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[Joseph B. Campbell]

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S. Rep. No. 573, 46th Cong., 2nd Sess. (1880)

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IN THE SENATE OF THE UNITED STATES.

MAY 5, 1880. —Ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 445.]

The Committee on Claims, to which was referred the bill (S. 445) for the relief of Joseph B. Campbell, has considered the same, and respectfully submits the following report:

In August, 1874, Capt. Joseph B. Campbell, Fourth Artillery, United States Army, was ordered to the military command of Alaska, and remained in such command till June, 1876. In October, 1874, in the discharge of his duties and in obedience to the orders of his superior officers, he arrested, among others, one Hugh Waters for a violation of the laws of the United States. Such proceedings were had thereafter that Waters was discharged, and in 1876 brought suit in the State court in Oregon, Clatsop County, against Captain Campbell for false imprisonment in such arrest and imprisonment. The action was removed from the State court to the circuit court of the United States for the district of Oregon, and there tried. On the 4th of September, 1877, judgment was rendered in favor of Waters and against the defendant, Campbell, for \$2,000 damages and \$100.50 costs taxed. The bill provides for the payment of this judgment, and an additional sum of \$191.35 expended by Captain Campbell in defending said action.

The bill with the papers accompanying it were referred to the Secretary of War for such evidence and information in relation to the matter as was in the possession of the War Department, and for the opinion of the Secretary of War in regard to the claim. The Secretary returned the following answer:

WAR DEPARTMENT,
Washington City, May 3, 1880.

SIR: I am in receipt of your letter dated the 22d ultimo, and its inclosures.

In reply, I have the honor to return herewith the papers transmitted by you, and invite attention in connection therewith to House Report No. 91, Forty-fifth Congress, third session, publishing all information in this case on record in this department.

Attention is also respectfully invited to the inclosed copy of a letter dated February 15, 1878, from my predecessor, urgently recommending that an act be passed for the relief of Captain Campbell.

I recommend the passage of Senate bill 445, herewith.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. S. J. R. McMILLAN,
of Committee on Claims, United States Senate.

The House Report No. 91, Forty-fifth Congress, third session, mentioned in the foregoing letter, was made by Mr. Bragg, from the Committee on Military Affairs, to the House of Representatives, and contains all the evidence in the case, and is as follows:

The Committee on Military Affairs, to whom was referred a communication from the Secretary of War, recommending the passage of an act for the relief of Capt. J. B. Campbell, of the United States Army, beg leave to report:

That they have carefully considered said communication and accompanying documents, and recommend the passage of the bill prepared by the committee.

WAR DEPARTMENT,
Washington City, February 15, 1878.

The Secretary of War has the honor to transmit to the House of Representatives a copy of a communication from Capt. J. B. Campbell, Fourth Artillery, and other papers, in regard to the suit recently brought against him by Hugh Waters in the United States circuit court of Oregon; and as the suit was brought for acts done in his official capacity and in obedience to specific orders, he asks that the government assume the payment of the judgment against him and costs, amounting to \$2,291.85.

It will be seen from the indorsement of General McDowell, commanding the Military Division of the Pacific, that Captain Campbell was acting in the line of his duty in obeying the orders of his military superiors and in carrying out sections 1957, 2150, and 2151 of the Revised Statutes.

This matter is therefore respectfully submitted, with the urgent recommendation that an act be passed at the present session of Congress for the relief of Captain Campbell.

GEO. W. McCRARY,
Secretary of War.

The SPEAKER of the House of Representatives.

COPIES OF PAPERS RELATIVE TO SUIT BROUGHT AND JUDGMENT OBTAINED BY HUGH WATERS AGAINST CAPT. J. B. CAMPBELL, FOURTH ARTILLERY, FOR ACTS DONE IN HIS OFFICIAL CAPACITY AS COMMANDING OFFICER, POST OF SITKA, ALASKA, &c., AND FROM WHICH JUDGMENT, COSTS, &c., CAPTAIN CAMPBELL NOW PRAYS RELIEF.

Official copies.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 14, 1878.

[Occident Hotel. Megler & Wright, proprietors.]

HEADQUARTERS BATTALION FOURTH ARTILLERY,
EN ROUTE, AT ASTORIA, OREG.,
June 27, 1876.

Maj. H. CLAY WOOD, Assistant Adjutant-General,
Headquarters Department of the Columbia:

I respectfully inform the commanding general that one Hugh Waters, late of Wrangel, Alaska, who was arrested in August, 1874, at Wrangel, Alaska, as one of the firm of Curry & Waters, for selling liquor at Wrangel, in violation of the laws of the United States, has to-day instituted suit against me personally in the circuit court of Oregon for Clatsop County for false imprisonment, laying damages in the sum of \$25,000. It is answerable in ten days from date in pain of default. Of course this is one of many such things that I suppose will be attempted, and they must be brought before the United States district court, as all my operations in Alaska were as a public officer of the United States, carrying out and executing United States law. I have had no time to see anybody concerning the matter this evening, but will take the necessary steps to have the case postponed until it can be transferred to the United States district court.

I cannot remain behind my command, and will only do what is necessary to ride the matter over for the present. I respectfully request you to procure the authority of the War Department and Department of Justice to have this case properly and thoroughly defended, and that it be done with the utmost promptness. I should be relieved

of all expense in the matter, as all I did as commanding officer of Sitka was done by the positive and direct order of my superiors.

I do not exactly know the process by which a case is transferred from a State to a United States court; but if action of the judge or district attorney is necessary, please procure them. Robert Fulton and Page & Yocum are attorneys for the plaintiff.

Please give this matter the most prompt attention, and have me relieved of the expenses I may have to undergo here in the way of counsel. Let me hear from you by return of mail.

Respectfully, your obedient servant,

J. B. CAMPBELL,

Captain Fourth Artillery, Commanding Battalion Fourth Artillery.

[First indorsement.]

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,

Portland, Oreg., July 10, 1876.

Respectfully forwarded to the assistant adjutant-general, Military Division of the Pacific, inviting attention in this connection to the views indorsed October 6, 1875, by the assistant adjutant-general (subsequently carefully considered and concurred in by me), upon the application of Lieutenant Boyle, Twenty-first Infantry, for counsel in a similar case.

The request of Captain Campbell for authority to employ counsel to defend him is urgently recommended for approval.

Judge W. W. Upton, in this city, by request of Captain Campbell, prepared necessary papers for the transfer of the case from the State court to the United States court, and will have charge of and conduct the defense until concluded, it being understood that it is no part of the duties of the United States district attorney to undertake the defense of an Army officer in such cases. I therefore recommend the employment of Judge Upton in this case.

The plaintiff, Hugh Waters, was arrested at Fort Wrangel, October 24, 1874 (one of the firm of Curry & Waters), for violation of section 20, act of Congress approved June 30, 1834, introducing spirituous liquors into the Indian country, and discharged by United States Commissioner Wilcox June 8, 1875, improperly, as I think, for there is clear evidence that Curry & Waters were keeping open bar and selling liquor at Fort Wrangel.

O. O. HOWARD,

Brigadier-General, Commanding.

[Second indorsement.]

HEADQUARTERS MILITARY DIVISION PACIFIC,

San Francisco, July 17, 1876.

Respectfully forwarded to the Adjutant-General.
In the absence of the division commander.

J. C. KELTON,

Lieutenant-Colonel, Assistant Adjutant-General.

[Third indorsement.]

ADJUTANT-GENERAL'S OFFICE,

Washington, July 27, 1876.

Respectfully submitted to the Secretary of War, with copy for the Department of Justice.

* * * * *

E. D. TOWNSEND,

Adjutant-General.

WAR DEPARTMENT,

Washington City, July 29, 1876.

SIR: I have the honor to inclose copy of letter from Capt. J. B. Campbell, Fourth Artillery, dated the 27th ultimo, reporting that suit has been brought against him by Hugh Waters, late of Wrangel, Alaska, and beg to invite your attention to the indorsement of General Howard.

The counsel mentioned by General Howard has not been employed by direction of this department, nor does it concur in his views as to duties of United States attorney.

I have respectfully to request that the defense of Captain Campbell be undertaken by such officer as the Department of Justice may direct.

Very respectfully, your obedient servant,

J. D. CAMERON,
Secretary of War.

The HON. ATTORNEY-GENERAL.

DEPARTMENT OF JUSTICE,
Washington, August 1, 1876.

SIR: Replying to your letter of the 29th ultimo, I have the honor to inform you that I have this day instructed Rufus Mallory, esq., United States attorney for the district of Oregon, to appear in defense of Capt. J. B. Campbell, Fourth Artillery, in the suit for assault and battery and false imprisonment brought against him by one Hugh Waters, late of Wrangel, Alaska, the ground of the action being the arrest of said Waters by Captain Campbell in August, 1874, at Wrangel, for selling liquor in violation of the law of the United States.

Very respectfully, your obedient servant,

ALPHONSO TAFT,
Attorney-General.

Hon. J. D. CAMERON,
Secretary of War.

HEADQUARTERS POINT SAN JOSÉ, CAL.,
September 28, 1877.

To the Hon. SECRETARY OF WAR. (Through Headquarters Military Division of the Pacific:)

I respectfully ask your attention to the following:

In August, 1874, I was ordered to Sitka, Alaska, in command of Companies F and L, Fourth Artillery. While *en route* for that place from San Francisco, I was met at Astoria, Oreg., by Brevet Maj. Gen. J. C. Davis, U. S. A., then commanding the Department of the Columbia, who especially called my attention to General Orders Nos. 40 and 57, War Department, series of 1874, and to General Order No. , Headquarters Department of the Columbia, of 1874. He told me that my conduct as commanding officer must be guided strictly by the above-mentioned orders, and that he should expect me to exert as much energy and perseverance in carrying out their provisions as possible. He told me he knew from personal experience that the command was a difficult and arduous one at all times, and that would be especially so now (then) on account of the mining excitements, and the large contraband trade that had sprung up. He especially called my attention to alleged unlawful trade and violation of law at Fort Wrangel; said he wished me to break them up, and establish the licensed trade provided for in his orders. He told me that Captain Rodney, my predecessor at Sitka, had suppressed illicit distilling at that place, and that I would find there several citizen prisoners, who had been in the guard-house several months.

I expressed my alarm and apprehension at such a state of affairs, declared it was in contravention of the rights of citizenship, and at variance with every idea I held concerning personal rights and liberty, and that my first act would be to send these people to Portland to be either convicted or acquitted by the proper courts. General Davis told me I must not do so, because the United States courts in Oregon denied jurisdiction in such cases. I asked him what I should do; he said means would ultimately be found to bring offenders to justice, and that in the mean time he would only reiterate the orders of the War Department, which were that the commanding officer of Sitka should proceed against all offenders. He told me to be careful to arrest no one without sworn testimony of at least two parties, and, if possible, to have all cases examined by a board of officers; said he would permit me, if I chose, to release arrested parties on condition of their leaving the Territory.

I told him I feared such a course would render me liable to suit for condonation of crime; that I should arrest no one except upon clear proof, and that if I should liberate such parties without giving them the benefit of a trial, they would have good cause for action against me for false imprisonment. He agreed with me in this respect, and told me all he had further to say was that he had confidence in my judgment and integrity, and that he expected me to be vigorous and impartial in carrying out the law, and clearing the Territory of a very bad class of people who had assembled there.

On my way up the coast I ascertained that the law in reference to liquor was extensively and openly violated at Fort Wrangel, a settlement upon the abandoned site of a military post at the mouth of the Stickeen River, the entrepôt for the British

Columbia gold mines and Hudson Bay posts in that country, and a place of considerable commercial importance since the treaty of Washington made the Stickeen a free commercial river. I ordered Captain Rodney on his way down the coast to land his force at Wrangel, and being governed by the orders of the War Department and Department of Columbia, to destroy all illicit liquor he might find there, seize the goods, chattels, &c., of those violating the law, turn them over to the custody of the collector of customs at that place, and to report his operations fully to me, and also to the commanding general Department of Columbia, on his arrival in Portland. I directed Captain Rodney to make no arrests, first, because General Davis had forbidden the sending of prisoners to Portland, and, second, because there was no authority in force to hold prisoners at Fort Wrangel.

By the return mail-boat I was ordered by commanding general Department of Columbia to send an officer and twelve men to Fort Wrangel to keep the peace and prevent law-breaking. I gave the officer I sent, Lieut. A. B. Dyer, Fourth Artillery, copies of the War Department and Department of Columbia orders before mentioned, and told him in all his operations he must be limited and controlled by them. I also reiterated to him General Davis's verbal orders to me in reference to arrests, and told him if any of the offenders detected by Captain Rodney remained there, to arrest them provided he could get the affidavits against them.

Among the most prominent violators of the law at Fort Wrangel was a firm known and doing business under the name of Curry & Waters. Both Curry and Waters were arrested and with others sent to Sitka as prisoners, where they arrived about the 16th of October, 1874. I at once represented to headquarters Department of Columbia how these prisoners were accumulating upon my hands, and urged as persistently as I was able that something should be done to determine their status, and at least to relieve me at once of any further care and custody of them; that my power and duty ceased after their arrest; that I possessed no magisterial or judicial authority in their cases; that I held them under sworn statements as to their guilt; that Alaska was destitute of any of the machinery of civil law, either local or national, and that the nearest tribunal available was in Oregon, 1,800 miles distant.

Meanwhile my lieutenant at Wrangel had detected the collector of customs of that place not only in the violation of the non-intercourse Indian laws, but in smuggling of foreign liquor into the Territory. He arrested him, and at once a flood of complaints poured in from all sources of extortion in office, fraud, bribery, and other offenses against this official. The customs officials closed the custom-house, and refused to enter or clear the British ships arriving or clearing from that port, thinking thereby to force me to liberate the collector. One British steamer came to Sitka with this news, and for information as to how she was to get her papers. I told the custom-house people I would not liberate Carr (the collector's name); that they might act as though he had died, and that unless the custom-house was, and that speedily, opened by them, I would take the responsibility of putting one of my military officers there; that public business and treaty guarantees could not and should not be impeded. In this way they opened the office, and Carr was subsequently tried, convicted, and punished for his offenses.

This man Carr belonged to a dirty political ring of Oregon, and I was at once attacked through the press in the most virulent manner. No falsehood was too huge or too mean to print concerning me, and public opinion was manufactured against me, the merchants, whose contraband trade I had destroyed, joining in the outcry.

On the 21st of December, 1874, I received orders from the department commander to send the civilian prisoners to Portland, Oreg., for trial, and they left on the return of the steamer on the 24th of December, 1874. They were taken before a United States commissioner, and some of them bound over for trial; others were discharged for want of evidence, without an effort having been made to produce the evidence I indicated. Hugh Waters was liberated on the score of his claiming to have merely been bar-keeper for Curry, although the law would have punished him as such as well as his principal.

I was relieved from command at Sitka in June, 1876, and while *en route* for San Francisco, Cal., was sued by the above-named Hugh Waters at Astoria, in the county court of Clatsop County, Oregon, for false imprisonment, and damages claimed at \$25,000. I at once notified the commanding general of the Department of Columbia of the suit, and was ordered to proceed personally to Portland. I applied to the commanding general for assistance. He told me to procure a lawyer—mentioning Hon. W. W. Upton—to remove the case to the United States district court, and that he would apply to the War Department to have the defense assumed by the government, as I was sued for an act done officially in the line of my duty. The Department of Justice directed the United States district attorney for Oregon to defend the suit, and afterward, I understand, especially employed the Hon. Wm. Upton to assist in the case. The trial was put off from time to time, and finally was brought to trial before United States District Judge Deady in June last. A verdict for \$3,500 was rendered by the jury, and a motion at once made by the district attorney for a new trial, on the

ground of excessive damages. The motion was argued before the United States circuit court, Judges Field and Deady, and finally was compromised by a judgment for \$2,000 and costs being entered against me.

The ground on which damages were granted, I learn from the district attorney, were that "the prisoner was not a military prisoner, but a civil prisoner; that he should not have been confined with men convicted of offenses; that he should not have been made to work; that he should not have been held more than five days in military custody; and that Davis's order to take the prisoners to Sitka, there to be dealt with according to law, did not authorize you [me] to hold them over five days."

In justification of my conduct in the premises, I will say that I continued the line of procedure that had been customary among my predecessors, General Davis included; that I had but one place of confinement—the post guard-house—and that, until I could arrange it to separate the prisoners, which I did as soon as I could get the material and labor to make the necessary changes, I was forced to keep all kinds together; that the post surgeon, Dr. J. A. Fitzgerald, U. S. A., advised me that unless I kept the prisoners in the open air and exercised them, their health would be permanently injured; that there were sometimes as many as thirty prisoners, including Indians, and that I had not the force to wait upon them, and cut the wood and carry water necessary for their use; that my finding citizens in the guard-house who had been there for months, and the orders of the commanding general, were sufficient to lead me to believe that the law in reference to five days' confinement was inoperative, especially when I had but one opportunity in thirty days to send them from my post; that all these prisoners were arrested by other officers, and turned over to me with written charges against them, and that, under the sixty-ninth Article of War, I was bound to hold these prisoners until proper authority released them; that the only authority in the premises was superior military authority, or the proper civil officers of the United States, as these men were specifically charged with violating laws of the United States. I also hold that the records of the post of Sitka, as well as the Department of Columbia, bear abundant evidence of my untiring efforts to get these prisoners off my hands, and obtain them a hearing before a proper tribunal.

During the time I commanded in Alaska my whole effort, to the best of my judgment, experience, and ability, was to uphold and carry out the law, benefit the community, and keep the peace in a turbulent community of mixed races and half-breed Indians, ignorant, demoralized, intemperate, and in many cases vicious, who had little or no employment, and who were surrounded by numerous tribes of powerful and war-like Indians. Questions and requests for assistance were daily presented to me on all kinds of disputes, from breaches of the peace, non-payment of debts, brawls, drunkenness, and the like, up to title to property, and even an accusation against one of the Greek clergy of the Beecher-Tilton stripe. The people under Russian rule looked to the chief man in command as all-powerful, and it was difficult and often impossible to make them understand that such a state of affairs had passed away on their transfer to the United States. My command and administration were thoroughly inspected by the commanding general in person and by numerous deputized parties, and satisfaction was always fully expressed in my acts as well as ways of performing them.

As this suit was brought against me for an act I did in my official capacity and in obedience to specific orders, I respectfully ask that the War Department assume the payment of the judgment against me as well as the costs for defending the suit. The Hon. W. W. Upton, the assistant district attorney in the case, is now the Second Comptroller of the United States Treasury, is in Washington, and doubtless will, if called upon, be able to give such information in reference to the case and its management as the War Department may deem necessary. I submit herewith a certified copy of the judgment and a statement of expenses incurred by me in carrying on the suit. Captain Rodney, Assistant Surgeon Fitzgerald, and Lieutenants Stuart and Paddock have been in the field against the Nez Percés Indians ever since the suit closed, and I have been unable to get vouchers in proper form from them as yet. I will forward them, however, as soon as they can be procured. The amounts given I learned in personal letters to me.

I am, sir, respectfully, your obedient servant,

J. B. CAMPBELL,
Captain Fourth Artillery.

Memorandum of judgment and expenses of suit of Hugh Waters vs. Captain J. B. Campbell, Fourth Artillery, in district court of the United States, district of Oregon, and United States circuit court, sitting in Portland, Oreg.

Judgment against Capt. J. B. Campbell.....	\$2,100 50
Marshal's and clerk's fees for transferring suit	13 45
Mileage and expenses of Asst. Surg. J. A. Fitzgerald, United States Army, summoned from Lapwai by defense.....	26 00

Mileage, per diem, and expenses of Dr. F. A. Stirling, summoned from Oroville, Cal., to San Francisco, Cal., witness for defense before United States Commissioner Sawyer.....	\$67 90
Fees of L. S. B. Sawyer, United States commissioner, San Francisco, taking and sending testimony of Captain Field and Lieutenant Quinan, Fourth Artillery, and Dr. Stirling.....	33 00
Mileage and expenses of Capt. S. B. Rodney, Fourth Artillery, United States Army, summoned from Astoria to Portland, for defense.....	17 00
Same, Lieut. W. F. Stuart, Fourth Artillery, for defense.....	17 00
Same, Lieut. G. H. Paddock, Fourth Artillery, for defense.....	17 00
Total.....	2, 291 85
Of the above amount I have paid, myself, cost and fees of prosecution....	113 95
Dr. Stirling's bill.....	67 90
Commissioner Sawyer's bill.....	33 00
	214 85

J. B. CAMPBELL,
Captain Fourth Artillery.

FORT CANBY, WASH., September 6, 1877.

DEAR SIR: I was informed by Major Rodney, some time since, that you wanted Lieutenant Paddock and myself to notify you of the expense of our trip to Portland (in June last) as witnesses in your case before the United States court.

The following is a list of my expenses:

June 8. Fare to Portland, including state-room and meals.....	\$4 50
Hotel bill at Portland, June 9th to 14th.....	9 00
June 14. Fare to Astoria, including meals.....	3 00
Porterage.....	50
	17 00

Respectfully, &c.,

Maj. J. B. CAMPBELL.

WM. F. STUART.

United States circuit court, Oregon.

HUGH WATERS }
vs. }
J. B. CAMPBELL. }

Maj. J. B. Campbell, Fourth United States Artillery, to L. S. B. Sawyer, United States commissioner, Dr.

To fees for taking testimony of William R. Quinan, Edward Fields, Frank S. Sterling, and Jno. Walsh..... \$35
Paid by

J. B. CAMPBELL,
Captain Fourth Artillery.

Receipt sent to Portland and not yet returned.

[C. B. Upton, attorney and counselor at law, P. O. box 673, No. 9 Dekum's Building, Portland, Oreg.]

SEPTEMBER 19, 1877.

DEAR SIR: Your letter of the 4th instant came duly to hand, and would have been answered sooner, but that my father sailed for San Francisco on the 4th instant, and expected to see you while there. I have just received a letter from him, saying that he did not meet you; his stay in San Francisco was very short.

Before his departure we argued the motion for a new trial in your case before Judge Deady and Judge Field, of the Supreme Bench, who was here holding a term of the circuit court. Judge Field held (just as Deady did) that persons in such cases were not military prisoners, but civil prisoners; that it was unlawful to cause them to do any work; that it was unlawful to confine them with men convicted of offenses. He also held that after four days the defendant should have been discharged, and that Davis's order "to take the prisoner to Sitka, to be there dealt with according to law," did not authorize you to hold them after the expiration of the four days.

We also made a strong effort on the proposition that the damages were *excessive*, and upon that question both judges agreed with us, and said that unless the plaintiff would consent to take a judgment for \$2,000 that they would order a new trial. The plaintiff elected to take the judgment of \$2,000, and the judgment was so entered.

This is the *finale* of the case. As the judgment is not \$5,000, there can be no appeal to the Supreme Court. Appeal cases are limited by an act of Congress to cases where the amount in controversy, exclusive of costs, exceeds the sum of \$5,000, and in actions for damages the amount in controversy is the amount for which plaintiff obtains judgment. The plaintiff has filed his cost bill, which includes fees of officers and *his witnesses*. I have examined the same and it is correct. The amount is \$103.70. Then, in addition, there is clerk's and marshal's fees for work done for you of the amount of \$10.25, making in all \$113.95. This amount the bondsmen who signed the bond given on removing the cause from the State court are liable as well as yourself, so you will please send me the amount, \$113.95, and I will pay these off for you. The judgment itself, of course, you will let stand unpaid. If there is anything further that I can do, please command me.

I remain, very respectfully, yours,

C. B. UPTON.

Capt. J. B. CAMPBELL,
Point San José, Cal.

Answered September 25, and certificate of deposit in National Bank of San Francisco, No. 6400, for \$114, inclosed, subject to order of C. B. Upton.

J. B. CAMPBELL.

In the circuit court of the United States for the district of Oregon.

HUGH WATERS, PLAINTIFF, }
 vs. } No. 332.—SEPTEMBER 4, 1877.
J. B. CAMPBELL, DEFENDANT. }

Now at this day, the court being fully advised in the premises, it is ordered that the motion for a new trial filed herein by the defendant be and the same is hereby allowed, unless the plaintiff will consent to remit fifteen hundred dollars of the damages heretofore assessed by the jury against the defendant, in which case said motion is denied; and thereupon said plaintiff remits the damages as aforesaid; said plaintiff appearing by Messrs. W. W. Page and George W. Yocom, his attorneys, and said defendant appearing by W. W. Upton and C. B. Upton, his attorneys.

Whereupon it is considered that the said plaintiff have and recover of and from the said defendant the sum of two thousand dollars, his damages assessed by the jury herein, together with his costs and disbursements herein expended, taxed at one hundred dollars and fifty cents.

THE UNITED STATES OF AMERICA,
District of Oregon, ss:

I, R. H. Lamson, clerk of the United States circuit court for the district of Oregon, do hereby certify that the foregoing copy of entry of judgment in the journal of said court has been by me compared with the original, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record at my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Portland, in said district, this 21st day of September, 1877.

R. H. LAMSON, *Clerk.*

OROVILLE, BUTTE COUNTY, CALIFORNIA,
May 31, 1877.

Received from Capt. J. B. Campbell, Fourth Artillery, the sum of \$67.90, currency, for travel expenses, &c., incurred during journeys from Oroville, Cal., to San Francisco, Cal., on the 24th, 25th, 26th, 29th, 30th, and 31st days of May, 1877, for the purpose of appearing before the United States commissioner, Sawyer, in order to give testimony in the suit of Hugh Waters *vs.* J. B. Campbell.

F. S. STIRLING, M. D.

UNITED STATES OF AMERICA,
District of California:

I, Joseph F. O'Bierne, United States commissioner, district of California, do hereby certify that Frank S. Stirling, M. D., a witness on behalf of Maj. J. B. Campbell, in the case pending at the United States circuit court of Oregon, entitled "Hugh Waters

vs. J. B. Campbell," appeared before me on the 25th and 30th days of May, A. D. 1877, in order to testify on behalf of defendant in said action.

Attest, &c.

JOS. F. O'BIERNE,

United States Commissioner and Deputy Clerk United States Court, California.

[Indorsements.]

HEADQUARTERS MILITARY DIVISION PACIFIC AND DEPARTMENT CALIFORNIA,
San Francisco, Cal., October 6, 1877.

Respectfully forwarded to the Adjutant-General, requesting the attention of the Secretary of War be invited hereto at an early day.

Captain Campbell, Fourth Artillery, while commanding officer at Sitka, Alaska, in obeying the orders of his military superiors, and in carrying out the acts of Congress, sections 1957, 2150, 2151, Revised Statutes United States, has been found guilty of unlawful conduct by the United States district court of Oregon, and judgment found and affirmed by the United States circuit court against him for \$2,100, which, together with the costs, amounts to \$2,291.85. The sections of the statutes referred to, when applied in Alaska, contain incompatible provisions. It is not possible for a military commander in Alaska, under section 2150, to arrest a violator of section 1955, and "keep and deliver" him for trial as prescribed by section 1957, without himself violating the provisions of section 2151, which declares he shall not detain a prisoner over five days after arrest and before removal.

Captain Campbell at Sitka could not comply with all the statutes, but he did the best he could, and brought those who had offended against the laws of the United States to trial and conviction, and for doing this and upholding the majesty of the laws of the United States he finds himself mulcted in damages amounting to \$2,291.85 by the courts of the United States.

I do hope the Secretary of War will be able to come speedily to Captain Campbell's relief, if in no other way, by asking Congress to pass an act for his relief.

IRVIN McDOWELL,

Major-General, Commanding Division and Department.

ADJUTANT-GENERAL'S OFFICE,
Washington, October 16, 1877.

Respectfully submitted to the Secretary of War with papers upon which the United States district attorney for Oregon was instructed to appear in defense of Captain Campbell in the suit herein mentioned.

E. D. TOWNSEND,
Adjutant-General.

Transcript showing action of department in previous claims of this nature herewith.

[Indorsement on (1747 A. G. O., 1871), May 15, 1871.]

Arthur Walters, hospital steward, United States Army, states that in the case of State of Mississippi *vs. Walters*, he was ordered to pay \$39.70, fine and costs; requests information, as he was acting under orders in recovering government property, whether he or the United States Government has to pay these costs.

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *May 24, 1871.*

May 29, 1871, returned from War Department with the following indorsement: "When the official reports of the result of the trial and proper vouchers are received, the amount of fine and costs, \$39.70, may be paid from Army contingencies."
July 8, 1871, Steward Walters requests to be furnished with the information desired in his communication of May 15 last, adding: "I was ordered to pay costs, \$29.70, and the fine, \$10, should be dropped; this has now been done."

By letter of July 19, 1871, from this office, the commanding general, Department of the South, was requested to transmit a report of the case, showing result of the trial, fine, &c., required for a proper adjustment of the matter, which was returned July 31, 1871, inclosing a report of the commanding officer, post of Jackson, Miss.

See 2728 Adjutant-General's Office, 1871, for report.

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *August 8, 1871.*

August 11, 1871, returned by the Secretary with the following order:

Let the sum of \$29.70 be paid to the hospital steward.

WM. W. BELKNAP,
Secretary of War.

Respectfully referred to the Quartermaster-General for proper action, inviting attention to indorsement of the Secretary of War, of August 11, 1871, hereon.

The commanding general, Department of the South, has been informed of this reference.

E. D. TOWNSEND,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *August 14, 1871.*

[Indorsement on (3330, A. G. O., 1873), August 8, 1873.]

Col. J. C. Davis, commanding Department of Columbia, forwards correspondence of Maj. A. J. Dallas, Twenty-third Infantry, requesting to be reimbursed \$22.90, incurred by him in payment of costs of a suit brought against him for acts committed while in his official capacity as commanding officer Fort Vancouver, Wash.

Respectfully submitted to the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *August 27, 1873.*

September 2, 1873, referred from War Department to Judge-Advocate-General, and returned with indorsement, in which he says: "No reason is perceived why the account should not be paid, if there is any fund available by the War Department for this purpose."

Returned from War Department September 9, 1873. "This account is approved, and will be paid from Army contingencies."

Respectfully referred to the Second Auditor of the Treasury, inviting attention to preceding indorsement of the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *September 13, 1873.*

[Memorandum.]

ADJUTANT-GENERAL'S OFFICE,
Washington, October 16, 1877.

See, also, action of the Secretary of War in case of Sergeant Shemp, Company A, Sixteenth Infantry. Fine and costs paid by Capt. R. N. Scott, his commanding officer, refunded from Army contingencies, by order of the Secretary of War.

November 2, 1870. *Vide B B, 26, 1227.*

WAR DEPARTMENT,
Washington City, November 22, 1873.

SIR: Referring to your letter of the 14th instant, and inclosed copy of letter from the United States district attorney for the northern district of Illinois, who expresses the opinion that Lieut. Mark Walker, Nineteenth Infantry, who was arrested by the authorities of the State of Illinois on a charge of false imprisonment in arresting a supposed deserter, is liable for damages, but that the case can be settled for \$100, I have the honor to inform you that this department is willing to assume the responsibility of Lieutenant Walker's action in the matter, and, by paying the amount named, have the case foreclosed.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The Hon. ATTORNEY-GENERAL.

From all this it appears that Captain Campbell, in the arrest and detention of Waters, was acting in the line of his duty in obeying the orders of his military superiors, and in carrying out sections 1957, 2150, and 2151 of the Revised Statutes; that his conduct in the premises was marked with prudence and discretion. The precedents cited go to sustain the principle that the United States should indemnify Captain Campbell for the amount of damages and expenses he has incurred in this matter; and the relief is recommended by the present Secretary of War, Hon. Alexander Ramsey, and also by his predecessor, the Hon. George W. McCrary. The Committee on Military Affairs of the House of Representatives in the foregoing report recommended the passage of the bill for the relief of Captain Campbell. And from all these facts we are of opinion that the relief asked for should be granted. The committee therefore reports the bill back, with an amendment striking out the words "court and witness fees," in line 17, and inserting the word *costs* in lieu thereof, and recommends its passage as amended.

