THOMAS BAYTOP—HEIRS OF.

January 25, 1838.

Mr. Muhlenberg, from the Committee on Revolutionary Claims, made the following REPORT:

The Committee on Revolutionary Claims, to which was referred the petition of the heirs of Captain Thomas Baytop, report:

This case was examined at the 1st session of the 24th Congress, and favorably reported on. Upon reviewing the case, and getting additional evidence from the authorities of Virginia, the committee has found reason for a change of opinion.

The petitioners state that their father, Thomas Baytop, entered the service of the United States in the early part of the Revolution, and served in the Virginia line on continental establishment to the close of the war. They therefore ask the commutation of half pay for life promised to such officers by the resolves of October, 1780, and March, 1783.

In support of this statement, several respectable witnesses (Henry Buchannan, B. Marnix, Almon Dunstan, and Alexander C. Shackleford) swear that they knew Captain Thomas Baytop during the war of Revolution, and that he served to the close of that war in 1783. Dr. William Taliaferro, a highly respectable witness, swears that Captain Baytop resided at his father's house previous to his entering the service of the United States, and distinctly recollects that he returned from the service to that residence after the conclusion of the war, and not until then. From his own knowledge, and from the information and belief of others, he has no hesitation in saying that Captain Thomas Baytop entered the continental service at an early period of the revolutionary war, and served until its conclusion.

On the other hand, the name of Captain Thomas Baytop does not appear on any of the revolutionary records on file in the Third Auditor's office. He was settled with by the State of Virginia as an officer of the continental line, under the act of Assembly passed November session, 1781. He received a certificate himself on the 22d March, 1783, for the balance of his full pay for services prior to January 1, 1782, to wit: pay as captain lieutenant of artillery, from January 13, 1777, to February 5, 1778, and as captain, from 5th February, 1778, to December 11, 1779.

No parol evidence can contravene a record of this description. If Captain Baytop had served in the continental line longer than December, 1779, he would, when settling for the balance of his full pay in March, 1783, for services prior to January 1, 1782, have been paid for a longer period than December, 1779. This must be conclusive as to his not serving in the continental line to the conclusion of the war, or even to the spring of 1781, one or the other of which is necessary to entitle to the commutation of half pay. The probability is that he served in the continental line to December, 1779, and for the balance of the war either in the militia, volunteers, or States troops, and was of consequence not entitled to commutation. The committee therefore resolve that the prayer of the petitioners cannot be granted.