

IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1857.—Received.

DECEMBER 18, 1857.—Referred to the Committee of 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

ELIZA SHAFFER *vs.* THE UNITED STATES.

1. The petition of the claimant.
2. Opinion of the Court on the petition adverse to the claim.

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 December, A. D. 1857.

SAMUEL H. HUNTINGTON,
Chief Clerk Court of Claims.

IN THE UNITED STATES COURT OF CLAIMS.

DISTRICT OF COLUMBIA, }
Washington County. }

To the Honorable the Judges of the Court of Claims:

The petition of Mrs. Eliza Shaffer, widow of Jonathan Shaffer, and the only surviving child and heir at law of Christian Orendorff, deceased, who was a captain in the Maryland line of the revolutionary army, respectfully represents, that on a final settlement of accounts between her deceased father and the government of the United States, the government was justly indebted to him in the sum of twenty-eight dollars and thirty cents; for which a final settlement certificate, dated January 6, 1783, was issued to her said father. Petitioner would represent that said certificate was never paid the said Christian Orendorff in his lifetime, nor has it been paid his legal representatives since his death; but the said sum, with legal interest thereon from date, is now justly due your petitioner; which sum the said government hath refused

and still doth refuse to pay in whole or any part thereof, to the damage of your petitioner two hundred dollars. Wherefore she brings this suit and prays your honorable court to report a bill for her relief, appropriating the sum of twenty-eight dollars and thirty cents, with interest thereon, at six per cent. per annum, from January 1, 1783, till paid, in liquidation of said certificate, which has been lost or destroyed, and cannot now be produced by your petitioner.

She would further represent that an application was made to the House of Representatives at the 2d session of the 28th Congress for relief, which application was referred to the Committee on Revolutionary Claims, and on the 15th day of February, 1845, the said committee made the following report, with the accompanying bill:

Mr. R. SMITH, from the Committee on Revolutionary Claims, made the following

REPORT:

The Committee on Revolutionary Claims, to whom was referred the memorial of Jonathan Shaffer, asking payment for a lost final settlement certificate issued to Christian Orendorff, report:

That they have examined the same, and herewith submit the certificate of T. L. Smith, Register of the Treasury, in relation to this claim, and make it a part of this report.

Number.	Letter.	Date of certificate.	To whom due.	When became due.	Amount of certificate.
86,423	A	Jan 1, 1783	Christian Orendorff.	Mar. 16, 1782.	\$28 30

TREASURY DEPARTMENT,
Register's Office, April 20, 1842.

I certify the above to be a true extract from the record of final settlement certificates issued by John Pierce, commissioner for settling the army accounts of the Revolution, and the certificate above referred to to be outstanding and unpaid.

T. L. SMITH, *Register.*

From the above certificate, it appears that this claim is outstanding and unpaid; the committee, therefore, report a bill providing for the payment of the said certificate, with interest on the same.

Mr. R. SMITH, from the Committee on Revolutionary Claims, reported the following bill:

A BILL for the relief of the legal representatives of Christian Orendorff.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Treasury be, and he is hereby, required to pay to the legal representative of Christian Orendorff, an officer in the revolutionary war from the State of Maryland, a final settlement certificate, issued to said Orendorff for the sum of twenty-eight dollars and thirty cents, with interest from the date thereof, at six per centum per annum till paid, out of any money in the treasury not otherwise appropriated: *Provided, That,* before such payment shall be made, the said legal representatives shall execute a bond, with good and sufficient security, to be approved by the said Secretary of the Treasury, in double the amount of the sum to be paid to him, to indemnify the United States against the legal claim of any person or persons for payment of the said certificate alleged to have been lost or destroyed.

Your petitioner would further represent that no final action was had on said bill. The application, however, was renewed several times before subsequent Congresses, but only one other report was ever made thereon, and that was adverse to the claim.

ALEX. H. EVANS,
Attorney for Claimant.

DISTRICT OF COLUMBIA, }
Washington County. }

Personally appeared before the undersigned authority, a justice of the peace in and for said district and county, Alexander Ray, who, after being duly sworn, makes oath and says that the facts set forth in the foregoing petition are true, to the best of his knowledge and belief.

Subscribed and sworn to this day of 1855.

ELIZA SHAFFER vs. THE UNITED STATES.

Chief Justice GILCHRIST delivered the opinion of the Court.

The petitioner states that she is the only surviving child and heir at law of Christian Orendorff, deceased, formerly a captain in the Maryland line of the revolutionary army, and that, on a final settlement of accounts between him and the government of the United States, there was due him the sum of \$28 30, for which a final settlement certificate was issued to him, dated on the 6th day of January, 1783. The amount due on this certificate has never been paid. The House Committee on Revolutionary Claims, in the year 1845, made a favorable report on the claim, stating that it was still unpaid, and reporting a bill for the relief of the petitioner.

We have recently had occasion to consider, in the case of Carson, administrator of Grubb vs. the United States, the statutes of limitation relating to final settlement certificates. These statutes are referred to in the judgment pronounced in that case. By the 14th section of the act of March, 1795, (1 St., 437,) if such certificates are not presented at the office of the Auditor of the Treasury, &c., by the 1st day of January, 1797, they are to be barred. The operation of this act was

suspended by various subsequent statutes until the 4th of March, 1837.

By the act of March 3, 1847, (9 Stat., 163,) an appropriation is made as follows: "To reimburse the owners the principal specie value of loan office and final settlement certificates which may be produced and exhibited, the sum of \$5,000." Now this appropriation is applicable to the payment of such certificates only as may be produced and exhibited, and cannot be applied to the payment of lost or destroyed certificates. The words "produced and exhibited" constitute an express limitation of the class of which payment may be made, and, unless they are rejected entirely, lost and destroyed certificates do not come within the statute.

It is not alleged that this certificate was ever presented at the treasury, according to the provisions of the acts of 1795 and 1847. It is therefore precluded from settlement or allowance by the express words of the act, and consequently the petitioner has no cause of action against the United States.