

HEIRS OF JOSEPH GERARD.

[To accompany bill H. R. No. 131.]

JANUARY 13, 1854.

Mr. DANIEL MACE, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom were referred the petition and papers of the heirs of Joseph Gerard, report:

That this claim is an old one, and of merit. It is so rarely the case that a valid claim against the United States is allowed to slumber for upwards of fifty years, that cases of that character are entertained by this committee with a suspicion, and examined with a carefulness that shall answer as an appropriate substitute for laws of limitation. This claim has been most carefully investigated, and its justice would seem to be beyond and above a reasonable doubt. Joseph Gerard, induced by patriotism, by a love of fame, and of that wild and daring adventure so characteristic of the pioneers in a new and free country, and by a hope of large rewards, allowed himself, on the 7th of April, 1792, to be sent out from Fort Washington (now the city of Cincinnati) by General Wilkinson, as messenger to the hostile Indians on the Maumee. Dangerous was this service esteemed to be, even by the heroes who were upon it, that Gerard made his will before he went out on his mission. It bears date April 4, 1792, and is now of record in Cincinnati, Ohio. As was feared by his friends, he was murdered by the Indians shortly after he left the white settlements. But it is only just that his children shall be allowed to state their own case. They say:

That in the year 1792, and in the spring of that year, (as they are informed,) Colonel Hardin, Major Alexander Truman, and a Mr. Freeman, (whose christian name is to the memorialists unknown,) at the instance of the government of the United States went out from Fort Washington (now Cincinnati) to bear messages of peace from said government to several tribes of hostile Indians, and were accompanied by William Smalley, Thomas Flinn, and said Joseph Gerard, whom they employed to go with them as interpreters and guides.

Your memorialists are informed that the said mission was regarded as one of extreme peril, and that said interpreters and guides were promised a very liberal compensation for their services; but what amount they are not advised with certainty.

They further represent, that said Hardin, Freeman, and Truman, and said Thomas Flinn and Joseph Gerard, were killed by the Indians

before they had proceeded far on their mission; and that William Smalley, who was made prisoner, but afterwards escaped from his captivity, was the only one of said number who ever returned.

Your memorialists further represent, that said Joseph Gerard left, him surviving, his widow Elizabeth Gerard, who died in November, 1807, and three children and heirs only, to wit, your memorialists—the eldest of said children being, at the time of their father's death, but five years old, and the youngest but six months of age; that the said Joseph had no estate from which his children ever derived any benefit; but they were left, at the early age above mentioned, to struggle with the ills of orphanage and destitution.

Your memorialists further beg leave to remind your honorable body, that the government has long since made liberal provision for the families of Colonel Hardin and Major Truman, and made payment to William Smalley for his services; and in 1805 passed a special act providing for the payment to the widow and heirs of Thomas Flinn of the sum of five hundred and eighteen dollars, with interest from the 15th day of January, 1793; but that no payment or compensation has yet been made to the widow or heirs of said Joseph Gerard.

Your memorialists would, therefore, most respectfully urge, that as the said Joseph Gerard rendered the same service to the country as did said Thomas Flinn, and lost his life upon the same occasion, the justice and generosity of Congress will not withhold from them the same amount or measure of relief or compensation which has been freely accorded to the family of said Thomas Flinn, and of the others who perished with him. And your memorialists, as in duty bound, will ever pray, &c.

REESE A. P. GERARD.

WILLIAM GERARD,

For himself and on behalf of

RACHAEL BLUE.

MARCH 20, 1844.

The evidence of the Rev. Dr. Ezra Ferris, a venerable and worthy clergyman residing in Lawrenceburg, in the State of Indiana, and whose good character is well known to one of the members of this committee, is of a similar tenor. He says:

In the after part of the year 1789, and the whole of the years 1790 and 1791, and the first part of the year 1792, I was personally acquainted with Mr. Joseph Gerard, the father of Reese and William Gerard and Mrs. Rachael Blue, and had an opportunity of seeing him almost daily. The winter after St. Clair's defeat there was much said about a proposed treaty with the Indians; and it was generally reported and believed that Major Truman, Captain Hardin, and Mr. Isaac Freeman were appointed commissioners on the part of the United States to treat with them. I recollect a current report that Messrs. Joseph Gerard, William Smalley, and Thomas Flinn were employed to accompany them as pilots and interpreters. Messrs. Gerard and Smalley had lived previously with the Indians, and understood their tongue, as I understood and fully believe; but I do not recollect whether Mr. Flinn did or not. I recollect the time when they started from

Columbia, in Hamilton county, then Northwestern Territory; after which, I have no knowledge that they were ever heard of, except what I learned from Mr. Smalley, after his return. In the years 1809 and 1810 I was frequently at Mr. Smalley's house, attending to professional duties, and often slept at his house. I recollect that one evening, in the absence of Mrs. Smalley, I introduced the subject of his captivity and escape from the Indians, for the purpose of eliciting information, when he related the following: That Messrs. Truman, Hardin, Freeman, Flinn, Gerard, and a soldier accompanying Major Truman as waiter, and himself, travelled together until about the middle of the afternoon of the eighth day, when they concluded it would be best to separate; that himself accompanied Major Truman; and (I think) Mr. Gerard, Mr. Freeman; and Mr. Flinn, Captain Hardin. About sunset that evening Major Truman met with three Indians; he hailed them in the Indian tongue, told the nature of their business, and encamped with them for the night, pledging themselves to commit no hostile act during the night; that the Indians violated their promise, killed Major Truman and waiter, and shot at him, but did not wound him; that he at first escaped, but afterwards surrendered, and was taken a prisoner to the Indian town; that the next day he saw a white man's head on a stake brought into the town, which he supposed was Mr. Gerard's, but, owing to his own perilous situation, dared not approach so as to determine certainly; that for the time he was out he received, as near as I can recollect, eight dollars a day for the first forty days, as per agreement, and two dollars a day for the balance of the time he was absent, amounting to about eight hundred dollars. He was absent, as near as I can recollect, from about the beginning of April to the latter part of December. I recollect hearing Mr. Smalley say he never expected to return to his family when he started out; that he had told the commissioners so, and only consented to go on the third application, when he thought, by an insinuation, that his refusal was to be placed to the account of cowardice, and he preferred death to the name of a coward. I know of no other children of Mr. Gerard but the ones named, one of whom (I believe William) was an infant at the breast when he left home. I was acquainted with the family, with some small intermission, as long as Mrs. Gerard lived, (which was to the winter of 1807-'8, when she died with the influenza,) and with the children up to the present time.

I recollect the time distinctly when Gerard, Flinn, and Smalley started from Columbia to go upon the above named mission, and believe it to have been early in April, 1792; and I recollect distinctly hearing the guns fired, as an expression of joy, when Smalley returned, and believe it to have been about or near the last of December of the same year.

EZRA FERRIS.

STATE OF INDIANA, *Dearborn county*:

Before the subscriber, a notary public duly commissioned and qualified in and for said county, came personally Ezra Ferris, to me personally known, and, being duly sworn, declared that the foregoing state-

ment, by him written and subscribed, is true in substance and matter of fact, to the best of his knowledge, recollection, and belief; and further saith not.

In testimony whereof, I have hereunto set my hand and seal of office [L. s.] this 28th day of March, A. D. 1844.

PHILIP L. SPOONER,
Notary Public.

The children of Mr. Gerard also submit the affidavit of another old man, Mr. Benjamin Stiles, which is as follows:

Benjamin Stiles, being first duly sworn, deposes and saith: That he resided at Columbia, near Cincinnati, from the year 1787 up to the year following Wayne's treaty at Greenville; that he well recollects that some time during the year 1792, Majors Truman and Hardin being at Fort Washington, it was generally understood (and he has no doubt of the fact) that they were delegated as commissioners to treat with the Indians; that, during the stay of the said commissioners at Fort Washington, they procured Isaac Freeman, Thomas Flinn, William Smalley, and Joseph Gerard to accompany them as guides and interpreters. This deponent thinks that Major Hardin, Isaac Freeman, and Thomas Flinn, formed one company, to visit and form treaties with one set of Indian towns, and that Major Truman, in company with William Smalley, Joseph Gerard, and a waiter of Major Truman, formed the other company, whose purpose and object was to treat with the Indians, and endeavor to restore peace to the country. Deponent thinks the companies separated soon after they left Fort Washington, that they might more speedily reconcile the different Indian towns to a peace. He well remembers of all these persons starting about that time upon that expedition; and he is equally certain that none lived to return, except Smalley. He would state that, shortly after Smalley's return, he had a conversation with him upon the subject of their expedition, and was told by him that Gerard was slain by the Indians in his presence, and that Major Truman and his waiter were killed at the same time. He thinks Smalley told him that, at the time of this fatal attack upon them by the Indians, they had arrived near the Indian towns; that, before that, their white flag had proved a protection to them. He does not recollect that he ever heard what compensation said Smalley and Gerard were to receive for their services, but has understood and believes that government has made some provision for the heirs of Smalley.

This deponent distinctly remembers that Joseph Gerard was a man of family; that he left a widow, and thinks he left three or four children, whose names deponent does not recollect.

BENJAMIN STILES.

Sworn and subscribed to before me, this 7th day of May, 1844.

JOHN JONES, J. P.

STATE OF OHIO, *Hamilton county, ss.*

I, James M. McMaster, clerk *pro tem.* of the court of common pleas within and for said county of Hamilton, do hereby certify that John Jones, esq., before whom the annexed or foregoing affidavit of Benjamin

min Stiles appears to have been made, was at the time of taking and subscribing the same, an acting justice of the peace in and for said county, duly commissioned and qualified, and that full faith and credit are due to all his official acts as such.

In testimony whereof, I, the clerk *pro tem.* aforesaid, have hereunto set my hand and affixed the seal of the said court, at Cincinnati, in the said county, this 7th day of May, A. D. 1844.

J. M. McMASTER,
Clerk *pro tem.* H. C. C. P.

This evidence is strongly corroborated by the documents of the government heretore published, and by the history of Indiana, as written by Mr. Dillon. To cite the whole of this evidence, mixed up as it is with much extraneous and irrelevant matter, would at once impose too much labor upon this committee, and swell the report to an unreasonable extent. The first will be met, and the last risked far enough to lay the more important facts fairly before the House. To do less, would be to do injustice to the memory of the brave man who cheerfully laid down his life at the call of his country; a man who gallantly, and without a murmur, at the request of the commanding general of the American army, left his wife and three infant children, and all the endearments of his home, to go and fall, in the depths of an unbroken wilderness, beneath the merciless infliction of the Indian tomahawk and chopping-knife.

A most harassing and destructive war with many powerful and warlike Indian tribes northwest of the river Ohio, as well as upon the southwestern borders of the nation, having raged for a considerable period of time, General Washington, then President of the United States, determined to summarily punish the depredators, and sent a strong force for that purpose, in the year 1791, to the north of the Ohio. But the failure of this purpose, by the unexpected and disastrous defeat of the unfortunate General St. Clair by the Indians, put a new aspect upon the state of affairs. A general war with all the northern, western, and southern Indian tribes seemed almost inevitable. British and Spanish agents and Indian emissaries were diligently employed in fomenting discontents among friendly tribes, and in perfecting a general confederation of the tribes, the principal object of which was to drive the American settlers south of the Ohio river. In fact, the Indians refused to make peace, unless the whites would entirely withdraw from the territory now composing the States of Ohio and Indiana. The following extract from a report made on the 26th of December, 1791, by the Secretary of War (General H. Knox) to the President of the United States (General Washington) will show the views taken of Indian affairs in the northwest by the War Department; and will explain why Gerard and his co-martyrs in the cause of their country were sent to risk their lives in an endeavor to obtain an interview with the blood-thirsty savages fresh from the scene of their triumph over St. Clair. It will also show that *success was not expected*; that a continuance of the war was to be *expected*:

“That it is the public interest to terminate this disagreeable war as speedily as possible, cannot be doubted; and it will be important to

devise and execute the best means to effect that end. That, upon due deliberation, it will appear that *it is by an ample conviction of our superior force only* that the Indians can be brought to listen to the dictates of peace, which have been sincerely and repeatedly offered to them. The pride of victory is too strong, at present, for them to receive the offers of peace on reasonable terms. They would probably *insist* upon a relinquishment of territory to which they have no just claim, and which has been confirmed by the several before-recited treaties.

“The United States could not make this relinquishment, under present circumstances, consistently with a proper regard to national character.

“But considering the dignity and superior intelligence, as well as power, of the United States, compared with the said Indian tribes, weighing the probable opinions of the disinterested, but perhaps uninformed, part of mankind upon this subject, *who may be apt to consider the Indians as oppressed*, it is submitted that every reasonable expedient be again taken to induce the said hostile Indians to peace that the nature of the case, and a just regard to the national reputation, will admit; but, at the same time, it is suggested that *it would be altogether improper to expect any favorable result from such expedients.*”—(American State Papers, Indian Affairs, vol. 1, p. 198.)

To avoid the just censures of other nations, who saw the immense disparity between the power of the United States and the power of the Indians, and not a hope of being able to effect a peace, was, then, the *governing motive* with the administration that sent Gerard and others to seek a peaceful interview with the Indians. So elated were the Indians with their success over the army of St. Clair—so hostile, so fierce, and so unsparing, that the difficulty was in finding any persons of suitable capacity who would venture to put themselves into their power for any purpose whatever. The proper officers were directed by the War Department to offer large rewards to those who would go on this dangerous service; even to Rufus Putnam, brigadier general in the army of the United States, the Secretary of War thought proper to hold out extraordinary incitements, as the following extract shows:

“As this will be considered as an extra service from your military employment, your expenses will be paid by the public; and if you succeed in effecting a peace, *you are hereby promised*, in behalf of the United States, *a handsome pecuniary reward.*”

“In case any accident should happen to you, while employed in this mission, you may rest assured the government will make a suitable provision for your family.

“But I cannot close these instructions without urging you to *the highest possible exertions* in bringing the war to a close, and of devising every proper means for that purpose. You may be assured that all the stipulations of rewards you make shall be fully complied with, *and they ought to be liberal.*”

“These instructions are given by the authority of the President of the United States, and are to be regarded accordingly.

“Given, &c.,

“H. KNOX, *Secretary of War.*”

(See American State Papers, Indian Affairs, vol. 1, pp. 235 and 236.)

Similar means and promises were used to other officers, (see same volume, page 230;) and Colonel Hardin, Major Truman, Joseph Gerard, and others, were induced to go on the dangerous mission. General Putnam, it seems, did not go in person.

The result was death. Except a servant, they were all murdered and scalped by the Indians in a very short time after they left Fort Washington.

The accounts of their murder will be found in the volume of State Papers last above quoted, on pages 238 and 239; and again on page 243 may be found the affidavit of William May in relation thereto; and on page 337 may be seen the speech of Cornplanter and New Arrow to General Wayne, in which the following passage occurs:

"General Washington must not think hard of the loss of Colonel Hardin and others, as we since have understood they were sent with messages of peace. Unluckily for them and us, they had taken the bad road. If our spies, whom we kept on that road, saw any of your people, they took them for enemies, and treated them as such. We know your people would have done the same."

In the History of Indiana, by John B. Dillon, (vol. 1, beginning on page 312,) is an account of this mission, which seems to be the clearest and most authentic of any that has fallen under the observation of the Committee, and will therefore be quoted at large. It will be seen that, according to the historian, (and he is evidently an able one,) Freeman and Gerard formed one set of messengers, and left Cincinnati (or Fort Washington) on the 7th of April, 1792; and that Colonel Hardin and Major Truman formed another company, and did not leave for the same service until the 20th of May of the same year:

"On the 7th of April, 1792, Brigadier General Wilkinson sent two messengers (Freeman and Gerard) from Fort Washington with a speech to the Indians on the Maumee. These messengers were captured by a party of Indians, who, on being informed that their captives were messengers of peace, spared their lives, and conducted them towards the rapids of the Maumee; but, while moving on the route to that place, Freeman and Gerard asked so many questions concerning the numbers of different tribes, the course of streams, &c., that their conductors took them to be spies, and killed them when they were within one day's march of the main body of the Indian councils."

The following extract of a letter dated Fort Washington, April 16, 1792, from Brigadier General Wilkinson to Captain John Armstrong, then the commanding officer at Fort Hamilton, will throw some light upon the nature of the perilous service of those who were employed as spies:

"My messengers (Freeman at the head) left this on the 7th, with a big talk, and are ordered to keep Harmar's trace, which will be an evidence to the enemy that they have no sinister designs in contemplation. If they are received, and are suffered to return, they have my directions to come by Fort Jefferson. You must order William May to desert in a day or two, or must cover his departure by putting him in the way to be taken prisoner, as you may deem best. I consider the first preferable in one point of view; that is, it would guard him effectually against any real desertions which may hereafter take place. It will be exceedingly difficult, if not impracticable, for him

ever to make a second trip with success. However, that will depend, in a great measure, upon the fertility of his own genius.

“He should cross the Miami at or near your post, and keep a due-north course; remarking, critically, the distance, ground, and water-courses over which he may pass, until he strikes the St. Mary’s, the site of the old Miami village, and the first town. His first business will be to find out what has become of my messengers. If they have been received and well treated, he may authenticate the sincerity and good faith which has prescribed their journey. For this purpose, he must be made acquainted with the departure of the messengers, and the order restraining offensive hostilities. But if they have been killed or made prisoners, and the enemy positively refuse to treat, then, so soon as he clearly ascertains these facts, he must return to us by the nearest and safest route. If this occasion should not present, he is to continue with the enemy, and is, at all events, to acquire their confidence. To this end, he must shave his head, assume their dress, adopt their habits and manners, and always be ready for the hunt or for war. His greatest object, during his residence with the enemy, will be to find out the names of the nations which compose the confederacy now at war, their numbers, and the situation of their respective towns as to course and distance from the old Miami village, and the locality of each. He will discover the names, residence, interests, and influence of all the white men now connected with those savages, and whether the British stimulate, aid, and abet them, and in what manner; whether openly by the servants of government, or indirectly by traders. He will labor to develop what are the general determinations of the savages, in case the war is continued, and we gain possession of their country. Having made himself master of these points, or as far as may be practicable, he will embrace the first important occasion to come in to us. Such will be the moment when the enemy collectively take the field and advance against our army, or a detachment of it, and have approached it within a day’s march.

“Should he execute this mission with integrity and effect, I pledge myself to restore him to his country; and will use my endeavors to get him some little establishment to make his old age comfortable.”*

“About the 20th of May, 1792, Major Alexander Truman, of the first United States regiment, and Colonel John Hardin, of Kentucky, left Fort Washington with copies of a speech from President Washington to the hostile Indians. Major Truman was engaged in this service by his own consent and desire, and he was joined by Colonel Hardin, who undertook to discharge the duties of a peace messenger, at the request of Wilkinson. The speech with which these officers were charged was addressed to all the sachems and warriors of the tribes inhabiting the Miami river of Lake Erie and the waters of the Wabash river—the Wyandots, Delawares, Ottawas, Chippewas, Pottawatomies, and all other tribes residing to the southward of the lakes, east of the Mississippi, and to the northward of the Ohio.

* “May, after leaving Fort Hamilton, was captured by a party of Indians, and by them sold to Captain Matthew Elliott, who placed him on board of a small schooner, which was used to transport provisions, &c., from Detroit to the rapids of the Maumee. Colonel Alexander McKee and Captain Elliott kept stores at the rapids.”

“By an agreement between Hardin and Truman, they resolved to follow Harmar’s trace for some distance, and then to separate; the former to go among the Indians about Sandusky, and the latter to proceed to the rapids of the Maumee. These officers lost their lives on their mission of peace. The place and the circumstances of their death are involved in obscurity.”—(History of Indiana, vol. 1, p. 312.)

From all the foregoing, and from the public documents to which reference has been made, the deductions are, that, after the defeat of General St. Clair, late in the fall of 1791, President Washington and his cabinet, although without any well-grounded hope of success, felt it to be due to public opinion in this and other countries to make a well-directed, honest, and powerful effort to restore peace between the whites and Indians, *before* General Wayne should be permitted to reduce the Indians to submission to fair terms of peace by force of arms. That, in accordance with this wish to defer to public opinion, General Wayne was not allowed to march into their country, but was directed to suspend military operations until otherwise ordered; that instructions were sent to General Wilkinson, and to General Putnam, and to Major Truman, all of the United States army, to send out messengers of peace, and also earnestly requesting them to go in person, and promising to them, and to those whom they should succeed in persuading to go alone, or with them, large pecuniary rewards; that Major Truman went in person, and took with him Colonel Hardin, of Kentucky, and others; that General Putnam did not go, nor General Wilkinson, but that the latter succeeded in getting Mr. Freeman and Mr. Gerard to leave Fort Washington (now Cincinnati) on the 7th of April, 1792, on said mission; and that all of the persons composing said parties (except, perhaps, a servant) were killed and scalped by the Indians shortly after they left the fort at Cincinnati.

It also appears from report No. 163, made at the 2d session of the 8th Congress, on the 1st of March, 1805, by the Committee of Claims of the House of Representatives, in favor of the widow of Flinn, (one of Major Truman’s party,) that provision had been made for the families of Major Truman and Colonel Hardin, and for William Smalley. It is but justice (though very long delayed) that the children should receive the dearly-earned recompense promised their father, Joseph Gerard. The friends of Colonel Hardin and of Major Truman applied to Congress for relief for the families of the deceased, which was granted February 27, 1793. A pension was given to Colonel Hardin’s family for seven years, at the rate of \$450 a year, and \$300 a year to the family of Major Truman for the same length of time. In May, 1800, Congress passed another law, (vol. 3, p. 401) generously providing for the education of the fatherless children of the slain, substantially as follows: “That there shall be *annually* paid to the guardians of the sons and daughters of Colonel John Hardin and of Major Alexander Truman, for each son and each daughter, the sum of \$100, ‘until they shall have, respectively, attained the age of twenty-one years, to be applied by the said several guardians to the suitable education of the said sons, and to the use of the said daughters.’” In 1805 Mrs. Flinn applied for relief, which was granted March 3, 1805—(U.

S. Laws, vol. 3, p. 664.) She was allowed \$518, with interest from the 15th of January, 1793—upwards of twelve years.

Joseph Gerard left his family, consisting of a wife and three children; (the youngest but six months old,) very poor and destitute. He left a small piece of land at Fort Washington, which his widow, shortly after his death, and after General Wayne's celebrated victory had compelled the Indians to make peace, sold for some small price, and moved with her children into the then remote settlements now constituting a portion of the flourishing State of Indiana. She died shortly after her removal, and left her children to all the ills of orphanage, and poverty, and want, ever known in border settlements. Hence, of the very existence of the claim of their father upon the government the children knew nothing until recently.

What bargain was made between Gen. Wilkinson, on the part of the government, and Joseph Gerard, the committee have no means of ascertaining. That it was liberal towards the daring adventurer we have every reason to suppose; that he confided in the honor of the government is evidenced in his not requiring a written statement, at a time when he found it necessary to make a will to enable his wife to have, in case of his death, legal control over his little parcel of land—*then* of so little, *now* of such large value. This confidence in the willingness and in the ability and readiness of the government must not be betrayed; the covenant has been sealed with his blood, and the laws of limitation cannot efface the patriotic and glorious signature.

The committee have found it difficult to fix upon a suitable compensation; but, as the most suitable that occurred to them, have concluded to recommend the allowance, to each of the three children of Gerard of a section of land now owned by government, and lying in any part of the country which, in 1792, composed the Northwest Territory. A bill is herewith reported accordingly, and its passage recommended.