35TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REP. C. C. No. 176.

THOMAS ALLEN.

[To accompany Bill H. R. C. C. No. 87.]

DECEMBER 7, 1858.

JANUARY 21, 1859.—Ordered to be printed.

The COURT OF CLAIMS submit 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

THOMAS ALLEN *vs.* THE UNITED STATES.

1. The petition of the claimant.
2. Statement of claimant's account.
3. Deposition of W. Hickey, offered by the claimant, and transmitted to House of Representatives.
4. Claimant's brief.
5. United States Solicitor's brief.
6. Opinion of the Court.
7. Bill allowing claimant twenty-seven thousand seven hundred and thirty dollars and three cents.

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. 1858. [L. S.]

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

To the honorable the Judges of the Court of Claims:

The petition of Thomas Allen, of St. Louis, in the State of Missouri, respectfully represents: That the United States is indebted to your petitioner in the just and full sum of twenty-seven thousand seven hundred and thirty dollars and two and two-thirds cents, ($27,730 02⅔) with interest from March 3, 1843, for work and labor

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done and performed, and for materials furnished at the special instance and request of the said United States, a particular account whereof is herewith filed, marked Exhibit A. And proceeding to set forth a full statement of the claim, and of the action of Congress and the executive government thereon, your petitioner states:

That the said claim is for the value of twenty thousand copies of the Compendium of the Sixth Census of the United States, amounting, in the whole, to $43,579 66⅔, on which has been credited the sum of $15,849 64, under the circumstances hereinafter set forth.

That the said work was authorized by an act of Congress, passed and approved the first day of September, in the year 1841, (5 Stat. at Large, 452,) whereby it was, among other things, enacted that "*the Secretary of State be, and he is hereby, authorized to cause to be printed twenty thousand copies of the Compendium or Abridgement of the Sixth Census, by counties and principal towns, together with the tables of apportionment, as prepared at the Department of State, for the use of Congress.*"

That, in pursuance of the said authority of law, the Secretary of State (then the Hon. Daniel Webster) employed and directed your petitioner, then the printer to the Senate of the United States, to execute the said work; that the copy necessary for the same was officially delivered to your petitioner; and that the said work was faithfully executed and performed by your petitioner, and was received and accepted by the government of the United States and appropriated to the public use. And particularly he refers your honors to the joint resolutions of Congress of September 1, 1841, (5 Stat., 467,) and April 15, 1842, (5 Stat., 583,) in his behalf.

Your petitioner further states that the prices charged by him for said work, as per said account Exhibit A, are fair and reasonable, according to the standard prices of public printing at that time, and were such as he was then actually receiving for similar work under then existing laws in such case made and provided.

That in the month of September, 1841, Messrs. Blair & Rives addressed a memorial to Congress on the subject of the printing of the said compendium, the right to which, or some part thereof, they claimed, which said petition was referred to a select committee of the House of Representatives, for the proceedings whereof your petitioner refers to the Journals of the House, and which resulted in a report made August 19, 1842, accompanied by a bill, recommending that your petitioner be paid $17,849 64, and the said Blair & Rives $8,924 83.—(*Report No.* 1009, *and bill No.* 584, *H. R.*, 27*th Congress*, 2*d Session.*)

That in the month of July, 1842, the said work was completed by your petitioner, and on the 6th of August following he rendered his account therefor, amounting to $43,579 66⅔, and which was by the Secretary of State transmitted to Congress and an appropriation to pay the same requested. That subsequently, on the 17th of February, 1843, the Secretary of State transmitted to the chairman of the Committee of Ways and Means of the House of Representatives the estimate for an appropriation to pay the same.

That pending the appropriation bill for civil and diplomatic

expenses of the government for the year 1844, a difference in opinion touching the said appropriation arose between the Senate and the House, the latter having appropriated only $15,849 64 for the same, and the former (the Senate) having amended the bill by substituting the whole sum claimed by your petitioner, viz: $43,579 66⅔, which said difference, and the adherence of the House to its original position, resulted in a committee of conference, and in the final passage of the bill as originally passed by the House for $15,849 64, with the following proviso: "*Provided, That nothing herein contained shall prejudice any future application to Congress for further compensation for said works.*"—(Act March 3, 1843, 5 Stat., 631.)

Under this act, and with the saving of the proviso aforesaid, your petitioner received the said sum of $15,849 64, which is credited in his said account.

That subsequently, (December 13, 1843,) the Secretary of State (Mr. Upshur) submitted to the Committee of Ways and Means the statement of the balance remaining due to your petitioner, $27,730 03, and asked an appropriation for its payment. That subsequently, at the same session, your petitioner presented his first memorial to Congress, and an additional memorial, argumentative in its nature, and reviewing the report No. 1009 aforesaid. The matter was referred to the Committee of Claims of the House of Representatives. From that time down to the session of 1853–'54 the claim of your petitioner has been from time to time renewed without any definite action by Congress.

Your petitioner further states, that no other person or persons are owners of the said claim or interested therein.

All which matters and things your petitioner is prepared to maintain and prove, when and where your honorable Court shall direct.

Wherefore he prays judgment that the United States are indebted to him in the before mentioned sum of $27,730 02⅔, with interest from March 3, 1843; and that a decree may be passed for a bill to be reported to Congress to the effect of the exhibit herewith filed, marked B; and that he may have such other and further relief, &c.

And your petitioner will ever pray, &c.,

THOMAS ALLEN.

BADGER & CARLISLE,
Of counsel for petitioner.

DISTRICT OF COLUMBIA, *County of Washington, ss.*

Be it remembered that on this fifth day of July, 1855, before me, the subscriber, a justice of the peace in and for the county aforesaid, personally appeared Thomas Allen, the petitioner in the aforegoing petition to the Court of Claims against the United States, and made oath on the Holy Evangely of Almighty God that the facts stated in the said petition are true, to the best of his knowledge and belief.

Sworn and subscribed before me,

[L. S.] B. K. MORSELL, *J. P.*

WASHINGTON, *July* 18, 1842.

The United States of America to Thomas Allen, Dr.

To composition of 370 tables, 10,640 ems each, equal to 1,300 octavo pages, brevier rule and figure, at $3 50 per page	$4,550 00
To 10 pages plain work, 10,640 ems each, equal to 36 pages octavo, at $1 75 per page	63 00
To presswork and paper of 20,000 copies of 1,336 octavo pages, 167 signatures of eight pages, at $233 33⅓ per signature	38,966 66⅔
Total	43,579 66⅔

Contra, Cr., March 3, 1843.

By amount of appropriation made and accepted, with express reservation as to balance, as per act of Congress (5 Stat. at Large, p. 631)	15,849 64
Balance due March 3, 1843	27,730 02⅔

Deposition of William Hickey in the claim of Thomas Allen vs. *The United States.*

Question 1. Please to state your name, occupation, age, place of residence for the past year, whether you have any interest, direct or indirect, in the claim of Thomas Allen *vs.* The United States, and whether and in what degree you are related to the claimant.

Answer. Named William Hickey; my occupation is that of clerk in the office of the Secretary of the Senate; my age fifty-six; my residence for the past year has been in the District of Columbia, and has been for many years. I have no interest whatever in the claim above mentioned. I am not related in any manner to the claimant, Thomas Allen.

Question 2. Please to state how long you have held the office of clerk in the office above stated.

Answer. Since the session of 1824 or 1825.

Question 3. Were you at any time, and during what period, charged with the duty of examining the printing accounts of the Senate?

Answer. I was charged with that duty about the session of 1826 or 1827, and continued in the general superintendence of it till about the year 1843, during a portion of which time I had a clerk under me.

Question 4. What was the rate or standard of prices of printing for Congress in the years of 1841 and 1842?

Answer. The rates were fixed by the joint resolution of Congress of

the 3d of March, 1819, and so continued until changed by the act of Congress of the 3d of March, 1845.

Question 5. Please to look at the account now shown to you, and state whether, at any time heretofore, and when, you examined the same; and whether you have again examined the same now; and whether the account is correctly stated according to the standard referred to in your last answer.

Answer. I have examined an account, of which the account now exhibited to me appears to be a correct copy, the items of charge in which agrees precisely with the printed copy of the said account contained in page 4 of the printed reports of committees of the House of Representatives, No. 2, of the second session of the 28th Congress, and amounting to the sum of forty-three thousand five hundred and seventy-nine dollars and sixty-six and two-thirds cents, ($43,579 66⅔,) and which is the account referred to by me in my letter to Matthew St. Clair Clarke, Clerk of the House of Representatives, of the 3d day of August, 1842, and contained in the same page of said document above referred to. I also on yesterday re-examined the said account with the document charged therein, viz: The Compendium of the Sixth Census, and again found the said account to agree with the prices established by the said joint resolution of the 3d of March, 1819, and in the amount of work to be correctly stated.

Question 6. Do you know any other matter or thing relative to the claim in question?

Answer. I know of no other matter or thing, of my own knowledge, relative to the claim in question.

Cross-examined by the Solicitor.

Question 1. When you speak of the amount of work being charged correctly, do you mean anything more than to say that the items stated in the account are correctly carried out? or do you mean to say that the account presents the true amount of work done and delivered.

Answer. I meant to say that I had examined one copy of the said Compendium of the Sixth Census, and had found that the quantity of printing matter contained in the said book was correctly charged in the said account according to the prices established by the joint resolution of the 3d of March, 1819, and that the said account embraced a charge for twenty thousand (20,000) copies of the said book; but as to the delivery of the said twenty thousand copies to the government I have no knowledge.

W. HICKEY.

WASHINGTON, *July* 18, 1842.

The UNITED STATES,

To THOMAS ALLEN, Dr.

To composition of 370 tables, 10,640 ems each, equal to 1,300 octavo pages brevier rule and figure, at $3 50 per page $4,550 00

To 10 pages plain work, 10,640 ems each, equal to 36 pages octavo, at $1 75 per page	$63 00
To presswork and paper of 20,000 copies of 1,336 octavo pages, 167 signatures of 8 pages, at $233 33⅓ per signature	38,966 66⅔
	43,579 66⅔

Contra Cr.

March, 1843.—By this amount paid on account	$15,849 64
Balance	27,730 02⅔
	43,579 66⅔

with interest.

N. B.—The above account was exhibited to the witness, William Hickey, on his examination.

W. A. MAURY, *Comm'r.*

DISTRICT OF COLUMBIA, }
Washington county, } *ss.*

On the fifteenth day of March, 1856, personally came W. Hickey, the witness within named, and after having been first sworn to tell the truth, the whole truth, and nothing but the truth, the questions contained in the within deposition were written down by the commissioner, and then proposed by him to the witness; and the answers thereto were written down by the commissioner in the presence of the witness, who then subscribed the deposition in the presence of the commissioner.

The deposition of W. Hickey, taken at the request of Thomas Allen, to be used in the investigation of a claim against the United States, now pending in the Court of Claims, in the name of Thomas Allen.

The adverse party was notified, did attend, and did not object.

W. A. MAURY, *Comm'r.*

Commissioner's fees, $6 20.

UNITED STATES COURT OF CLAIMS.

THOMAS ALLEN, CLAIMANT.

Brief for the Claimant.

It will be contended:

I. That under the act of Congress of September 1, 1841, (5 Statutes, 452,) the Secretary of State had authority to employ the claimant to print the twenty thousand copies of the Compendium of the Sixth

Census, and to furnish and deliver the same to the United States at the rates and prices then established by law for public printing.

II. That even if this were not so, yet that by the joint resolution of April 15, 1842, (5 Stat., 583,) the said contract was ratified and approved, and the said 20,000 copies were accepted and ordered to be distributed to the use of the United States.

III. That in point of fact the amount claimed by the petitioner is correctly calculated and charged, and that the said amount is due to him, with interest from March 3, 1843.

GEO. E. BADGER,
J. M. CARLISLE,
For claimant.

IN THE COURT OF CLAIMS.

ON THE PETITION OF THOMAS ALLEN.

Brief of the United States Solicitor.

This is a claim for printing the Compendium of the Sixth Census, under the direction of the State Department, under the resolution of September, 1841.

The petitioner claims compensation under the resolution at the rate allowed by Congress to the congressional printers.

I. My first objection is that the contract with Allen was not obligatory, because not made as required by law.—(See 5 Stat , p. 339.) There was no advertisement, and the job was not let to the lowest bidder, as that law requires all departmental printing to be done. It was only as a job of the State Department that Allen could be employed, because if it had been Congress ordered such work, the printer of Congress was the person to be employed. Blair & Rives, as printers to Congress, claimed the job in right of their office, but this claim was deemed untenable. It was then a job of the State Department for the public use, and as such the Secretary could only contract as directed by the law of 1839.

II. If, however, the contract be lawful, there is no proof that it was worth more to perform it than has been paid. The rate paid by Congress for congressional work is certainly not the standard of compensation for jobs done for the departments, or for private individuals. The pay for congressional work is notoriously higher than is paid for other work, because much of it is done at unseasonable hours and under great press.

That Mr. Webster transmitted Allen's account to Congress cannot be construed into an endorsement as approval of the account; that he did not contract to pay such prices to Allen is admitted. He merely ordered the work to be done by him, and did not fix the price, and he sends in the bill afterwards without comment.

I refer to Mr. Garret Davis' report 1009, House of Representatives, 2d session, 29th Congress.

M. BLAIR, *Solicitor.*

THOMAS ALLEN *vs.* THE UNITED STATES.

Judge BLACKFORD delivered the opinion of the Court.

The claimant claims that a balance of $27,730 03 is due him for printing, in 1842, 20,000 copies of the Compendium of the Sixth Census of the United States, and furnishing the materials. He also claims interest on that sum from March 3, 1843.

The facts are believed to be as follows:

On the first of September, 1841, Congress passed an act which provided as follows: "That the Secretary of State be and he is hereby authorized to cause to be printed twenty thousand copies of the compendium or abridgement of the 6th census by counties and principal towns, together with the tables of apportionment, as prepared at the Department of State, for the use of Congress."—(5 Stat. at Large, 452.)

In order to comply with that law the Secretary of State, Mr. Webster, gave the following order to Mr. Weaver, the superintending clerk of the 6th census:

"SEPTEMBER 21, 1841.

"CAPT. WEAVER: The compendium ordered by Congress to be printed under the direction of this department will be printed by Mr. Allen. You will please make arrangements accordingly.

DANIEL WEBSTER."

Mr. Weaver, accordingly, furnished Mr. Allen with the necessary copy for the printing of the compendium; and 20,000 copies of the work were printed by Mr. Allen in conformity with Mr. Webster's order.

Afterwards those copies were delivered by Mr. Allen according to the order of the State Department; and Congress, on the 15th of April, 1842, directed them to be distributed and disposed of by the following joint resolution:

"*Resolved, &c.*, That the statistics, including the census of pensioners, and the compendium or abridgement of the 6th census of the United States, heretofore required by law to be printed under the direction of the Secretary of State, shall be distributed and disposed of by the Secretary in the manner and in the proportions specified in the joint resolution of Congress passed the first day of September, one thousand eight hundred and forty-one: *Provided always*, That seventeen thousand copies of the said compendium or abridgement shall be distributed among the States, Territories, and persons entitled to distribution under the said resolution, and in the proportions therein specified; and that the remaining copies of the said statistics and compendium be placed in the Library of Congress for future distribution."—(5 Statutes at Large, 583.)

Mr. Webster afterwards made the following communication to the House of Representatives:

"DEPARTMENT OF STATE, *Washington, August* 6, 1842.

"The undersigned, Secretary of State, has the honor to transmit to Congress the enclosed communication from Mr. Thomas Allen, requesting payment for printing the compendium of the 6th census, together with his account therefor, and certificates of the Clerk of the House of Representatives and of two practical printers annexed thereto.

"The printing was ordered by the act of the 1st of September, 1841, entitled 'An act to amend the act entitled an act to provide for taking the 6th census or enumeration of the inhabitants of the United States,' and no appropriation has been made to defray the cost.

"DANIEL WEBSTER.

"The SPEAKER OF THE HOUSE OF REPRESENTATIVES."

The account and certificates referred to in the Secretary's letter are as follows:

"WASHINGTON, *July* 18, 1842.

"*State Department, United States,*

"To THOMAS ALLEN, Dr.

"To composition of 370 tables, 10,640 ems each, equal to 1,300 octavo pages brevier rule and figure, at $3 50 per page	$4,550 00
"To 10 pages plain work, 10,640 ems each, equal to 36 pages octavo, at $1 75 per page	63 00
"To presswork and paper of 20,000 copies of 1,336 octavo pages, 167 signatures of 8 pages at $233 33⅓ per signature	38,966 66⅔
	43,579 66⅔"

"WASHINGTON, *July* 22, 1842.

"The undersigned have examined a bill of Mr. Thomas Allen for printing 20,000 copies of 380 pages of the 'compendium of the 6th census,' amounting to $43,579 66⅔. In our opinion, the price charged is fair and reasonable, and the calculation correct.

"GEO. M. GROUARD,
"JAS. F. HALIDAY."

"OFFICE SECRETARY OF THE SENATE,
"*August* 3, 1842.

"DEAR SIR: Having understood from Mr. Goodrich, clerk to Thos. Allen, printer of the Senate, &c., that you desired that an examination should be made by me as to the accuracy of the account of Thomas

Allen, for 'printing the compendium of the enumeration of the inhabitants and statistics of the United States,' I have made such examination, and believe the quantity of printing or composition, as stated, and the calculations for composition, and presswork and paper, correct, according to the standard of prices established by the joint resolution of Congress of March 3, 1819.

"I am, very respectfully, your obedient servant,

"W. HICKEY.

"MATTHEW ST. CLAIR CLARKE, Esq.,
"*Clerk of the House of Representatives, U. S.*"

"AUGUST 4, 1842.

"SIR: In the absence of my examining and pay clerk, I have caused the accompanying account to be examined, as above stated, by Mr. Hickey, the examining clerk in the office of the Secretary of the Senate, whose mode of examination corresponds with the rule in my office, and in whose accuracy I have entire confidence, and am satisfied, therefore, that the account is correct, according to the mode of settling accounts for printing done for the House of Representatives of the United States, amounting to $43,579 66⅔.

"M. ST. CLAIR CLARKE,
"*Clerk of the House of Representatives, U. S.*

"THE SECRETARY OF STATE."

The following is another communication from the Secretary of State, Mr. Webster:

"DEPARTMENT OF STATE,
"*Washington, February* 17, 1843.

"SIR: The account of Mr. Thomas Allen, for printing the compendium of the sixth census, transmitted by me to the two Houses of Congress on the 6th day of August, 1842, appears to be as yet unpaid, no appropriation for it having been made. The service was rendered by direction of this department, under the express authority of the act approved on the 1st of September, 1841, entitled 'An act to amend the act entitled "An act to provide for taking the sixth census, or enumeration of the inhabitants of the United States, approved March 3, 1839," and the acts amending the same.' The work has been delivered, and, to the extent authorized by Congress, has been distributed. No reason is therefore known why an appropriation to pay for it should not be made.

"I take the liberty to submit to the Committee of Ways and Means an estimate for that object, in the sum of $43,579 67, as specified in the annexed copy of the account of Mr. Allen.

"I have the honor to be your obedient servant,

"DANIEL WEBSTER.

"Hon. MILLARD FILLMORE,
"*Chairman of the Committee of Ways and Means, H. R.*"

On the 3d of March, 1843, Congress made an appropriation as follows:

"For the payment of all claims which Thomas Allen has against the United States for printing twenty thousand copies of 'the compendium or abridgment of the sixth census, by counties and principal towns, together with the tables of apportionment, as prepared at the State Department, for the use of Congress,' the sum of fifteen thousand eight hundred and forty-nine dollars and sixty-four cents; and for the payment of all claims which Blair & Rives have against the United States for printing ten thousand copies of the same document, eight thousand nine hundred and twenty-four dollars and eighty-two cents: *Provided*, That nothing herein contained shall prejudice any future application to Congress for further compensation for said works." (5 Stat. at Large, 631.)

We have the deposition of Mr. William Hickey, clerk in the office of the Secretary of the Senate of the United States, in regard to the price of the printing and materials aforesaid. He is the person whose certificate on the subject accompanied Mr. Webster's said communication of August 6, 1841, and is before copied. In this deposition, taken in 1856, the deponent says that he was charged with the duty of examining the printing accounts of the Senate about the session of 1826 or 1827, and continued in the general superintendence of it till about 1843; that the rates of printing for Congress were fixed by joint resolution of the 3d of March, 1819, and so continued until changed by the act of Congress of the 3d of March, 1845; that he had examined an account, of which the one then exhibited to him appeared to be a correct copy, the items of charge in which agree precisely with the printed copy of the account in page 4 of the printed reports of committees of the House of Representatives, No. 2, of the 2d session of the 28th Congress, and amounting to the sum of $43,579 66⅔, and which is the account referred to by him in his letter (before copied) to Matthew St. Clair Clarke, Clerk of the House of Representatives, of the 3d day of August, 1842, and contained on the same page of said document above referred to; that he had also, the day before, re-examined the said account, with the document charged therein, viz., the compendium of the sixth census, and again found the said account to agree with the prices established by the said joint resolution of the 3d of March, 1819, and in the amount of work to be correctly stated; that he meant to say that he had examined one copy of the said compendium of the sixth census, and had found that the quantity of printing matter contained in the said book was correctly charged in the said account according to the prices established by the joint resolution of the 3d of March, 1819; and that the said account embraced a charge of 20,000 copies of the said book; but that as to the delivery of the said 20,000 copies to the government, he had no knowledge.

There are, relative to this case, two statements in the form of depositions—one purporting to be signed by James F. Haliday and the other by Z. W. Denman—but they are not sworn to, and are not, of course, admissible as evidence.

There is, among the papers in this cause, a printed copy of the testimony of said Mr. Weaver, taken before a committee of the House of Representatives, in which he makes the following statement:

"On or about the 1st of June, 1841, I mentioned, for the first time,

to the Secretary of State, that I had been preparing an abstract or compendium of the aggregates of the sixth census, and that I had shown it to several members of Congress, and that an anxiety had been expressed by them for its publication. I suggested that although I had devised the plan originally as a private work, yet if Congress wished it, or he thought it might be printed for the use of Congress under the 11th section of the act of March 3, 1839, that I would be glad to do so. I stated that it would be merely printing the aggregates of the marshals in a condensed and portable form; that the two great works, the statistics and enumeration, were too large and inconvenient for general use, and, in fact, only fit for libraries. The Secretary of State did not seem to understand the matter at the time, and it was dropped by me. Two or three days after my first broaching the subject, I was surprised by Mr. Webster entering my room, and saying that he wished to be further informed in relation to that abstract or compendium of the census. I then further explained to him the plan, and referred to the law which I thought gave him the power to print. After examining the subject, and seeming to be well satisfied with the value of the new arrangement, he said to me, 'You can do as you please about it.' This was all the authority I had, and I certainly supposed it ample then, as is evident from my letter at the time to Blair & Rives, put upon the record book."

Subsequently to the time when said conversation is said by Mr. Weaver to have taken place, Mr. Webster made the following communication:

"DEPARTMENT OF STATE,
"*Washington, January* 6, 1842.

"SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, transmitting the petition of Messrs. Blair & Rives, which was referred to the Committee on the Apportionment of Representatives, and requesting my views of the case.

"In reply I have the honor to state that previous to the first of September last, there was no authority for printing any compendium of the sixth census, and that, consequently, I could not have given, and in fact did not give, any order, direction, or instruction on the subject.

"The act of September provided that the Secretary of State be authorized to cause to be printed twenty thousand copies of the compendium or abridgment of the sixth census, by counties and principal towns, together with the tables of apportionment as prepared at the Department of State for the use of Congress. In compliance with the duty thus imposed I gave an order for the printing, and that it should be executed by Thomas Allen; and for the binding, directed by the second section of the same act, that it should be executed by Mr. R. P. Anderson.

"The petition of Messrs. Blair & Rives is herewith returned.

"I have the honor to be, sir, your obedient servant,
"DANIEL WEBSTER.

"Hon. H. EVERETT,
"*House of Representatives.*"

On the 26th of February, 1842, a memorial relative to said printing was referred to a committee, with instructions "that, until the committee can report, Blair & Rives and Thomas Allen be instructed to desist from all further work in the printing of the tables of the sixth census; and that the committee have power to send for persons and papers."—(House Journal, 27 Cong., 2d sess., p. 447.) And on the 14th April, 1842, a joint resolution was passed by Congress prohibiting the payment of any money for the printing of the compendium until their further order.—(5 Stat. at Large, p. 583.)

We have thus stated the material facts connected with this case. Our opinion is that, until the said act of the 1st of September, 1841, Mr. Webster had no authority to contract with any person for the printing of said compendium; and that he did not make or order to be made any such contract before that time. We are further of opinion that that act of the 1st of September, 1841, gave him full authority to make the contract he did make with Mr. Allen for the printing of said work. It is objected to this contract with Mr. Allen, that it was not made as required by a provision in the civil and diplomatic act of 1839. That provision is as follows:

"For compiling and printing the Biennial Register, one thousand eight hundred dollars: *Provided*, That the printing of the said Biennial Register, and the job printing, stationery, and binding of each of the executive departments, shall be furnished by contract, proposals for which shall be regularly advertised for in the public prints, the classes, character, and description of the printing being specified in each advertisement as far as that can be done; and it being made a condition in all cases, unless otherwise specifically stated in the advertisement, that the work shall be done in the city of Washington. And the contract shall in each case, so far as the proposals and acceptance shall enable the contract to be made, be given to the lowest bidder whose bid shall be accompanied with the proper testimonials of the ability of the bidder to fulfill his contract."—(5 Stat. at Large, 339.)

We do not think this statute applies to the present case. The printing of the compendium was not a job printing of an executive department. It was printing specially authorized by an act of Congress, not for the use of an executive department, but for the use of Congress.

We are also of opinion that the work was completed by Mr. Allen to the satisfaction of the proper officer of the government, and that it was not only delivered to and accepted by such officer, but that it was distributed or otherwise disposed of conformably to a joint resolution of Congress, passed for the purpose of disposing of it.

As to the instructions of the House of Representatives of the 26th February, 1842, before referred to, it is sufficient to observe that they could not affect a contract made under the authority of an act of Congress; and as to the joint resolution aforesaid of the 14th of April, 1842, it is only necessary to say that after its passage the said act of 1843 was passed, appropriating a certain sum as payment for the work, with a proviso that nothing in the act should prejudice any future application to Congress for further compensation.

There is one other question in this cause, and that is as to the price charged for the items of the account. By an act of Congress it was made Mr. Webster's duty to have the compendium printed, and of course to see that the charges for the work were correct. We have his approval of the account in his communication to the Committee of Ways and Means of the 17th of February, 1843, to which reference has been already made. We have also the papers which accompanied his communication of the 6th of August, 1842, to the House of Representatives, in support of the account. There is also the deposition of Mr. Hickey, taken in this cause, which is of itself sufficient to establish the correctness of the charges.

The sum of $27,730 03, which the petitioner claims as the amount of principal now due, is the balance of his account proved by Mr. Hickey's deposition, after deducting the sum appropriated by the act of the 3d of March, 1843, above referred to.

We consider the claimant entitled to said sum of $27,730 03, and we report a bill in his favor for that sum. No interest is allowed.