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John McCartney.

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Recommended Citation

H.R. Rep. No. 433, 23rd Cong., 1st Sess. (1834)

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JOHN McCARTNEY.

APRIL 30, 1834.

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

Mr. E. WHITTLESEY, from the Committee of Claims, to which had been referred the bill from the Senate (No. 15) for the relief of John McCartney, made the following

REPORT :

The Committee of Claims, to which was referred a bill from the Senate for the relief of John McCartney, report :

That this claim was examined by the Committee of Claims at the 2d session of the 16th Congress, and an adverse report was made thereon, which is recorded in Book 5, page 8, to which the committee refer, and make the same a part of this report.

During the 1st session of the 19th Congress, a bill was reported by the Committee on Indian Affairs, which afterwards passed the House, and was referred to the Committee of Claims in the Senate. Mr. Cobb, a member of that committee, reported against the claim on the 26th of December, 1826, to which this committee refer. The claim may have been presented at other times, but the committee do not think it is necessary to resort to the journals for the purpose of ascertaining what has been the further action of either House of Congress upon it, previous to the present session. It appears, from the proceedings of the Senate at the present session, that the Committee of Claims recommended that this bill, referred to them, be rejected. It will be perceived, by the reports referred to, that the claim arises from an illegal act of an officer, in seizing the property of the petitioner, and selling it at public sale. The property was not applied to public use, which might lay the foundation of a just claim against the United States. It seems to have been an inquiry by the committee in the Senate at the present session, whether the avails of the property had been paid into the Treasury, or in any way accounted for, and the answer from the War and Treasury Departments is, that the money has not come into the Treasury in any manner, nor has it in any way been accounted for. The question is then presented, Are the United States liable for the trespass of an officer, committed on the property of a citizen, which property has not, in any way, enured to the benefit of the United States, and in a case where the United States have not ordered, or recognised the act? The committee think they are not so liable, and any precedent establishing a contrary principle would be mischievous in its consequences. They

believe this to have been the decision of both Houses of Congress, whenever the question has been submitted in a manner that was understood. The committee submit the following resolution :

Resolved, That the bill from the Senate, for the relief of John McCartney, ought to be rejected.