

IN THE SENATE OF THE UNITED STATES.

MAY 12, 1856.—Read and referred to the Committee on Claims.

DECEMBER 18, 1857.—Referred to the Committee on Claims.

The COURT OF CLAIMS submitted the following

REPORT.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The Court of Claims respectfully presents the following documents as the report in the case of

J. D. HOLMAN, EXECUTOR, *vs.* THE UNITED STATES.

1. The petition of the claimant to the Court of Claims.
2. Petition to Congress, with accompanying documents, referred to the Court of Claims by the House of Representatives, and returned to that House.
3. Two original letters, exhibited as evidence in the case, and transmitted to the House of Representatives.
4. Petition for rehearing by claimant.
5. Claimant's brief.
6. Opinion of the Court on both hearings.

By order of the Court of Claims.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Washington, this seventh day of May,
[SEAL.] A. D. 1856.

SAM'L H. HUNTINGTON,
Chief Clerk Court of Claims.

J. D. HOLMAN, executor of JESSE B. HOLMAN, deceased, *vs.* THE UNITED STATES.

To the honorable the Judges of the Court of Claims:

Your petitioner, J. D. Holman, respectfully represents, that his brother, Jesse B. Holman, died in the State of Alabama, in the year 1853, and that letters of administration, with the will annexed, upon

his estate have been granted your petitioner by the judge of probate for Marengo county, in said State.

Your petitioner further shows, that the Hon. Bailie Peyton, late envoy extraordinary and minister plenipotentiary of the United States to Chili, was officially recognized by the latter government on the 16th day of February, 1850; that Robert M. Walsh was appointed his secretary of legation, who subsequently declined, and B. Rowan Hardin appointed in his place; that the said Hardin never reached his post, but died, as your petitioner is informed and believes, at Panama, on his way to Chili, on the 24th of June, 1850; that the said Jesse B. Holman was commissioned to this position, and that upon his arrival at his post he found a very large accumulation of business in the office of the legation, in consequence of the long absence of the proper officer whose duty it was to discharge it; that the office was otherwise much out of order, there being no index to the records, in consequence of which there was much difficulty and confusion in managing the business of the legation; that the said Jesse entered zealously into the labor, which was of a very onerous character, in arranging the papers and records of the office, and making the necessary indexes therefor; that he succeeded in bringing up the business that was in arrear, by instituting a perfect arrangement of the records and papers, and completing indexes for the business transacted under Mr. Peyton's and his predecessor, Mr. Barton's, administration, and for a very large portion of the ancient records of the office, though he was prevented from finally completing the indexes by failing health and necessary attention to the current business of his office; that a petition, praying compensation for these services, was presented to the Senate of the United States during the last Congress, which being referred to the Committee on Foreign Affairs, the said committee reported, July 28, 1854, a bill for his relief, No. 477, allowing the said Jesse the sum of seven hundred and sixteen dollars and sixty-seven cents, "for extra clerical duties, from the 16th of February to the 24th of June, 1850." That this report and bill having been passed by the Senate, was sent to the House of Representatives, and laid on the Speaker's table, where, from want of time, it was not acted on; all of which will appear by reference to the papers in said case, now filed in this honorable Court by virtue of the resolution of the House of Representatives, which reference gives, under the act, jurisdiction of this case to your honorable Court.

Your petitioner therefore prays that the said amount be adjudged and decreed to be paid to him, and that the necessary proceedings be had for that purpose.

P. PHILLIPS,

Solicitor for J. D. Holman, Adm'r.

Personally appeared ——— before me ———, who, being duly sworn, says that the facts set forth in the above petition are true, to the best of his knowledge.

J. D. HOLMAN, executor of JESSE B. HOLMAN, deceased, *vs.* THE UNITED STATES.

The claim for extra compensation as secretary of legation to Chili rests upon the performance of services which should have been rendered by two former secretaries, one of whom had died, and the other resigned. This claim is sustained by the practice of the government, and its payment recommended by the minister plenipotentiary and Secretary of State.—(See letters of Mr. Peyton and Mr. Marcy, on file.)

The Committee on Foreign Relations, Senate, made a report, No. 375, to accompany bill No. 477, on 28th July, 1854. The bill passed the Senate, and was sent to the House, and without being acted on was referred to this Court.—(See report and bill, on file.)

The facts are all ascertained, and there would seem to be no necessity why the Court should not now decide upon it without transferring it to the judicial docket.

P. PHILLIPS,
Solicitor for Petitioner.

OCTOBER 5, 1855.

HOLMAN, administrator, with the will annexed, *vs.* THE UNITED STATES.

Opinion of the Court delivered by BLACKFORD, J.

The petition is attached to this opinion. It is alleged that the testator, Jesse B. Holman, was commissioned subsequently to the 24th of June, 1850, secretary of legation to Chili; that, upon his arrival at his post, he found a very large accumulation of business in the office of the legation, in consequence of the long absence of the proper officer whose duty it was to discharge it; that the office was otherwise much out of order, there being no index to the records, in consequence of which there was much difficulty and confusion in managing the business of the legation; that the said Jesse entered zealously into the labor, which was of a very onerous character, in arranging the papers and records of the office, and making the necessary indexes therefor; that he succeeded in bringing up the business that was in arrear, by instituting a perfect arrangement of the records and papers, and completing indexes for the business transacted under Mr. Peyton's, and his predecessor, Mr. Barton's, administration, and for a very large portion of the ancient records of the office, though he was prevented from finally completing the indexes by failing health and necessary attention to the current business of his office.

The petitioner, for the above extra services, claims from the government the sum of seven hundred and fifty dollars.

The testator was a public officer with a regular salary.

There is an act of Congress of the 23d of August, 1842, as follows:

"Sec. 2. *And be it further enacted*, That no officer in any branch of the public service, or any other person whose salary, pay, or emoluments is or are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance or compensation."—(5 Stat. at Large, 510.)

This statute applies to the case before the Court.

The claimant has no demand against the government that can be sustained by this Court for the extra services stated in the petition.

No order for testimony will be made in this case.

After the foregoing opinion was delivered, the claimant filed a petition for a modification of the decision, or for leave to argue the question relative to the jurisdiction of the Court. The leave asked for was granted, and the argument heard.

Our former opinion in this case is founded on an act of Congress of 1842, which is copied in that opinion. The claimant contends that that act applies only to the different departments of the government; but we do not agree with him. The language of the act is general, and we have no authority to limit its operation. We therefore adhere to our former decision against the claim.

The case, however, having been referred to this Court by the House of Representatives, we have, on the motion of the claimant, examined the papers referred. The testimony consists of two letters—one from the American minister at Chili, Mr. Peyton, to the testator, dated May 24, 1853, and the other from the Secretary of State, Mr. Marcy, to the chairman of the Committee on Foreign Affairs of the House of Representatives, dated February 9, 1854. There are also among the papers referred from the House a report of the Committee on Foreign Relations of the Senate, dated July 28, 1854, in favor of the claim, and a bill, which accompanied the report, allowing the testator seven hundred and sixteen dollars and sixty-seven cents for the extra services mentioned in the bill. On the 9th of February, 1855, the bill passed the Senate, and was sent to the House of Representatives for concurrence. On the 3d of March, 1855, the case was referred by the House of Representatives to this Court.

The two letters aforesaid are the only evidence. The originals are returned to the House of Representatives.

The claimant has no legal claim, and must depend upon the discretion of Congress.