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George W. Paschall

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Recommended Citation

H.R. Rep. No. 448, 26th Cong., 1st Sess. (1840)

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GEORGE W. PASCHALL.

[To accompany bill S. No. 192.]

APRIL 24, 1840.

Read, and, with the bill, committed to a Committee of the Whole House to-morrow.

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

REPORT:

The Committee of Claims, to whom was referred the bill from the Senate (No. 192) entitled "An act for the relief of George W. Paschall," report:

The bill is in the following words :

"That George W. Paschall be, and hereby is, allowed the sum of four hundred dollars, to indemnify him in full for responsibilities and losses incurred by him in consequence of the discharge of an official act, in the destruction of a quantity of whiskey intended for the Cherokee Indians, and owned by Robert Kirkham, pursuant to an order of General John E. Wool, his commanding officer."

From the petition which accompanies this bill, it appears that, in 1837, the commissioners were executing the treaty which had been made with the Cherokee Indians at New Echota, in the Cherokee country, in the State of Georgia, in the year 1835; the headquarters of General John E. Wool was at that place, who was in command of certain volunteer troops from said State; the petitioner was a lieutenant under the command of General Wool; the Indians were assembled for the purpose of consulting with the commissioners, and establishing rights under the treaty. A man, by the name of Robert Kirkham, jun., was retailing whiskey to the Indians within the garrison commanded by General Wool, which produced great irregularity, inconvenience, and disorder. By an order of General Wool, Kirkham was required to desist from selling within the garrison, which he omitted or refused to obey; whereupon, General Wool ordered the petitioner to take and destroy the whiskey, which he did; for which an action was brought in the supreme court in the State of Georgia by Kirkham against the petitioner, and a recovery had for \$260 damages, and \$15 50 costs of suit, and \$16 12 for contingent costs on the issuing of the execution, making, in the whole, the sum of \$291 62; which he has paid. These obligations are established by the testimony of General Wool, the Honorable Wilson Lumpkins, and by the records of the supreme court of the State of Georgia. The principle established by the legislation of Congress, and which the committee believe has been observed with uniformity, is to afford indemnity to a subordinate officer, or agent, who, in the discharge of his official duties, has been subjected to loss and injury when they appear to have acted within the scope of their authority, *bona fide*. But it is not

common, and, indeed, no instance is known to the committee, where a sum, beyond the amount paid, has been awarded by Congress to the sufferer; and the committee apprehend it would not conform to sound policy to do so. The bill authorizes the Secretary of the Treasury to pay to the petitioner \$400. This, the committee propose to reduce to the sum actually paid, which is, \$291 62. And, to produce this result, they propose an amendment to the bill, and, with it, they recommend its passage.