

IN THE SENATE OF THE UNITED STATES.

JANUARY 21, 1879.—Ordered to be printed.

Mr. BUTLER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 1271.]

The Committee on Military Affairs, to whom was referred the bill (S. 1271) for the relief of Jenkins A. Fitzgerald, have had the same under consideration, and submit the following report:

The record in this case shows that Assistant Surgeon Jenkins A. Fitzgerald, of the Army, while on duty at the posts of Camp Supply, in the Indian Territory, in the years 1869 and 1870, was solicited and employed by the agent of the Cheyenne and Arapahoe Indians, and in the absence of other available medical aid, to act as physician for these Indians for the period of about seven months. For these medical services, which appear to have been efficient as well as necessary, Dr. Fitzgerald was paid by the Indian agent the sum of \$798.33. The Second Comptroller of the Treasury, in passing upon these accounts, held that Dr. Fitzgerald, being an officer of the Army, could not, under existing laws, receive this compensation, and although he admitted the hardship, and conceded the proposition that the medical service rendered these Indians was no part of Dr. Fitzgerald's duty as an officer of the Army, yet nevertheless he was constrained to demand a refund of the money. This refund appears to have been made by deducting the sum of \$50 per month from the pay of this officer, which deduction was requested to be made by the Second Comptroller by the Paymaster-General, and is now fully liquidated.

The Secretary of War, in transmitting the necessary papers to your committee, expresses the opinion, in view of the circumstances of the case, that this bill should become a law. The following is the Secretary's letter:

WAR DEPARTMENT,
Washington City, January 11, 1879.

SIR: In reply to your letter of the 8th instant, inclosing Senate bill 1271, "for the relief of Jenkins A. Fitzgerald," for information as to the merits of the case, I have the honor to inclose a report of the Adjutant-General, dated the 9th instant, and accompanying papers; also copies of the papers submitted by the Paymaster-General in the matter of the stoppage of \$798.33 from the pay of Surgeon Fitzgerald, supposed to be the basis of his present claim for pay. The Paymaster-General remarks that "the amount stated has been deducted from him, and has been designated for deposit to credit of the appropriation for 'fulfilling treaties with the Cheyennes and Arapahoes prior.'"

In view of the facts stated in the inclosed papers, I am of opinion that the bill for the relief of Assistant Surgeon Fitzgerald should become a law.

Very respectfully, your obedient servant,

GEO. W. MCCRARY,
Secretary of War.

HON. GEO. E. SPENCER,
Chairman Committee on Military Affairs, United States Senate.

The following is the letter of Comptroller Carpenter to the Paymaster-General, requesting the deduction of \$50 per month from Dr. Fitzgerald's Army pay, in which, it will be observed, he expresses his regret at being called upon to perform this disagreeable duty, and indulges in the hope "that such representations will be made to Congress as will induce that body to relieve a worthy officer from a deduction he can ill afford to lose from his already too meager salary":

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE,
March 12, 1877.

SIR: It becomes my very disagreeable duty to request that the sum of \$50 per month be withheld from the pay of Dr. J. A. Fitzgerald, assistant surgeon, U. S. A., until the amount deducted aggregates \$798.33.

I transmit herewith copies of all correspondence on the subject for your information touching the basis of this request. In taking this course, which appears the only one left me to pursue, I indulge the hope that such representations will be made to Congress at its next session as will induce that body to relieve a worthy officer from a deduction he can ill afford to lose from his already too meager salary.

I am, sir, very respectfully,

C. C. CARPENTER,
Comptroller.

Brig. Gen. BENJ. ALVORD,
Paymaster-General.

Official copy.

BENJ. ALVORD,
Paymaster-General, U. S. A.

[First indorsement.]

PAYMASTER-GENERAL'S OFFICE,
May 12, 1877.

Respectfully returned to the Second Comptroller of the Treasury with the request that this office be informed into what appropriation the within stoppage should be covered when collected.

CHS. T. LARNED,
Paymaster, U. S. A.

[Second indorsement.]

SECOND COMPTROLLER'S OFFICE,
May 19, 1877.

Respectfully returned to the Paymaster-General with the information that the money collected from Dr. J. A. Fitzgerald should be covered in under "Fulfilling treaty with the Cheyennes and Arapahoes prior."

C. C. CARPENTER,
Comptroller.

In view of the circumstances of the case, as well as the facts appearing in the record that permission was given this officer to apply to Congress for relief, that the same has been recommended by the Secretary of War and Second Comptroller Carpenter, and that a precedent has been set in the case of Assistant Surgeon T. F. Azpell, U. S. A. (see 19 U. S. Stat. at L., page 503), your committee are of opinion that Dr. Fitzgerald is entitled to relief. But, inasmuch as the terms of the bill provide that he shall "*receive and retain this compensation*," when in fact, he has refunded the amount through deductions made from his Army pay, your committee have amended it so as to provide for the repayment to Dr. Fitzgerald of the sum of \$798.33 through the Treasury Department, and recommend its passage as amended.