36TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 98.

ARTHUR EDWARDS AND OTHERS.

[To accompany Bill H. R. No. 221.]

MARCH 19, 1860.

Mr. HELMICK, from the Committee on Post Offices and Post Roads, made the following

REPORT.

The Committee on Post Offices and Post Roads, to whom was referred the "bill for the relief of Arthur Edwards and his associates," have instructed me to report:

It appears from the evidence taken in this case that the claimants were the managing owners of the steamboats Arrow, Baltimore, Southerner, John Owen, and Bay City, from 1849 to 1853, inclusive, and that they were engaged, under the directions and at the request of the Post Office Department, in carrying the United States mails in the years 1849, 1850, 1851, 1852, and 1853, between Sandusky city, in the State of Ohio, and the city of Detroit, in the State of Michigan; in the years 1850, 1851, and 1852, between Cleveland, Ohio, and Detroit, Michigan; and in 1851 and 1853 between Toledo, Ohio, and Detroit, Michigan.

The local mails on these respective routes were carried under the instructions of the Postmaster General of the 21st March, A. D. 1849, by which the postmasters at the places indicated were instructed to make up and forward mails daily between their respective offices on boats, allowing one cent per letter and one-half cent per paper for all matter transported over said respective routes in such local or way mails.

Under these instructions the claimants have received the compensation provided for the local or way mails, which amounted, on an average, to about $3 75 per passage.

It appears, however, that during the period above referred to the claimants not only carried the local or way mails over said routes, but also the great through mails from Pittsburg, Baltimore, Washington, and other points south and east of the southern termini of said routes, to Chicago, Milwaukie, and other western points, and back again, for which service they have received no compensation whatever. The evidence before the committee is entirely satifactory that said last-mentioned service was fully and faithfully performed by said claimants, at great expense and trouble, and that no compensation what-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ever has ever been allowed to them on account thereof, although the said service was of vast importance and benefit not only to the Post Office Department but also to the then large and growing communities of the northwest.

The question presented in this report is a very narrow one, and may be thus stated: will the government make compensation for important and valuable services actually received by it, and rendered by the claimants under assurances from competent agents of the government that the same should be paid for?

If the case presented was one where the party had volunteered to perform the service without the promise or expectation of reward, while the government might not be bound on the principles of legal obligation to make compensation, yet, having received all the benefits of the service, the question of compensation would recommend itself most favorably to the equitable consideration of Congress.

But this case does not stand upon that footing. The evidence which has been taken in this case with great care, and under cross-examination, (copious extracts of which accompany this report,) clearly shows that these claimants refused to carry the great through mails upon their boats over the routes named, for the reason that no provision had been made by the Post Office Department to pay for such service; and that they finally agreed to receive the said mails upon their boats, for safe and speedy transportation, upon the positive promises and assurances of the special agent of the Post Office Department, acting under the direction of the department, that they should be paid for said service.—(See the testimony of A. C. Harris, S. F. Atwood, A. S. Williams, and D. M. Haskill.) Upon this point the testimony of Williams, postmaster at Detroit, and of Haskill, postmaster at Cleveland, clearly show that the through mails, as well as the local, were carried by claimants at the instance of the Post Office Department; and although the through mails were eight or ten times larger than the local, yet no compensation was paid for its transportation. In fact, no pretence is made in the Post Office Department or elsewhere that any compensation was ever paid for said service. When Harris, the special agent of the department, who frequently passed over said routes during the performance of said service, was asked by whose directions the through mails were delivered to said boats, answers: "By the directions of the postmasters generally, and sometimes by my directions;" and when further asked by what authority and under what circumstances this was done, says: "The captains often objected to receiving the *great through mails*, saying that the postmasters (at the end of the routes) refused paying them anything except for the local mail, and, as they got nothing for it, they would not carry it unless I would undertake to see them paid. *I requested them to take the mail on board, and assured them that they would be paid for the service; and in so doing I acted under the direction of the Post Office Department.*" He further states that the boats would frequently delay for the mails, after the time of departure, "*from half an hour to an hour and a half,*" at the request of the agent.

All the testimony (of which an abstract accompanies this report)

harmonizes with the case thus presented, so that the committee are entirely satisfied that the services were not only rendered by claimants, but that they were valuable to the government, and were performed under the assurance from the agents of the government, and under the expectations of the claimants, that they should be paid for at such rate as, under all the circumstances, they were reasonably worth; and as no specific remuneration was stipulated, it only remains to determine what rate of compensation for the services of claimants should be allowed.

Your committee are of the opinion (and this is greatly strengthened by the testimony of Postmaster Haskill) that the rate allowed for the local or way mail, to wit, one cent for letters and one-half cent for papers, is a reasonable allowance, and should be adopted; but as these mails were not opened at the end of the route, the only mode of proof by which the contents of these mails can be reasonably ascertained is the comparison of the number and weight of mail-bags used in the through mails with those used in the local mail service. The evidence fully establishes that by such comparison the through mails were seven and a half times greater than the local mail, which would make the compensation to which claimants are entitled twenty-eight dollars and sixty cents for each passage.

It is proper also here to say that at the time that the foregoing services were rendered by the claimants no contracts were made by the Post Office Department for the transportation of the mails over said routes, after publication for bids, under the general competition rule, but all arrangements for the said service were made under the act of Congress of March 3, 1825, which limited the pay for such services to not more than three cents for each letter and one-half cent for each newspaper conveyed in such mails—a maximum far exceeding the rates allowed by your committee.

Your committee have no doubt that the proceeds resulting to the general government from said service far exceeded the amount of compensation herein allowed to claimants.

For these reasons the committee have directed the bill to be reported without amendment, with a recommendation that it do pass.

Abstract of testimony in the matter of the claim of Arthur Edwards and his associates against the United States.

1. L. A. Price, captain of steamer Southerner, testifies:

I was master of the steamer Southerner, running on Lake Erie between the cities of Cleveland, Ohio, and Detroit, Michigan. I began running said boat as aforesaid on the 17th day of March, 1850, and discontinued for the season on the 21st day of November following. The next season I commenced running said boat on the 19th of March, 1851, and discontinued the 21st of November following; said boat ran daily as aforesaid, carrying the United States mail, *through and local*, the two seasons. I mean by the local mail, mail which was

made up and destined for Detroit, and *vice versa;* by through mail I mean that which was destined for points and places beyond Detroit on the one side and Cleveland on the other. I think the through mail would average from six to eight times as much as the local mail. I took care of the mail; it was especially intrusted to my care. I should judge that there were from eight to ten bags of *through* mail carried each trip, and of local mail one bag of letters and one bag of papers. I received about $200 each season for the local mail only, but nothing for the *through mail.*

2. PATRICK FARLEY, mail messenger at Cleveland, testifies:

That during the seasons of navigation in the years 1850 and 1851 I was carrying the mails between the post office of that city and the boats running on Lake Erie. I superintended the carrying of the mails as aforesaid personally; was myself always present. I think the mail was carried between Cleveland and Detroit during the year 1850 on the steamers Southerner and Baltimore, and on the same boats during the year 1851. I received the mail on the arrival of the boats, and carried it to the post office, and carried the mail from the post office to the boats on their departure daily during those two seasons. The greater proportion of the mail was *through* mail. I think the local mail was not one-fourth as large as the through mail. By local mail I mean that which stopped at Detroit and Cleveland; and by through mail I mean that which was destined to points beyond Cleveland on one side and Detroit on the other.

3. S. T. ATWOOD testifies:

That he was master of the steamboat Arrow in 1849, 1850, 1851, and 1852, and was master of the Bay City in 1853, owned by the claimants as managing owners. The Arrow generally ran between Detroit and Sandusky, and occasionally between Detroit and Cleveland; and the Bay City did the same in 1853. Whilst master of said boats he carried the through and local mails. In said years, except 1853, he carried the through eastern mail before navigation opened to Buffalo, and generally made from three to seven trips each time, carrying the mails both ways, for which no compensation was received except for delivery of local mails at Detroit, and sometimes at Cleveland. The largest through mail for which he received no compensation was eighty full-sized leather and canvas bags. The through mail, as near as he could estimate, was three-fourths or four-fifths of the mail carried. He supposed that the carrying of the through mail on the Southern Michigan railroad commenced in 1853, as there was then a diminution of the through mail by steamboats. He often asked compensation for carrying the through mail, but never received it. The claimants did not receive it, for the captains of the boats only were authorized to receive and receipt for it.

In a subsequent examination, said S. T. ATWOOD testifies:

That these boats commenced in the spring, as soon as the ice would permit, generally about the 20th day of March, and ran until the ice stopped them in the fall, which was about the 20th day of December.

They made daily trips over the route, twice each day, down and back, except Sundays; and except, also, from four to seven early in the spring, when they ran to Erie and Buffalo. The mails (both through and local) were carried every day twice over the route, on the said boats, during the season of navigation of those years.

4. HENRY G. VOICE testifies:

That he was master of the steamer Baltimore, running between Detroit and Cleveland, during the season of navigation, in the year 1851, and carried the United States mails on said boat every trip during said year.

In his second examination said Voice says: The mails going west consisted of mails destined for Detroit, Chicago, and points west; and the mails going east consisted of matter marked for Cleveland, Columbus, Pittsburg, Baltimore, and other points south and east. The mails destined and marked for Detroit and Cleveland, at each end of the route, he understood as local mails; and mails going to points beyond those offices, as through mails. There were frequently twenty bags, or more, and it often occurred that there were less. The through mail was four times larger than the local mail.

AUG. S. JOHNSON testifies:

That he was clerk of the steamer Baltimore in the year 1851, and considered himself responsible for the proper care of the mail, and did have the general supervision of it. When it was brought aboard he saw it locked up, and when at the end of the route, properly delivered to the agent who carried it to the post office. I often handled it myself, and saw to its being put into the mail-room, and locked up, when it would hold it all. The local mail was but a small proportion of the whole mail. My recollection is that the through mails, destined to points beyond Detroit going west, and beyond Cleveland going east and south, were eight or ten times as much in bulk as the local mail.

5. J. R. WILSON, mail messenger at Toledo, testifies:

During the lake navigation in 1851 and 1853 he was mail carrier at Toledo, and carried the mails from the cars and steamboats to the post office, and from the post office to the cars and boats. In the year 1851 the line between Toledo and Detroit was performed by the John Owen and the John Hollister, and in 1853 by the Arrow and the Dart. The boats usually made the trip to Detroit in one day, and back the next. For a short time in 1853 they made the trip both ways in one day. He thinks that the through mails in those years, when carried by the boats, were four times as large as the local mails.

6. L. W. BEEBE testifies:

That from September, 1849, to July, 1855, inclusive, he was baggage-master at the Michigan central depot at Detroit, and depot mail agent and messenger to the post office at that city. I carried all

the mails except the Pontiac, and such as went by stages, to and from the post office, and to and from the cars and steamboats. I attended personally upon the arrival and departure of the several boats and cars running to and from Detroit; received and delivered said mails personally, and assorted and separated the local mails directed to Detroit from the through mails destined to points beyond Detroit, and delivered such local mails to the Detroit post office, and forwarded the through mails towards their destination. The through mail, on an average, was five or six times larger than the local mail.

The steamer Southerner commenced carrying the mails between Detroit and Cleveland in the fall of 1849, and continued till the close of navigation. She commenced running again in the spring of 1850, with the Baltimore. The two boats made daily trips between Detroit and Cleveland. They were owned by Arthur Edwards, and carried the mails daily. In 1851 the Southerner ran on the same route, going down one day and coming back the next. On the Sandusky and Detroit route, the Arrow, owned by Arthur Edwards, ran, and made daily trips during the years 1849, 1850, 1851, 1852, and part of the year 1853, when the Bay City took her place. On the Toledo and Detroit route, the John Owen, owned by Arthur Edwards, ran, and carried the mails every other day, during a part of 1849, during the whole of 1850, 1851, 1852, and part of 1853. The boats on this line only carried the mails a portion of the year. Cannot say positive as to the time.

A. C. Harris testifies:

That from July, A. D. 1850, to March, 1853, he was acting as special agent of the Post Office Department, attending to the transportation of the mails, and other duties assigned by the department. My duties as such agent, were mainly in Ohio and Michigan. In attending to those duties of my office I passed very often over the steamboat mail routes from Detroit to Toledo, from Sandusky to Detroit, and from Cleveland to Detroit during the aforesaid period, and always gave more or less attention to the mails. The local mail on those routes, on an average, did not exceed one-fifth of the through mail, and very often not more than one-eighth. The local mail is that which is destined to the post office at the end of the route, to be opened there; and the through mail is that which is destined beyond those points. The boats employed during my agency in conveying the mails on these routes were the Southerner, Baltimore, Arrow, Bay City, and Owen. The mails were put aboard of these boats generally by the direction of the postmasters, and sometimes by my direction.

The circumstances under which I directed the mails to be carried by these boats were, that the captains often objected to receiving the great through mails, saying that the postmasters refused paying anything except for the local mails, and that they would not carry the through mails unless witness would undertake to see them paid. I requested them to take the through mails aboard, and assured them that they should be paid for the service, and in doing so, I acted under the directions of the Post Office Department. It often happened that

the mails could not be got to the boats, after the arrival of the cars, before the time of leaving. In such cases I often requested the captains to delay until the mails could be put aboard, and they did so, waiting sometimes from half an hour to an hour and a half.

L. W. MARTIN testifies:

That he was in the employ of claimants in the years 1850, 1851, and 1852, as clerk and steward of the steamer Southerner, running between Detroit and Cleveland in 1850 and 1851, and between Detroit and Toledo in 1852, during which time she carried the through and local mails. It was part of my duty to receive and deliver the mails. The through mails were four or five times larger than the local mails. Our boat, before the opening of navigation to Buffalo, carried the mails to points east of Cleveland, making from three to six trips. I cannot state the average amount of through mails, but one mail numbered 128 bags which I counted myself. The claimants were the managing owners of the steamers Baltimore, Arrow, Southerner, John Owen, and Bay City, between the years 1849 and 1853, inclusive, and were entitled to receive compensation for such service. The aforesaid boats carried the through and local mails between the different ports stated during the seasons of navigation in the years aforesaid.

A. S. WILLIAMS testifies:

That he was postmaster at Detroit, and had possession of that office from April, 1849, to July 1, 1853. The Arrow, Bay City, Southerner, and other boats mentioned in claimants petition, were engaged in carrying the mails, through as well as local, during those years In May, 1849, and September, 1849, I wrote to the Post Office Department at Washington, advising them of claims made by steamboat captains generally for compensation for carrying the through mails, and then expressed the opinion that the through mail was more than double the local mail, and that I thought that estimate would fall far short of the facts. And from that time till the fall of 1852, the through mail increased much. I should think the through mail three or four times greater than the local mail. It embraced all the mail matter of the State of Michigan. I never paid for the transportation of the through mail. I found, on taking possession of my office in April, 1849, instructions to my predecessor, dated March 26, 1849, under which I acted.

GEORGE D. BAPTISTE testifies:

That in the years 1849, 1851, and 1852, he was on the steamboats Arrow and Southerner together, at different times: On the Southerner in 1849 and 1852; on the Baltimore in 1851. It was a part of his duty to receive and take care of the mail bags on board of these boats. At a low estimate, the through mails were five times larger than the local mail. We once carried a mail which we estimated at eight tons. We took it on at Erie and left it at Toledo.

D. D. BEBEE testifies:

That he was a clerk in the post office at Cleveland in the year 1852.

He thinks the through mail was at least twenty times larger than the local mail, (during that year.) The through mail was much more bulky and far more trouble to handle than the local.

JAMES WELSH testifies:

That he was a clerk in the Cleveland post office during the years 1851 and 1852, and his duties consisted mainly in distributing the mails and assorting and delivering the same to the mail carrier who carried the mails between the steamboats, cars, and post office. The mails were carried during those years between Cleveland and Detroit in steamboats running daily. The mail going east consisted mainly of the through mails destined for Pittsburg, Baltimore, Washington, Columbus, and Cincinnati; and going west, of matter from those and other offices going to Chicago, and other offices west, together with the local mail between Detroit and Cleveland. From my recollection of it, I think the through mail so carried over this route was in bulk from ten to fifteen times as large as the local mail. I think it safe to say on an average it was ten times as large as the local mail. My means of knowing the relative sizes of these mails were my habit of handling the mails with my own hands, in delivering it to the carrier, and in separating it on its arrival.

DANIEL M. HASKILL testifies:

That he was postmaster at Cleveland, Ohio, from May, 1849, to sometime in April, 1853, and attended personally to the duties of my office. The mails were carried between Cleveland and Detroit in steamers daily, both ways, except Sundays. The mail going west consisted of the local mail between my office and Detroit and the great southern mail from Baltimore, Washington, Pittsburg, and other southern towns, destined for Detroit, Chicago, and other points west. Going east it consisted of the mail from Chicago, Milwaukie, and other western towns, destined to Pittsburg, Baltimore, Washington, and the country south and east of Cleveland, (also the local mail between Detroit and Cleveland.) The local mail was but a small proportion of the whole mail carried. From my recollection it was not more than one tenth of the whole bulk of mail passing over this route. My attention was frequently called to it by the captains of the boats calling on me to pay for the through mail, insisting it was eight or ten times as much as they got pay for. I did not pay anything for carrying the through mail or any part of it. I paid for carrying the local mail between Cleveland and Detroit at the rate of one cent per letter and half a cent for papers delivered at my office, to the captains of the boats so bringing such mails. I have no means of estimating the value of the service for carrying the through mail otherwise than as the local was estimated at one cent for letters and half a cent for papers, which I think was a reasonable price, and I think it was worth the same price to carry the through mail as the local mail, according to its relative proportion. The boats ran in connexion with the railroads at Cleveland and Detroit, and made up the line from those points, and were the only boats that ran in the years 1850 and 1851. *I sent both the local and through mails over this route by the boats, by the instructions of the Post Office Department.*