

NIMROD FARROW AND RICHARD HARRIS.

[To accompany bill H. R. No. 78.]

DECEMBER 14, 1837.—Reprinted.

FEBRUARY 22, 1837.

Mr. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to which was referred the petition of the legal representatives of Nimrod Farrow and Richard Harris, report :

That a claim in behalf of the decedents has been before Congress since January, 1823.

For a knowledge of the proceedings on the subject of this claim, the committee refer to the Reports of Committees at the 2d session of the 18th Congress, rep. 69. The decedent, Nimrod Farrow, survivor of Richard Harris, received, under an award of Thomas Swan, seventy-three thousand seven hundred and forty-seven dollars and seventy-eight cents. There was afterwards paid by the Secretary of War, on a report of the Committee of Claims, for seventeen slaves, said to have been lost when they were in the custody of the United States, on a deed of trust, the sum of ten thousand two hundred dollars.

Mr. Swan made another estimate on what was contended to be an enlargement of the plan of the fortification, so that Congress might take either estimate, as it should think proper. The estimate according to the enlarged plan, exceeded the other by \$33,267 50.

The lesser estimate was taken by the committee at the second session of the 18th Congress, because, as to the amount it contained, there was no dispute ; and the question as to the other estimate was left for future examination.

At the second session of the 19th Congress, a majority of the committee varied the principle of compensation, and reported a bill allowing \$39,039 85, which, not having been acted on at that session, was again reported at the 1st session of the 20th Congress, and passed the House, after being amended, by deducting the said sum of \$10,200, improperly paid for the loss of the slaves. The bill was not acted on in the Senate.

At the first session of the 21st Congress, the Committee of Claims of the House of Representatives reported against any allowance. That report, volume 3, report 315, is referred to, for the views entertained by that committee relative to the claim. The marginal notes refer to all the papers and documents in the case, and the report may be profitably examined for the references it contains.

On the 6th day of January, 1832, the Committee of Claims were instructed by the House to inquire into the expediency of making provision, by law, for liquidating the claims of Farrow and Harris upon the Government of the United States.

On the 14th of July, 1832, Congress passed an act authorizing the Third Auditor, Second Comptroller, and Charles Gratiot, to examine these claims, on the principles of justice and equity, and to take further testimony on the part of the United States, if they should think the same necessary to accomplish the ends of justice; and to prescribe rules for taking testimony, and for giving notice to the parties respectively; and to call on the claimants for books and papers relating to their expenditures. They were directed to report the testimony and their award to the next session of Congress.

Two reports were made on the 6th of January, 1835, at the 2d session of the 23d Congress. They are printed in the Executive Documents, vol. 3, document 78.

The Second Comptroller (Mr. Thornton) and General Gratiot, as they first struck a balance in favor of the claimants, awarded the sum of \$179,616.8666. Before their report was submitted, they corrected an error, which reduced the amount to \$131,022 83.

Mr. Hagner came to the conclusion that the contractors were not entitled to any additional compensation. It was the intention of Congress, in the submission, to have further testimony taken, and not to be bound by the award that might be made.

The majority of the board acted without further testimony, as to the cost of construction, and on testimony disproved by facts relating to that subject. The testimony had been examined by the Committee of Claims, with great labor, and at different sessions; and if it had been contemplated that such testimony was to form the basis of a report, the committee would not have reported a bill to refer the subject to a board.

A majority of the present committee dissent from the reports made by the majority and minority of the board. They dissent from the majority report, because they think they have taken erroneous data, which have led them to conclusions so widely different from those to which all others who have examined the same testimony arrived at.

They dissent from the minority report, because they think the plan of the fortification was enlarged, and that the principle had been established that profits would have been realized if the work had progressed to completion. They have, therefore, looked back into the former proceedings on the subject of this claim; and, in this review, they find that the contractors asked for a judicatory to investigate their claim; that their request was granted; that they were fully heard; that a report was made, which, adopting the restricted plan for the fortification, was sanctioned by Congress, and the money contained in the report, in reference thereto, was paid; that the commissioners also reported what they would be entitled to, if the enlarged plan should be considered by Congress as the one on which the calculation should be made; that the Committee of Claims, on different occasions, reported a bill, not greatly exceeding the amount contained in the calculation based on the enlarged plan, and which, at one session, after reducing the sum by an amendment, as mentioned above, passed the House. And although a subsequent committee rejected the claim entirely, a majority of this committee think the report of Mr. Swan on the enlarged plan was correct; and the committee, considering all the circumstances of the claim, and the whole proceedings, concur in reporting a bill based on Mr. Swan's report on the enlarged plan.