REPORT

Of the Committee of Ways and Means on the petition of John Wilmot accompanied with a bill for his relief.

FEBRUARY 11, 1818.

Read, and, with the bill, committed to a committee of the whole House to-morrow.

The Committee of Ways and Means, to whom was referred the petition of John Wilmot, of the city of Baltimore,

REPORT:

That it appears from the papers submitted, that the schooner Collector, captain Snow, was seized by John Randall, collector of Annapolis, on the 24th day of December, 1806, laden with coffee and logwood, the property of John Wilmot and others; that the said schooner and cargo, were libelled and condemned in the district court, for the district of Maryland, and on the 5th day of March, 1807, the said schooner and cargo, were, with the consent of the owners, ordered by the judge to be sold by the marshal, and the proceeds brought into court," subject to the future orders of the court, to wit: the schooner on a credit of sixty days, and the coffee for cash. It appears by the deposition of Thomas Rutter, the marshall, dated March, 1810, that he took possession of the schooner, at Annapolis, and caused her to be removed with the cargo, to Baltimore; that on her arrival, he, the said marshall, entered the said vessel and cargo, with the deputy collector in the usual manner, and subject to the payment of the legal duties, and executed bonds with two sureties, agreeably to law, for the amount of the duties; that when he presented the bonds to the collector, he, the said collector, refused to receive them, on the ground that the coffee, &c. were now the property of the United States, and were of course, subject to no duty. The marshall further attests, that the collector ordered that the coffee should be sold at the short price, that is, that the purchaser should be informed, that he would have no claim to drawback, in case he should export the same; that before the said marshal made the sales, he consulted the district attorney, who confirmed the decision of the collector; that in pursuance of those orders, he did sell the coffee,

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the cargo of the schooner Collector, for cash, at the short price, free of drawback on exportation, to wit:

19,161 lbs. at 20 3-4 cts.
33,588, at 20 1-2 cts.

It also appears, from the deposition of Joshua Dorsey, auctioneer, that he acted as clerk to the said marshall, at the sale of the Collector's cargo; that it was sold for cash, and declared by the said marshall, *not entitled to drawback:* and further, that St. Domingo coffee is not generally used for the consumption of the country, but is purchased for exportation, and consequently, if the privilege of drawback be taken away, the sales will be materially affected. He also declares, that St. Domingo coffee, with the privilege of drawback, sold in the month of February and March, 1807, at from 25 to 27 cts. pr. lb. the difference between that price and the sales of the Collector's cargo, being the duties payable at that time on coffee, to wit: five cents per lb. or thereabouts. It also appears, that on an appeal to the supreme court of the United States, the said cargo of the schooner Collector, was ordered to be restored to the claimants, subject to the payment of the usual duties. And by the testimony of the marshal it appears, that he did deduct from the proceeds of the sales, the amount of duties to which such a quantity of coffee was liable, amounting to 2568 dollars. It further appears by the testimony of the said marshall as well as by the record of the court, that the cargo of the schooner Gottenburg, which had been sold in the same manner as that of the schooner Collector, and during the same year, 1807, was ordered to be restored to the claimants without their paying duty.

The point being made on that case, the supreme court, February term, 1810, "declared, upon the question on this case referred to the court, from the circuit court of Maryland, upon the prayer of the claimant, in the said circuit court, to order the sum retained, pursuant to the mandate, in that case to be paid to him, on the ground, that, as the United States were not bound to pay drawback on the said coffee, and the owner, or claimant, was, by the circumstances aforesaid, prevented from receiving them, nothing ought to be paid to, or retained by the United States, on account of duties thereon." Upon which question, the opinion of the judges of the said circuit court were opposed. It is the opinion of this court, that, under the circumstances in this case, the United States *are not entitled to the duties* on the coffee, in the said proceedings mentioned, and that the sum retained pursuant to the mandate on this case, should be paid to the owner or claimant of the said coffee, all which is ordered to be certified to the said circuit court of the United States, for the district court.

The petitioner states, that the supreme court were not apprised, at the time of their decree, (in the case of the schooner Collector,)

that her cargo had been sold at the short price, and as exempt from duty; but being afterwards informed thereof, the court decided, that the United States were not entitled to duty on the said cargo; but inasmuch as the same had been paid over beyond the reach of the court, into the Treasury of the United States, recommended him to apply to Congress, as the only power capable of affording redress: that the said court, (when in its power,) had afforded to others similarly situated.