

WILLIAM NELSON—HEIRS OF.

JULY 14, 1854.—Laid on the table, and ordered to be printed.

Mr. PECKHAM, from the Committee on Revolutionary Claims, made the following

REPORT.

*The Committee on Revolutionary Claims, to whom was referred the petition of Dr. B. R. Wellford, one of the representatives of Col. William Nelson, deceased, asking in his own and in behalf of the other representatives of Col. Nelson for commutation of half-pay, present the following report:*

That they have examined the case, and are of opinion that the prayer of the petition should not be granted. This opinion is based upon two grounds: first, upon the fact of this case having been several times before examined, and adverse reports made upon it; and, in the second place, we are unable to agree with the petitioner upon the merits of the case.

As to the first, it appears that this application was first made to Congress in April, 1834; renewed in 1836; again in January, 1837; again in December, 1837; and, so far as the papers show, the first report was made upon it in February, 1838. That report was adverse to the claimants. The case was again presented to this House in January, 1840, and in April of that year an adverse report was again made thereon; in 1841, again presented, and a like report made in same year; in December, 1841, again presented, and on the 8th of March, 1842, an adverse report again made and ordered to be printed. Neither of those reports is now among the papers in this case; but these facts appear by the several endorsements made in different years upon the papers by the Clerk of this House

In the judgment of the committee, it neither accords with principle nor sound policy to re-examine any case that has once been reported upon unfavorably, unless some clear mistake can be shown to have been made in the first examination—some undoubted misapprehension of fact or law on some controlling point. We discover no such misapprehension here. A brief report on the back of the papers is all that has come to the knowledge of the committee, and no material mistake is found in that. It is true the papers claim to show that more evidence is now produced than was before some other committee; but what that particular evidence is, or which committee was deprived of its benefit, does not appear. For this reason alone, in the judgment of the committee—that the case has several times been reported upon

adversely, and no material mistake is found or presented in the last report, nor, in fact, in either—the prayer of the petition should be denied.

But on the merits of the case the committee come to the same conclusion.

Colonel Nelson, as appears by the papers, entered the army in 1775, first as a common soldier, and subsequently he was promoted to the grade of lieutenant colonel through different positions. Finally, by consent of General Washington, he resigned his commission on the 25th day of October, 1777, as appears by the letter of the General of that date. He resigned, as also appears by that letter, "on account of his indisposition and the situation of his affairs." It is true that he afterwards served as a colonel in the Virginia militia, to repel invasions of the enemy; but it is not claimed or pretended that he served there, in the whole of his different terms, for a longer period than one year, and the proof falls short of that. It is not pretended that he served more than three years in all, if the service in the Virginia militia be called and conceded to be service in the United States. In no sense did he serve until the end of the war, or until anywhere near the end of the war. The several statutes that finally resulted in the act of 1783, allowing five years' full pay in commutation of the half-pay for life previously allowed, were passed with the design and purpose of preventing resignations—offering a bounty to those who should continue on to the end of the contest. It was not, strictly speaking, intended as a payment—not *ex debito justitiæ*—but as a donation or bounty, for the purpose before mentioned. The case of Col. Nelson, in the opinion of the committee, comes neither within the letter nor the spirit of the law. They therefore recommend that the prayer of the petition be denied, and that the committee be discharged from its further consideration.