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Henry Disbrow.

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H.R. Rep. No. 223, 29th Cong., 1st Sess. (1846)

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HENRY DISBROW.

FEBRUARY 10, 1846.
Read, and laid upon the table.

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

REPORT :

The Committee of Claims, in the case of Henry Disbrow, referred to said Committee, report :

That the petition sets forth that the petitioner, "in the month of June, eighteen hundred and twelve, procured, at great expense, a large quantity of pork, hams, white fish, and tar, which he had secured in a store-house upon Hickory island, opposite Fort Malden, in the Detroit river, and that in the first part of July following, the news of war having reached your petitioner, he procured a large and commodious boat for the express purpose of transporting said property to Detroit, where it might be in safety;" but "that, when about removing said property from Hickory island, your petitioner's boat was forcibly taken from him by an officer acting under the immediate orders of General William Hull, for the purpose of crossing the troops in the service of the United States, under the command of General Hull, over the Detroit to Sandwich, in Upper Canada, in consequence of which your petitioner was deprived of the means, and the only means left him, of getting away to a place of safety his property as aforesaid." The petition further represents, "that on the ninth day of July, in the year eighteen hundred and twelve, the British and Indians came to the island where said property was stored, and took and destroyed one hundred and eighteen barrels of pork, two barrels of hams, two barrels of white fish, and one barrel of tar, the property of your petitioner, and for which your petitioner had been offered, and could have received, two thousand two hundred and six dollars, had he not been deprived of the means of taking it to market, by reason of the taking of the boat by the officer aforesaid," and prays compensation for the same.

The petition says, "that your petitioner has not been, neither is he now, able to procure the proper certificate and affidavits of the above taking, [of the boat,] from either the commanding general, (Hull,) or the officer (whose name your petitioner does not recollect) who took the boat, the one dying in disgrace, and the other having fallen in battle."

The petition was first presented to Congress in 1830, and reported upon adversely by the Committee of Claims. In 1832 it was again referred to the Committee of Claims, but it does not appear that any action was had upon it. In 1842 it was again referred to the Committee of Claims, and

reported upon adversely; and in 1843, there was another adverse report upon it. The petitioner asks compensation for the pork, &c., taken by the British and Indians; not for the boat, or the use of it. But, from a paper filed, (subsequently, it must be presumed,) a claim for the use of the boat forty days, at two dollars and fifty cents a day, is also urged.

The committee are of opinion that the claim for the boat comes in too questionable a shape to be allowed. If the boat was not paid for at the time, it is a little remarkable that the petitioner should not only not have taken a certificate at the time, from the officer taking the boat, but should not even recollect the name of the officer. The petitioner assigns as a reason for not taking, afterwards, the affidavit of General Hull, that he died in disgrace; and for not taking that of the officer, that he was killed in battle. As the petitioner did not know the name of the officer when his petition was drawn, it is probable he never did know it; for, if so, he would not likely have forgotten it. And, if he never knew the name of the officer, it is strange how the petitioner should know that he fell in battle.

The affidavit of James Chittenden, appended to the petition, states that the boat of the petitioner "was forcibly taken from said Disbrow by an officer acting under the immediate orders of General William Hull, for the purpose of assisting in crossing the troops," &c.; but is silent as to the name of the officer. This affiant states that he "*likewise knows* that all the water craft of every description then on the Detroit river, fit for the service, was taken possession of and pressed into the service of the United States, by the orders of the Commanding General Hull, for the purpose of crossing the troops as aforesaid." This deponent further states, that "on or about the ninth day of July, in the year eighteen hundred and twelve, the British and Indians crossed over from Malden to the island, and took one hundred and eighteen barrels of pork, two barrels of hams, two barrels of white fish, and one barrel of tar." The witness does not inform us how it was that he possessed such minute and accurate information as to the taking of the pork, &c., and craft, of which he speaks so positively, and thereby greatly impairs the weight of his testimony.

There are on file two affidavits, purporting to be signed by G. Godfroy, who says that he took into possession, by order of Gen. Hull, all the "water craft," within the "space of ten miles, bordering on the Detroit river, and that he understood that one of the boats at that time seized belonged to Henry Disbrow." In his other affidavit, of a subsequent date, this deponent makes the same general statement as to the seizure of the craft, but omits to say that the boat of the petitioner was one of the boats taken. In his first affidavit he does not say, of his own knowledge, that the boat of petitioner was seized, but that he understood so. Nor does he inform us how he understood it, that we might judge of the truth or probability of his information. That this deponent seized the petitioner's boat is not reconcilable with the statement of the petitioner himself, who says he does not recollect the name of the officer who seized it, and that he fell in battle.

The affidavit of Richard Smyth states the general taking of boats, &c., for transporting the troops to Canada, and that he recollects that petitioner owned a flat-bottom boat in 1812, but does not say whether it was seized or not.

The above comprises all the evidence in the case, bearing upon the seizure of the boat; which is deemed insufficient to establish the fact.

Nor is there any affidavit, even of the petitioner himself, that he never received compensation for the use of the boat.

From the lapse of time between the alleged seizure of the boat and the filing of the petition, and from the fact that the claim for the use of the boat seems to have been made after the petition was presented, and perhaps as a sort of make-weight, it is highly probable that if the boat was seized as alleged, it was paid for at the time, or soon after.

As to the claim for the loss of the pork, hams, fish, and tar, alleged to have been taken by the British and Indians, it is sufficient to remark, that it does not come within any of the principles upon which compensation has usually been made by Congress for property taken or destroyed by an enemy.

The committee therefore recommend the passage of the following resolution:

Resolved, That the prayer of the petitioner ought to be rejected.