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Francis Vigo. (To accompany Bill H.R. No. 282.).

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FRANCIS VIGO.

[To accompany bill H. R. No. 282.]

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FEBRUARY 16, 1854.

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

REPORT.

*The Committee of Claims, to whom was referred the memorial of Col. Francis Vigo, praying compensation for money advanced by him to General George Rogers Clark, during the "Illinois Campaign," in 1778, have had the same under consideration, and submit the following report :*

In the year 1778, Col. Vigo was residing in the town of St. Louis, then a Spanish post, doing business as a merchant and Indian trader. He was at that time a man of considerable influence and property.

In the summer of that year General George Rogers Clark arrived at Kaskaskia, Illinois, with the troops under his command, he being then engaged under the authority of the State of Virginia in prosecuting what was well known as the "Illinois Campaign." When he arrived in the Illinois country he was without means to sustain his troops, who were almost entirely destitute of clothing, ammunition, and provisions. The Legislature of Virginia had given him authority to draw upon Oliver Pollock, the commercial and financial agent of the State, at New Orleans; but as at that time there were few settlements and little money in the country where he then was, he found the utmost difficulty in cashing his bills.

Col. Vigo, although the subject of another government, was well disposed towards that of the United States, and anxious that success should attend the efforts of the State of Virginia in acquiring possession of the post at Vincennes, of Kaskaskia; and other portions of the Illinois country. He was well acquainted with the French inhabitants of that section of the country, and was informed of the movements and purposes of those who then possessed it, and were resisting the claims of Virginia. With a view to communicate to General Clark such information as would be valuable to him in his subsequent movement, he met him at Cahokia, to which place he had gone with a view to establish a civil government. Finding him without money and his troops in a suffering condition, he voluntarily tendered him his services and such aid as he could furnish in procuring Clark supplies. General Clark readily accepted it; Col. Vigo then requested the inhabitants to whom he was well known, to furnish General Clark whatever he desired, and to look to *him, Vigo, for pay; upon his credit large advances were made by the inhabitants, and for all of which Vigo paid. He*

also, out of his *own stores*, furnished a large amount on the orders of General Clark. The aggregate of the amount thus advanced and paid by Vigo, most of which was in cash, amounted to nearly twelve thousand dollars, without which advances by Vigo, Clark could not have subsisted his troops, and the expedition must have been abandoned.

To pay the advances thus made by Col. Vigo, General Clark drew upon Mr. Pollock, the commercial agent of Virginia, at New Orleans, *four bills of exchange* as follows: One dated December 18, 1778, for \$921, payable at thirty days sight; another, dated January 30, 1779, for \$1,452, payable "at thirty days sight;" another, dated June 17, 1779, for \$298, payable "on sight;" and another, dated December 4, 1778 for \$8,716 25, the precise time for the payment of which is not now known, but the committee suppose it was drawn as the others: These bills were drawn for specie or its equivalent. Col. Vigo alleges, and the committee do not doubt it, that the three small bills were presented to Pollock, and not paid by him for "want of funds;" and that being pressed for means in consequence of sickness, he sold them for the sum of \$575, which was all he ever realized for them. They were afterwards, in 1781, paid by Pollock.

The large bill, that for \$8,716 25 was also presented to Pollock in February, 1779, and *not paid* for "want of funds," and Col. Vigo's memorial now prays the payment of it by the United States.

The bill is not presented, but its absence is accounted for by the oath of Col. Vigo, who thus explains it: After he returned from New Orleans with the protested bill, he was advised by the acting governor of Louisiana, who was then the Spanish commandant of St. Louis, to send the duplicate of it to Spain, with the hope that it would be cashed by the Spanish government, or in some other mode there. He did so, and has not since heard from it. The other copy of the bill he placed in the hands of the honorable Jacob Burnet, of Cincinnati, with a view to its collection; that also has been lost. The committee think the absence of the bill is sufficiently accounted for; they do not arrive at this conclusion merely from the sworn statement of Colonel Vigo; that, under the *circumstances* of this case, should have great weight, for no man can present higher testimonials of his character and integrity than he has done, as evidenced by the certificates of General Harrison, Judge Burnet, General Clark, General Wayne, and General Knox, Colonel Minard, and other individuals well known in the history of the country. General Harrison says: "With respect to the credibility of Colonel Vigo's statement, I solemnly declare I believe him utterly incapable of making a misrepresentation of the facts, however great may be his interest in the matter; and I am also confident that there are more respectable persons in Indiana who would become the guarantors of his integrity than could be induced to lay under a similar responsibility for any other person. His whole life, as long as his circumstances were prosperous, was spent in acts of kindness and benevolence to individuals, and his public spirit and attachment to the institutions of our country proverbial." But there is other evidence; the honorable Jacob Burnet swears that in December, 1799, a bill drawn by General George Rogers Clark on the State of Virginia, or her agent, for "about eight thousand dollars, was given him by Colonel Vigo for collection.

Pierre Menard swears he was present in Carlisle, Pennsylvania, in 1778, when Colonel Vigo presented drafts to an amount which, from his impression, must have exceeded *ten thousand dollars* to Pollock, who told him that he was "very sorry he had been under the necessity of protesting them for the want of funds." Other witnesses speak of the "current impression" and "general belief" in the country that Colonel Vigo advanced to Clark a "large amount."

That the four bills mentioned by Colonel Vigo were actually drawn in his favor is sufficiently proven by the account current of General Clark, now in possession of the committee. This account was found at Richmond, in 1842, and each of these four bills is entered upon it.

There is no doubt of General Clark's authority to draw these bills. In 1781, Mr. Jefferson, then governor of Virginia, endorsed bills presented to him as follows:

"In council April, 1781, payment refused, because no person in the Illinois country had, or has, authority to draw bills on government to charge them *except General Clark* and Colonel Todd.

THOMAS JEFFERSON."

This was a clear recognition of the right by the governor of the State.

There is no doubt of the fact that *this bill* has not been paid by the State of Virginia. The auditor of that State writes, "that no evidence of its payment can be found amongst the records in Richmond."

Not having been paid by Virginia, is the United States liable?

In consideration of the public domain northwest of the Ohio river, the government of the United States undertook to pay the debts to which Virginia had been subjected in conquering the "Illinois country."

In 1788 an effort was made to ascertain the amount of those debts. It was then supposed that they would not exceed \$500,000, and that amount was set apart for the payment of them. Since then, however, between \$200,000 and \$300,000 more have been paid, making in all less than \$800,000 paid by the United States. All the officers of the State of Virginia who have been consulted on the subject concur in their statements that the claim of Colonel Francis Vigo was not embraced in either of those payments.

It is clear from the facts and proof in this case that neither in the settlement between the United States and Virginia in 1788, nor in that of 1793, nor at any other time, was the bill of the memorialist for \$8,716 25 ever made an item in the account of Virginia against the United States, and credited by the latter; that it could not be is obvious.

In the *first place*, the commissioner of the United States would not, (and by law could not,) in a settlement with Virginia or any other State, pay an account rendered without the proper vouchers accompanying each item, and showing the expenditures and disbursements actually made. Secondly, because it no where appears in the account of Pollock, the acceptor and drawer of the bill, as finally settled with Virginia. The committee can imagine no other settlement or document that would be allowed to form the basis of the account between Virginia and the United States for "disbursements and expenses" in

the Illinois campaign. General Clark and Mr. Pollock, if this bill had been paid by either, would have taken it up and charged Virginia with its payment, producing the bill as an evidence of such payment. Thirdly, it could not have been an item in the accounts of Virginia, settled in 1788 or 1793 with the United States, because, *six years after* the last settlement, the bill was in possession of Vigo, the payee, *unpaid* and "protested for want of funds."

Under all these circumstances, with this strong state of facts in favor of the memorialist, the committee cannot doubt that the amount of said bill and interest is due to Colonel Vigo, and should long since, in good faith, have been paid him. Why it has not been paid is apparent from the memorial of Colonel Vigo, and from the certificate of Mr. Smith, the commissioner on the part of Virginia, and who audited and allowed this claim. It was not until 1833 that Virginia took any steps "to adjust and settle" these old but *bona fide* claims. (See resolution A.) It was not until March, 1834, that an act of the Virginia legislature was passed, authorizing the "*investigation and adjustment*" of these claims by the commissioner, Mr. Smith. (See act, Doc. B.) It was in vain for the claimant to apply to Congress until this was done. Upon presenting his claim he was told he must have his account "*investigated and adjusted*" by Virginia before the United States could recognise its validity. It was in vain that he applied to Virginia; until the passage of the act alluded to there was no relief. It is more than probable, but for the mass of papers accidentally discovered in the attic story of the capitol at Richmond in 1833, (see Mr. Smith, the commissioner's letter,) "and which threw much light on these ancient but meritorious demands against the commonwealth," that neither Virginia nor the United States would have been disposed to take them into consideration. But Virginia has done so, and "*audited and allowed*" *this claim*. "I have adjusted it," says the commissioner, "with great pleasure, as it enables me to ascertain the sum of money due from Virginia to a man who has rendered the most *important services* to his adopted country, and who (if his neighbors, who are amongst the most distinguished men in that part of the United States where he resides, are to be believed) is one of the most upright and honorable of men." What credit ought to be given to this adjustment? If not conclusive, it could hardly be denied but that it would be testimony of the highest order in favor of the claim—the testimony of Virginia against her own interest; for, if the United States do not pay it, Virginia would be, unquestionably, bound for it; and, in this case, directly to the claimant himself. Justice, therefore, to the memorialist, as well as the proper observance and fulfilment of engagements on the part of the United States, would seem to require a payment to the claimant in the first instance, without forcing him to proceed to judgment against Virginia for an *acknowledged debt* for which the United States are ultimately liable.

Admitting then, as we must, that in justice and good faith the United States, since the *auditing and allowance* of the claim by the commissioner appointed on the part of Virginia to *audit and allow* the same, are liable for its payment, the next question which presents itself is, does justice require that the United States should grant the *interest al-*

lowed by the commissioner of Virginia on the debt due from her to the memorialist?

Advances made during the revolution have always been considered as so much money advanced on *loan*, to be paid with *interest*. The rule that governments should pay no interest unless on loans is never applied to *advances* made to revolutionary governments, where the presumption of there being always ready to pay is rebutted by facts. Secretary Hamilton's report of January 14, 1790, and the law of August 4, 1790, recognised this principle, and it has ever since been acted on. But this advance to Clark was in effect a *loan to Virginia*—a loan of *specie funds*—when neither Virginia nor Clark had a dollar to put in his military chest; and when, but for the very advance of Vigo, the *loan* to Clark, as the authorized agent of Virginia to procure the loan, the campaign must have been abandoned. Clark was without stores, provisions, clothing, or ammunition for his troops, a thousand miles from the seat of government of the State which had planned the campaign; the whole country between a wilderness, and filled with a savage and unrelenting foe, excited by, and willing and faithful allies of, his enemies. Left to his own resources on the banks of the Mississippi, with less than seven hundred fighting men, without food, clothing, or ammunition, wholly dependent upon the aid which he could procure in the country from Vigo and the few patriotic Frenchmen at Kaskaskia and its vicinity, he writes in 1799, (as will appear from his letter to Mr. Jefferson, on file in the archives of Virginia,) that it was then "*one year*" since he had received the first word of advice, the first dollar of money, the first suit of clothing, the first pound of provisions or powder, from the authorities which had entrusted him with the command of the Illinois campaign."

But again: In addition to the facts above stated, it appears that the claim of Francis Vigo was liquidated by a bill of exchange, payable at New Orleans, drawn by Clark on the commercial agent of Virginia, Pollock, and by him protested "for want of funds;" that he would have been entitled to the interest under the law of that place, to wit, ten per cent., and damages of protest, if the claim had originated against an individual, instead of a State, admits of no doubt. He has not *slumbered* on his rights for this long period of time. His failing to importune the government more repeatedly than he has done is attributed to his liberality at a time when the pecuniary affairs of the government were embarrassed and his own circumstances were prosperous. Reasonable diligence appears to have been used by him, considering the great distance he lived from the seats of government of Virginia and the United States, and the difficulty of communication at the time; and long after the origin of his claim, having presented his drafts to the agent of Virginia, upon whom they were drawn, not many months after their execution, when the agent protested them for the want of funds in his hands belonging to the State. Again, four or five years afterwards, he disposed of some of the same character of bills, drawn by Clark on Pollock, at a discount of *eighty per cent.*, finding it impossible to procure their payment. Again, about the years 1778-79, the memorialist met said agent of Virginia, who regretted that he had been under the necessity of protesting said bills for the want of proper funds, and advised

him to keep this claim on the State of Virginia, that she would pay him "some time or other."

About the year 1802, when the affairs of the memorialist had become embarrassed, he states that he put the claim he now prosecutes in the hands of Judge Burnett and General St. Clair for collection. The affidavit of Judge Burnett proves the existence of the bill then, "and the impression on his mind that the draft was then given to him and General St. Clair," and the probable loss of the bill while in his hands as attorney for Abbott, the creditor of Colonel Vigo. In addition to all this testimony, his acquaintance for fifty years, his neighbors, his friends, state, in the certificates herewith appended, "that he has a very large claim on the State of Virginia for advances made by Colonel Vigo to the troops under the command of General Clarke in the Illinois campaign of 1778, and that owing to the non-payment of these claims he became greatly embarrassed, though once very wealthy."

In a mere question of the justice of this claim, and of the obligation of the United States under all the circumstances of the case to pay it, the committee might close their report here; but there are some facts connected with the history of Colonel Vigo, and bearing somewhat upon the *peculiar merits* of his case, that the committee deem it no more than an act of justice to his memory to state.

In the year 1778, Colonel Francis Vigo was an Indian trader at St. Louis, engaged in a large and profitable business, a man of great influence and property, and connected with the governor of Upper Louisiana. Though a Spaniard by birth, owing no allegiance to the United States, and living within the then Spanish territory, he was a republican in heart, sentiment, and feeling. In the summer of that year Colonel George Rogers Clark was sent out by the State of Virginia with a small regiment of men, less than seven hundred, to take possession of the country, and to hold it as against British dominion, and with a view to control the operations of the Indians in that quarter, who, instigated by their allies, the British, were making frequent excursions across the Ohio river into Kentucky, slaughtering the inhabitants, and carrying destruction and death wherever they went. A portion of the troops under Colonel Clark's command—a company under the command of a Captain Helms—had been sent to Vincennes on the Wabash, taken possession of the place, and erected a fort. On the arrival of Colonel Clark at Cahokia, Colonel Vigo, having an extensive acquaintance with, and enjoying to a very high degree the confidence of, the French inhabitants in that quarter, immediately repaired to Cahokia and tendered him his services in supplying his troops, then greatly in need, owing to the unwillingness of the French to aid them with provisions, clothing, and ammunition. On the guaranty alone of Colonel Vigo that he would see them paid, the French inhabitants came forward and furnished such supplies as Clark and his troops were greatly in need of. Vigo became the paymaster, besides furnishing a large amount out of his own stores at Kaskaskia, where he had a trading post connected with his establishment at St. Louis. The amount of goods sold Clark, supplies furnished, and money advanced him by Vigo, cannot be estimated aside from the bills drawn by Clark on Pollock, and which were in every case for specie advances

made by Vigo. He received from Clark and his troops, at par, for necessities furnished them, large quantities of Virginia continental paper—the only currency Clark was furnished with for the campaign by Virginia. Of the amount thus received he had upwards of \$20,000 on hand at the time of his death, received dollar for dollar, and not one cent of which was ever redeemed.

Colonel Vigo remained at Kaskaskia and Cahokia, and supplying through his own means, and those of his friends there to whom he became paymaster, the troops of Clark, destitute as they were of all the necessities and materials of war. While there, Col. Clark received a communication from Captain Helms, whom he had sent with his company of troops to occupy Vincennes, on the Wabash, informing him that *his troops* also were destitute of provisions and ammunition. Col. Vigo was also well acquainted at Vincennes, having a trading post there. Colonel Clark requested Vigo to go over and endeavor by his influence with the French inhabitants there, which was as unbounded as it was at Kaskaskia or Cahokia, to get them to furnish Helms and his troops the necessities for which they were really suffering. Vigo immediately left for Vincennes, according to the request of Clark, and when about six miles from the post on the Embarras river was taken prisoner by a party of Indians commanded by an English officer, was robbed of his arms, saddlebags, clothing, and money to the amount of \$500, carried prisoner to Vincennes, where he found Governor Hamilton with the British troops in possession of the place—Helms and his men having been obliged to surrender. He was confined in the fort a close prisoner for about six weeks, when the French inhabitants, having met in the church, sent a delegation to Hamilton that unless Vigo was released they would furnish him no more supplies. Hamilton terrified by the threat released him on his parole of honor, “that he would do nothing to injure the British cause *during his journey home* to St. Louis.” Vigo readily assented. Procuring a couple of voyageurs, he embarked in a pirogue from Vincennes, descended the Wabash and Ohio, ascended the Mississippi, and when opposite Kaskaskia landing, where Clark had an outpost, was hailed by the sentinel, to whom he was well known. Making no reply, but continuing his course up the river, he was pursued by a boat manned with soldiers, but they were unable to capture him. Information was immediately given to Clark of Vigo’s supposed treachery and flight. Clark immediately summoned the principal French inhabitants with a view of placing them under arrest, not knowing to what extent the treachery of Vigo might have extended, when in the midst of his conference with them Vigo made his appearance, stated to him the condition of his parole, “that he would do nothing to injure the British cause *during his journey home;*” but that *having been home*, he considered his word fulfilled, his honor saved, and then detailed to Clark the capture of Vincennes by Hamilton, the surrender of Helms and his company—of all of which Clark was wholly ignorant—and informed him that unless *he*, Clark, immediately proceeded to Vincennes and captured Hamilton, Hamilton would capture him—an event which he was preparing for by calling in a vast number of his Indian auxiliaries. In two days after Clark, with Vigo as his guide, was on his march to Vincennes. The capture of that post, the



surrender of Hamilton and his troops, the acquisition of about ten thousand pounds sterling of goods, arms, and ammunition by the Americans, are matters of history. For all his services in that expedition, for his losses by the Indians when acting as the spy for Clark for his captivity by Hamilton, he never received, as he never asked, a cent either from Virginia or the United States.

The capture of Hamilton, who was sent prisoner to Richmond by Clark, and the surrender of his troops, put an end to the campaign in that quarter. Weeks after the capture of the fort Clark kept the British flag flying over it. The Indian allies of the British, supposing they were still in possession, daily came in with their war parties, preparing for the march to Kaskaskia and the attack of Clark and his troops, who were still supposed to be there. They came in crowds. No sooner had they entered the gate of the fortress than they were fusiladed by Clark's troops. The massacre was enormous; hundreds of them were shot within the walls of the fort, wholly ignorant of the fact that it was in the possession of the Americans. It put an end to Indian troubles for years, and restored tranquillity to the whole northwest. It was shortly before Vigo left for Vincennes, under the orders of Clark, that the bill for \$8,716 25 was drawn in his favor for *specie advanced* Clark, and being the same bill mentioned in his memorial. The letters of Clark, of General Harrison, of General Wayne, of General Knox, show his services in other instances; and it is safe to say, but for his services and his advances, the *Illinois campaign* of 1778-'79 must have been a failure, if it had not ended, as but for Vigo's services it might have ended, in the surprise and capture of Clark himself. And what have been the magnificent results of these services to the United States? The acquisition of an empire, the conquest and addition to the confederacy of the whole northwestern territory, comprising some of the largest and most populous States in the Union. But for the conquest of Clark, but for these advances of Vigo to effect that conquest the western boundary of the United States would have been the Miami instead of the Mississippi. For, at the treaty of peace in 1783, it is well known that our claim to the Mississippi, as our western boundary, was predicated entirely on *this* very conquest of Clark, and yielded by the British commissioners. Virginia ceded the territory thus acquired to the United States. To her it now belongs, and has ever since that cession. Who can calculate the millions that have flowed into the national treasury from this source? Who can calculate the immense benefits that have flowed, that are still to flow, from the territory thus acquired? The increase in wealth, population, and power? And should a great republic like ours begrudge the man by whose means it was acquired, and by whose services and advances, when Clark had not a dollar in his military chest to procure either food, clothing, or ammunition for his troops, destitute and suffering as they were, by whose loan of specie funds he was enabled to put his troops in motion for the capture of Hamilton? Who was his guide, his friend? We say, should a great nation begrudge him or his representatives the small pittance asked for, admitted on all hands to be due, audited and acknowledged as it is by Virginia, advances made and "services rendered," to use the language of Clark himself in his letter in the appen-

dix to Vigo, of the date August 1, 1811, "when the cloud on which our fate hung assumed the most menacing aspect?" We think not. We think no plea in law, no statute of limitation, should be interposed to prevent its payment. The case of Vigo stands out isolated and alone among the claims growing out of the revolutionary contest. There is no precedent for it; there can be none, because no man ever rendered such services. No man, under such circumstances, ever made such advances. Bound to our government by no tie, owing his allegiance to another, he steps forward in the most critical moments of the republic, and by his services and advances, unsought, unsolicited on the part of Clark, but voluntarily tendered by Vigo, he saves his army from destruction, and adds an empire to the confederacy.

For proof of the long delayed justice of this case, refer to the printed evidence appended to a former report, which is on file with this report.