service of the United States during said campaign, and for his own services, and for the loss of household furniture and other property, used and destroyed by the troops which were, from time to time, quartered in his house and upon his premises during said campaign; that in his said petition it was stated that he had not received any remuneration whatever, from any source, for said forage, horse, services, furniture, and other property. Your petitioner would now state that, at the time said petition was written, in 1843, it did not occur to him that he had received about ninety-six dollars on account of his services, that amount being, as your petitioner believes, the sum paid to all those volunteers whose names were upon the muster-roll with his; and which sum your petitioner knows was by no means adequate to defray the expenses to which he was subjected by the duties which he was required to perform, and for the injury which was done to three of his horses which were used by himself. With the exception of the said sum of about ninety-six dollars, (more or less,) your petitioner avers that he has never yet received any remuneration whatever on account of the forage, &c., for which he claims payment.

Your petitioner would respectfully ask the attention of the Senate and House of Representatives to the petition and papers presented to Congress, in his behalf, in 1843, and also to the adverse report thereon, made by the Committee of Claims of the House, (No. 500,) on the 24th of May, 1844, together with the additional testimony which he herewith presents in support of his claim. The adverse report was grounded upon the erroneous impression that your petitioner had received payment for the forage, horse, and services alluded to in the petition of 1843, because the Third Auditor's office contained evidence that your petitioner had received about \$96 as a mounted private, \$110 for a horse delivered to Col. H. Dodge, and \$200 for forage furnished the command of Capt. James H. Gentry. But your petitioner avers, and shows by unimpeachable testimony, that his claim does not embrace the forage nor the horse mentioned in the vouchers produced by the Third Auditor. The forage embraced by the voucher in the Third Auditor's office consisted of two stacks of spring wheat, on which the petitioner did not place much value, because it was not of a good quality, and was the first forage supplied by him; the quantity and price were fixed by Capt. Gentry himself. It was used by Capt. Gentry's command some weeks before the voucher was given by Capt. Gentry, which is dated July 1, 1832. The winter wheat and oats, for which he claims payment, were furnished afterwards. The horse for which he claims payment was not "the sorrel horse delivered to Col. H. Dodge," but "a certain bright bay horse," rode by "a volunteer by the name of David Shay," which was lost while employed in the public service, as proven by the most respectable testimony.

The evidence presented by the petitioner, in support of his claim, will establish the following facts:

1. That the winter wheat used for forage by the mounted troops was

the produce of about one hundred acres of good land, well cultivated, and yielding an abundant crop, which was safely harvested and stacked.

2. That the field of oats contained upwards of seventy acres, and was a handsome crop.

3. That the mounted and other troops in the service of the United States were quartered, from time to time, upon the premises of your petitioner, from the commencement to the termination of the campaign, with directions from the commanding officer to use the wheat and oats.

4. That all the said wheat and oats, and also a number of hogs and bee-hives, were taken and used, and thus lost to your petitioner.

5. That by the use and occupation of his house by said troops, your petitioner suffered a heavy loss in the damage and destruction of his household furniture.

To the credibility of the persons who have given their testimony in relation to the claim of your petitioner, he would respectfully refer to the Hon. Henry Dodge, the Hon. A. C. Dodge, and the Hon. George W. Jones, who are personally acquainted with the deponents.

Your petitioner would beg leave to state, that the "wheat in the shock," spoken of in the deposition of Capt. W. Davidson, consisted of a quantity of sheaves that had been taken from the stacks for the horses of volunteers; and not having been all used at the time they were removed from the stacks, were placed in the shock to preserve them better from the weather.

When your petitioner removed his family in the spring of 1832, for safety, to Prairie du Chien, he left his premises, embracing his house and its contents, his fields, his grain, and his animals, in the charge and care of Mr. Andrew M. Whitaker, who had been for some time in the employ of your petitioner. He is a man of irreproachable character, and your petitioner refers your honorable bodies to his depositions touching the quantity of forage consumed by the troops, and to the facts in the case, he having remained upon the premises, as your petitioner believes, during the whole of the campaign.

The adverse report made in 1844, above alluded to, expresses doubts as to the honesty of the claim of your petitioner, because he delayed to present it until 1843; because he did not urge it at the time he received pay for the horse, wheat, and service referred to in the vouchers in the Third Auditor's office; and because his crop of wheat, harvested and stacked in the summer of 1831, remained in the stack until the spring and summer of 1832, when wheat and flour were so very dear. In reply to these unjust suspicions your petitioner would remark, that for the spring wheat, the horse, and the service for which he was paid, he was so fortunate as to have the benefit of vouchers which were in a form to insure the payment on presentation, showing the indebtedness of the government to your petitioner for specific and definite amounts and things; which was not the case in regard to the winter wheat, field of oats, the horse rode by the volunteer Shay, the furniture in his house, &c., for which he deemed himself entitled to remuneration. He was informed, and he believes, that no officer of the government would allow his claim unless a voucher in proper form could be presented, exhibiting the quantity of forage, &c., actually used for the public service, and obtained under the proper authority; and he was

told that his claim was of such a nature that it must be obtained through a special act of Congress. He was not aware of the nature of the proofs necessary to aid his claim before Congress, and the delay in presenting it may be attributed to his utter destitution of means after the Black Hawk war, to the constant and harassing necessity of devoting his whole time to the support of his family, and to the depressing influence which was produced upon his mind and activity by severe rheumatism, which afflicted him for several years after the close of that war. And your petitioner would further state, that the present period is the only one, since the year 1833, that he has found himself in circumstances that enabled him to visit the seat of government and attend to his claim. Your petitioner would further state, that he did not thresh out his crop of winter wheat, which was harvested and stacked in 1831, because he believed it would remain more safely in the stack than in any other way, he having no barn or granary at that time, and did not desire to thresh out his wheat until a grist-mill, which was commenced by a Mr. Kendall, about twenty-two miles from the residence of your petitioner, should be completed, and thereby enable your petitioner to get his wheat floured, for at that period there were no grist-mills in that part of the country where your petitioner resided. Your petitioner may add, that he could not, in 1831, thresh out his wheat without great expense and waste, even if he had wished to do so, for the reason that his threshing-machine was incomplete, and it would have required several months to obtain the necessary parts to render it useful. The adverse report would also seem to intimate that the claim of your petitioner was delayed in order to render it difficult to obtain proof against it. Your petitioner would respectfully submit to your honorable bodies, if, in view of the testimony presented by him, and of the honorable character and reputation of the citizens to whom he refers, there is any danger that the public treasure will be wronged by a just decision, founded on the evidence presented. If he had deemed it necessary, he could have obtained a large number of depositions from citizens who have a personal knowledge of the facts on which his claim is founded; but he believed that the testimony of the commanding officer, of officers who were with their commands quartered on his premises, and of the citizens who had charge of the premises and property, the credibility of none of whom can be questioned, was abundantly sufficient; and your petitioner could not bring himself to think that the Congress of the United States would, on a bare and unfounded suspicion, extend to his claim the illiberal principle of a statute of limitation.

Your petitioner would respectfully represent to your honorable bodies, that his premises were selected by the commanding officer for the rendezvous, and for the recruiting of the mounted volunteers, because it was a good point from which the movements of the Indians could be watched and met; but mainly because it was the only place within the mining district where a large quantity of forage could be obtained. The country east of the mining settlement was a wilderness, occupied by hostile Indians, whence they continued to send their war parties into the settlement, until they were driven north and rendered harmless at the battle of the Bad Axe; and your petitioner verily believes that the expense to the government of purchasing and transporting the ne-

cessary quantity of forage to his residence, where it was wanted for the use of the horses, would have been greater than the amount which he claims to be due him for the wheat and oats obtained from his farm for that purpose.

Your petitioner fully recognises and admits the correctness of the principle advanced in the adverse report to which he has alluded, that "the most obvious, distinct, and well-established ground, recognised by this as well as by all other civilized nations, is, that when the private property of the citizen has been taken and used by the nation for the common purposes of all, and, in consequence of such employment, it has been destroyed or endamaged, the government of the nation is bound to make good the loss. This principle was, in the early history of our government, deemed so sacred and so just, that it was incorporated into one of the amendments of the federal constitution, where it is, in terms, provided that no private property shall be taken for public use without just compensation." It is this sacred and just principle that your petitioner desires to have applied in his case.

Your petitioner is now present for the purpose of urging his claim, and his circumstances are such that he is compelled to beg of your honorable bodies a prompt examination and decision in his case. And your petitioner, as in duty bound, will ever pray.

JAMES B. ESTES.

Subscribed and sworn to before me this 30th day of December, 1852.

J. W. BECK, J. P.

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

I, William Davidson, being duly sworn, deposeth and further saith, that he was well acquainted with James B. Estes from the year 1829 until the present time; that he, the said Estes, lived in the vicinity of Dodgeville, in the present Territory of Wisconsin, and that he had improved an extensive farm; that in the summer of 1831 he had harvested a large crop of winter wheat, which was standing in stacks, at the breaking out of the Sac and Fox Indian war, in the spring of 1832, which was considered worth one dollar and twenty-five cents per bushel, to deponent's own knowledge, and a large crop of oats sown that spring. The company from Platteville, at that time under my command, was ordered to the farm of said Estes to recruit and rest our horses. After a few days we were ordered to march. I was there several times afterwards, and found the grain was used or destroyed by the troops from the mines and Illinois, ordered there to recruit their horses. Deponent further saith that in the season of 1832, the average price of flour in Galena, fifty miles south, the only place it could be had, was from eight to fifteen dollars.

W. DAVIDSON.

Sworn and subscribed to before me, an acting justice of the peace in and for said county and Territory, this 23d day of January, A. D. 1843.

M. MEEKER, J. P.

James H. Gentry, being by me duly sworn, deposeth and saith, that he has been well acquainted with James B. Estes from the year 1828 to the present time; that he, the said J. B. Estes, lived in the vicinity of Dodgeville, in the present Territory of Wisconsin; that he had improved an extensive farm; that in the summer of 1831 he harvested a large crop of winter wheat, which was standing in the stacks at the breaking out of hostilities with the Sac and Fox Indians, in the spring of 1832. Deponent further saith, that he commanded a company during the war, and by order of Colonel Dodge, who then commanded the troops of the mining district, he was frequently sent to the farm of the said James B. Estes, for the purpose of recruiting the horses. Deponent further saith, that grain of all kinds bore a very high price at that time, and that the horses belonging to the service were fed on the wheat from the stacks then standing on the premises of the said Estes, of which there were a large number. Deponent further saith, that the said Estes was absent from his farm during the whole of the war; that he was actively engaged in procuring horses and arms for the service, and in the carrying of expresses, from the commencement to the termination of the war, thereby rendering great service to his country.

JAMES H. GENTRY,

Late Captain.

Subscribed and sworn, this 4th day of January, 1844.

NATHAN OLMSTED, J. P.

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

Andrew Whitaker, being by me duly sworn, deposeth and saith, that he has been well acquainted with James B. Estes from the year 1828 to the present time; that he, the said J. B. Estes, lived in the vicinity of Dodgeville, in the present Territory of Wisconsin; that he had improved an extensive farm; that in the summer of 1831 he harvested a large crop of winter wheat, which was standing in the stacks at the breaking out of hostilities with the Sac and Fox Indians, in the spring of 1832. Deponent further saith, that he was at said farm, previous to and during the Indian war, frequently, and saw great numbers of horses, then in the service of the United States, fed upon the wheat taken from the stacks standing on the premises of the said Estes. Deponent further states, that there was sown on said farm, in the spring of 1832, seventy-three acres of oats, and, when said oats were nearly matured, a large number of horses that were then in the service were turned in to said oats promiscuously, in consequence of which the whole crop was entirely destroyed. In regard to the wheat crop, it was large. I am well acquainted with farming in all its various branches, and from the number of acres which were seeded, and from the great yield which followed, I could not estimate it at less than *two thousand five hundred bushels*, and I verily believe that it would have turned off *three thousand bushels*, the whole of which was destroyed and used by the troops quartering upon the premises. In regard to the crop of oats, I would state that the land was very good upon which they were sown, and well cul-

tivated; and, at the time the horses were turned in, they were fully headed out, and looked very promising. I should think that *thirty* bushels to the acre would be a very moderate estimate. Deponent further saith, that grain of all kinds bore a very high price at that time in the country. Deponent further saith, that he knew of a great many sales of oats and wheat from 1832 to 1834. Oats sold readily at seventy-five cents per bushel, and wheat at one dollar and a quarter per bushel. Deponent further saith, that said Estes had a large quantity of valuable furniture, all of which was destroyed by the troops then quartering at the house, which deponent verily believes was not worth less than six hundred and fifty dollars. Deponent further saith, that said Estes had about twenty stands of bees, all of which were destroyed by said troops, as well as all his garden vegetables and a large quantity of fowls. In fact, the whole place was completely robbed of everything valuable upon it. The damages, independent of the grain, could not have been less than one thousand dollars. Further this deponent saith not.

ANDREW WHITAKER.

Sworn and subscribed before me, this 9th day of January, 1844.

WM. HENRY,

Justice of the Peace, Iowa county, Wis. Ter.

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

Andrew Whitaker, being by me duly sworn, deposeth and saith, that he was well acquainted with a certain bright bay horse, about sixteen hands high, and well proportioned, owned by James B. Estes, of the Territory and county aforesaid; that, at the breaking out of hostilities with the Sac and Fox Indians, said horse was furnished by said Estes to a volunteer by the name of David Shay, then in the service of the United States, commanded by Colonel Henry Dodge; that he saw said Shay receive said horse, and left Mineral Point, in said county and Territory, as was said, on an expedition to Rock river, in the State of Illinois. On the return of the troops, said Shay informed this deponent that said horse was lost during the trip, which was confirmed by others belonging to the company. Deponent further saith, that said horse was worth, at that time, not less than one hundred and twenty-five dollars. Further this deponent saith not.

ANDREW WHITAKER.

Sworn and subscribed before me, this 9th day of January, 1844.

WILLIAM HENRY,

Justice of the Peace, Iowa county, Wis. Ter.

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

Thomas Jenkins, being by me duly sworn, deposeth and saith, that he was well acquainted with a certain bright bay horse, about sixteen hands high, and well proportioned, owned by James B. Estes, of the Terri-

tory and county aforesaid; that, at the time of the breaking out of hostilities with the Sac and Fox Indians, a volunteer by the name of David Shay rode the above-described horse, and used him in the service of the United States; said Shay belonged to a company commanded by Captain James H. Gentry, which company belonged to the regiment commanded by Colonel Henry Dodge; said Shay rode said horse on an expedition to Rock river, in the State of Illinois. On that trip five or six horses were lost, supposed to have been stolen by the Indians, and among them the above-described horse. Deponent further saith, that he was one of fifteen or sixteen detailed to pursue said horses, and followed on the trail some fifteen or sixteen miles, to Rock river, where it was ascertained that the horses had crossed over, and the pursuit was abandoned. Deponent further saith, he believes said horse to be worth one hundred and twenty-five dollars. Further this deponent saith not.

THOMAS JENKINS.

Sworn and subscribed before me, this 9th day of January, 1844.

WILLIAM HENRY,

Justice of the Peace, Iowa county, Wis. Ter.

STATE OF WISCONSIN, *county of Grant, sct:*

I, Andrew M. Whitaker, of lawful age, and being duly sworn according to law, do say, on oath, that I am a resident of the county of Lafayette, in the said State of Wisconsin; that I am acquainted with Capt. James B. Estes, and have known him for the last twenty-five years; that I resided with the said Captain Estes from the year of our Lord one thousand eight hundred and twenty-eight to the year of our Lord one thousand eight hundred and thirty-three; that during that time the said Captain Estes resided about three miles from what is now known as the village of Dodgeville, in the county of Iowa, in said State of Wisconsin, and at his said place of residence the said Captain Estes made an improvement of lands during the years of our Lord one thousand eight hundred and twenty-nine and one thousand eight hundred and thirty, which was broken by the plough, and put under fence, to the amount of two hundred and twenty acres. I say, further, that in the fall of the year of our Lord one thousand eight hundred and thirty the said Captain Estes sowed upon said improved lands possessed by him one hundred acres of fall or winter wheat; that said wheat grew to an excellent and very heavy crop, and was harvested and stacked by the said Captain Estes in the summer of the year of our Lord one thousand eight hundred and thirty-one, within the said enclosed lands; that said crop of wheat was among the best I have ever seen, and would, as I verily believe, average as high as thirty-five bushels to the acre, making the entire crop of said wheat amount to three thousand and five hundred bushels in all; that all of said wheat remained in stack, on said enclosed lands, from the time it was stacked, as aforesaid, until about the month of June, or the month of July, in the year of our Lord one

thousand eight hundred and thirty-two, complete and in good sound condition.

I further say, on oath, that during the summer of the year one thousand eight hundred and thirty-two the several companies of Captain James H. Gentry, and Capt. John H. Rountree, and Captain Clarke, belonging to the squadron of Col. Henry Dodge, and the company of Capt. James Craig, belonging to the division of Col. James Strode, of Jo Daviess county, Illinois, and the brigades of General Henry and Gen. Alexander Posey, of Illinois, all engaged in the Black Hawk war, as it was generally termed, were all camped and quartered at and near the said improvement of said Captain Estes, and remained there for a considerable number of days, from time to time, during said summer of the year one thousand eight hundred and thirty-two, and fed and recruited their horses upon the wheat so stacked as aforesaid; and that the said companies and brigades fed, used up, and destroyed all of the said wheat, so that none remained to the said Captain Estes which was fit to use, or of any value, after the said companies and brigades had left the said premises.

I further say, that during the month of May, in the year last aforesaid, the company of Captain Gentry aforesaid fed and used up two stacks of spring wheat belonging to said Captain Estes on the same improvement, which two stacks have been paid for, as I understood from the said Captain Estes.

I further say, on oath, that in the spring of the year of our Lord one thousand eight hundred and thirty-two the said Captain Estes sowed about seventy-three acres of oats upon the same enclosed improvement before spoken of, which were all consumed and eaten up and destroyed, by the aforesaid companies and brigades, at or about the time the same were getting ripe, in the summer last aforesaid; that said oats would yield at least forty-five bushels to the acre. I further say, that oats were worth, in the spring of the year last aforesaid, at the place where said oats were destroyed, one dollar per bushel, there being but very few to be had in the surrounding country; and, further, that I cannot say what wheat was worth the summer of the year the said winter wheat was destroyed, as aforesaid, but that I know that flour was worth at least ten dollars per barrel, and was not sold for less during the season of said destruction.

I further say, that the said Captain Estes owned a large number of hogs (I believe about the number of three hundred) at the place of his said improvement, a large number of which were killed and consumed by the soldiers belonging to the aforesaid companies and brigades, though the number consumed is not known to me; and that said soldiers also consumed, eat up, and destroyed a large number of bee-hives belonging to said Captain Estes, at the same place.

his

ANDREW M. + WHITAKER.
mark.

STATE OF WISCONSIN, *Grant county, ss:*

Be it remembered, that on this twentieth day of November, in the year of our Lord one thousand eight hundred and fifty-two, before me, William R. Biddlecome, a notary public of the State aforesaid, residing in said grant county, personally appeared the above-named Andrew M. Whitaker, and before me signed the foregoing affidavit to which his name appears, and made oath that the same is correct and true of his own knowledge; and I certify, that the name which appears at the end of said affidavit was written by me at the direction and request of said Whitaker, and that the mark which appears therewith was made by said Whitaker in my presence; also, that I know the said Whitaker, and that I believe his statements are reliable and true, and that he is a man of good character and standing in the community in which he resides.

[L. s.] In testimony of which, I have hereunto set my hand and seal of office, this 20th day of November, A. D. 1852.

WM. R. BIDDLECOME,
Notary Public.

STATE OF WISCONSIN, *county of Grant, ss:*

I, William Davidson, of lawful age, and being duly sworn according to law, do say, on oath, that I am a resident of the county of Grant, in the said State of Wisconsin; that I am acquainted with Captain James B. Estes, and have known him for the last twenty-three years; that I served as a first lieutenant in the company of Captain John H. Rountree, in the Black Hawk war, in the year of our Lord one thousand eight hundred and thirty-two, and also as a private in the company of Captain James Gentry, in the same year and in the same war; that in the month of June, in the year last aforesaid, I was in the command of Captain Rountree's company aforesaid, (he then being absent,) and was commanded by Colonel Henry Dodge to go and take up quarters at the farm of the said Captain James B. Estes, which was near what is now the village of Dodgeville, in the county of Iowa, in said State of Wisconsin, for the purpose of recruiting the horses and men of said company, of which I had charge; that when we arrived at said Estes's, the said Captain Estes had a very large field of winter wheat, which had then been stacked in part, and part of which was in shock, and a small quantity was threshed; that the said Captain Estes had an enclosure of about two hundred acres; and that there was, beside the said wheat, a very large field of oats, which was not then ripe, into which the men belonging to said Rountree's company turned their horses to feed.

I further say, that at the time I left said place of quartering the said wheat was nearly all destroyed, and that I understood afterwards, from other soldiers, that the whole of it was entirely used up and consumed; also, that the entire field of oats was used up and destroyed. I further state, that in my opinion there were about seventy acres of the

said oats, and that the said crop would yield about sixty bushels to the acre, as I verily believe. I also say, that during the said year one thousand eight hundred and thirty-two the current price of flour was ten dollars per barrel at the city of Galena, in the State of Illinois—although I cannot say what amount of wheat there was at the improvement of the said Captain Estes—and that the value of oats, in the same year last aforesaid, at the place where said oats were destroyed, was not less than one dollar per bushel; and further, that the said winter wheat was wheat of the previous year's raising, and that the same was in good marketable condition at the time it was taken and fed and destroyed, and of the very best quality, as I believe.

I further say, on oath, that I am acquainted with Andrew M. Whitaker, whose affidavit has this day been made and taken before William R. Biddlecome, a notary public, upon the same subject-matter as this my affidavit; that I saw the said Whitaker at the improvement of the aforesaid Captain Estes, at the time of the consumption and use of the said wheat and oats, as herein given by me, and by him in his said affidavit, which I have heard read; that I have known him, the said Whitaker, since the said time, and that he is a man of good character and standing, and worthy of all credence; and that he is the same person whom I saw at the said place of our quartering, and whose affidavit is hereto attached.

W. DAVIDSON.

STATE OF WISCONSIN, *Grant county, ss:*

Be it remembered, that on this twentieth day of November, in the year of our Lord one thousand eight hundred and fifty-two, before me, William R. Biddlecome, a notary public of the State aforesaid, residing in the said county of Grant, personally appeared the above-named William Davidson, whose name appears to the foregoing affidavit as W. Davidson, who is personally known to me to be the same person who signed and dictated the foregoing affidavit, and before me made oath that the said affidavit is correct and true of his own knowledge; and I further testify, that I have known the said Davidson for many years, and that I believe him to be a man of good character and standing, and that his statements are worthy of all credence; and I further certify, that the affidavit hereto attached, and signed by Andrew M. Whitaker, is the same one alluded to by said Davidson in his affidavit above, and that the same was attached, as it now appears, by me, in the presence of the said Whitaker and the said Davidson.

[L. s.] In testimony of all which, I hereto set my hand and official seal the day aforesaid.

WM. R. BIDDLECOME,
Notary Public.

STATE OF WISCONSIN, *Iowa county*:

On this 16th day of November, A. D. 1852, personally appeared before me, Charles F. Legate, a notary public in and for the State aforesaid, Joseph B. Hunter, who, being duly sworn, declares that he is well acquainted with James B. Estes, and the farm on which said Estes lived, situated in Iowa county, in the Territory of Michigan, in the year A. D. 1832. He further declares, that he was in the service of the United States, in the Black Hawk war, in the said year of A. D. 1832, and was quartered at the farm of Estes with horses in the service of the United States, and fed out of the wheat of said Estes to feed the horses with. The number of horses he cannot recollect, but composing an efficient company.

JOSEPH B. HUNTER.

[L. s.] Sworn and subscribed to before me, this 16th day of November, A. D. 1852.

CHARLES F. LEGATE,
Notary Public, Wisconsin.

MINERAL POINT, *November 16, 1852.*

DEAR SIR: At your request, I hereby certify that I was at your place in the summer of 1831; that I observed that you had a large field of wheat, as I supposed, from eighty to one hundred acres; that it appeared to be of fine quality and a large yield; that I afterwards observed a number of large stacks of wheat on your premises—some dozen or twenty, number not now recollected; that you gave me as a reason for not having it threshed the following winter, that you could not get your threshing to work. I was not at your place during the Sac and Fox war, and know only from hearsay what became of it.

It may, perhaps, be as well to say, that the wheat-field above mentioned was situated, as I believe, on the east side of township six, or range two east, in the Mineral Point land district.

Your obedient servant,

J. B. TERRY.

I further certify, from my own books and recollection, that flour in the summer of 1832 was worth, at this place, ten dollars per barrel.

J. B. TERRY.

Capt. JAMES B. ESTES.

Subscribed and sworn to before me, this 19th day of November, A. D. 1852.

CHARLES F. LEGATE,
Notary Public.