

BOOK AGENTS OF THE METHODIST EPISCOPAL CHURCH
SOUTH.

JANUARY 30, 1894.—Committed to the Committee of the Whole House and ordered
to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the fol-
lowing

REPORT:

[To accompany H. R. 1735.]

The facts involved in this claim are fully set out in the report of the
Committee on War Claims of the Fifty-second Congress, a copy thereof
being hereto attached and made a part of this report.

Your committee recommend the passage of the bill.

House Report No. 20, Fifty-second Congress, first session.

Mr. ENLOE, From the Committee on War Claims, submitted the fol-
lowing report:

[To accompany H. R. 2586.]

The Committee on War Claims, to whom was referred the bill (H. R.
2586) for the relief of book agents of the Methodist Episcopal Church
South, submit the following report:

The history of the claim is fully set forth in House report from the
Committee on War Claims of the Fifty-first Congress, which is appended
as a part of this report.

Your committee report back the bill and recommend its passage.

House Report No. 3236, Fifty-first Congress, first session.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 5164.]

The Committee on War Claims, to whom was referred the bill (H. R. 5164) for the relief of the book agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration and submit the following report:

The facts out of which this claim for relief arises will be found stated in the Senate report of the Committee on Claims of the Forty-fifth Congress, a copy of which is hereto annexed.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[Senate Report No. 146, Forty-fifth Congress, second session.]

The Committee on Claims, to whom was referred the petition of the book agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration, and submit the following report:

The Confederate forces having occupied Nashville, Tenn., for a short period during the late civil war, evacuated that place after the surrender of Fort Donelson. Within three or four days after that event General Buell, with his army, reached Edgefield, a village separated from Nashville by the Cumberland River. There he was met by the mayor of Nashville, who was accompanied by a delegation of citizens and some members of the city council.

When General Buell was informed of the object of their mission, which was to inform him of the condition of Nashville, and to invite him to occupy and protect the city, he expressed gratification at the proceeding, and assured the deputation "that protection to both persons and property of all peaceable citizens would be fully extended by the Army of the United States," and he requested the mayor so to inform the people of Nashville. Whereupon the mayor issued the following proclamation:

PROCLAMATION.

The committee representing the city authorities and the people have discharged their duty by calling on General Buell at his headquarters in Edgefield on yesterday. The interview was perfectly satisfactory to the committee and there is every assurance of safety and protection to the people, both in their persons and their property.

I therefore request that business be resumed, and all our citizens, of every trade and profession, pursue their regular vocation.

The county elections will take place on the regular day, and all civil business will be conducted as heretofore; and the commanding general assures me that I can rely upon his aid in enforcing our police regulations. One branch of business is interdicted—the sale or giving away of intoxicating liquors. I shall not hesitate to invoke the aid of General Buell in case the recent laws upon this subject are violated.

I most earnestly call upon the people of the surrounding country, who are inside of the Federal lines, to resume their commerce with the city, and bring in their market supplies, especially wood, butter, and eggs, assuring them that they will be fully protected and amply remunerated.

R. B. CHEATHAM,
Mayor.

This proclamation was issued on the 26th of February, 1862. On the same day General Buell issued his proclamation, as follows:

GENERAL ORDERS, No. 13.

HEADQUARTERS DEPARTMENT OF THE OHIO,
Nashville, Tenn., February 26, 1862.

The general commanding congratulates his troops that it has been their privilege to restore the national banner to the capital of Tennessee. He believes that thousands of hearts in every part of the State will swell with joy to see that honored flag re-instated in a position from which it was removed in the excitement and folly of an evil hour; that the voice of her own people will soon proclaim its welcome, and that their manhood and patriotism will protect and perpetuate it.

The general does not deem it necessary, though the occasion is a fit one, to remind his troops of the rule of conduct they have hitherto observed and are still to pursue. We are in arms not for the purpose of invading the rights of our fellow-countrymen anywhere, but to maintain the Union and protect the Constitution under which its people have been prosperous and happy. We can not look with indifference on any conduct which is designed to give aid and comfort to those who are endeavoring to defeat those objects; but the action to be taken in such cases rests with certain authorized persons, and is not to be assumed by individual officers and soldiers. Peaceable citizens are not to be molested in their personal property. All wrongs to either are to be promptly corrected and the offenders brought to punishment. To this end all persons are desired to make complaint to the immediate commander of officers or soldiers so offending, and if justice be not done promptly, then to the next commander, and so on until the wrong is redressed. If the necessities of the public service should require the use of private property to public purposes, compensation is to be allowed. No such appropriation of private property is to be made, except by the authority of the highest commander present; and any other officer or soldier who shall presume to exercise such privilege shall be brought to trial.

Soldiers are forbidden to enter the residences or grounds of citizens upon any plea without authority.

No arrests are to be made without the authority of the commanding general, except in case of actual offense against the Government; and in such cases the fact and circumstances will immediately be reported in writing to headquarters through the intermediate commanders.

The general reminds his officers that the most frequent depredations are those which are committed by the worthless characters who straggle from the ranks on the plea of being unable to march; and where the inability really exists, it will be found in most instances that the soldier has overloaded himself with useless and unauthorized articles. The orders already published on this subject must be enforced.

The condition and behavior of a corps are sure indications of the fitness and efficiency of its officers. If any regiment shall be found to disregard that propriety of conduct which belongs to soldiers as well as citizens, they must not expect to occupy the post of honor, but may rest assured that they will be placed in position where they can not bring shame on their comrades and the cause they are engaged in. The Government supplies with liberality all of the wants of the soldier. The occasional deprivations in hardships incident to rapid marching must be borne with patience and fortitude. Any officer who neglects to provide properly for his troops, and separates himself from them to seek his own comfort, will be held to a rigid accountability.

By command of General Buell.

JAMES B. FRY,
A. A. G., Chief of Staff.

Official.

J. M. WRIGHT, *A. A. G.*

From the date of the foregoing proclamation until the end of the war Nashville and the country north of that place, in Tennessee, was under the control of the Federal Army, and the civil authorities, including the courts, local and Federal, were in the full and free exercise of their functions and jurisdictions. These results were the fruits of the proclamation of General Buell restoring that part of Tennessee to national authority and giving "the full measure of protection to persons and property consistent with a necessary subjection to military government."

The proclamation of Major-General Butler, when he occupied New Orleans, on the 29th of April, 1862, after announcing that the city was under martial law and the principles by which the commanding general would be guided in its administration, contains this clause of protection: "All rights of property of whatever kind will be inviolate, subject only to the laws of the United States." In the case of *The Venice*, 2 Wallace, 258, the Supreme Court of the United States decides that this clause "only reiterated the rules established by the legislative and executive action of the National Government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union." In the same opinion the Supreme Court says further: "The same policy may be inferred from the conduct of the war. Wherever the national troops have re-established order under national rule, the right of persons and of property have been, in general, respected and enforced. When Flag-Officer Farragut, in his first letter to the rebel mayor of New Orleans, demanded the surrender of the city, and promised security to persons and property, he expressed the general policy of the Government. So, also, when Major-General Butler published his proclamation and repeated the same assurance and made a distinct pledge to neutrals, he made no declaration which was not fully warranted by that policy. There was no capitulation. Neither the assurance nor the pledge was given as a condition of surrender. Both were the manifestation of a general purpose, which seeks the re-establishment of national authority and the ultimate restoration of States, and the ultimate restoration of States and citizens, to their national relations under better forms and firmer guaranties, without any views of subjugation by conquest."

There was no formal military surrender either of New Orleans or Nashville, but in Nashville there was no formal submission of the local civil authorities to the national authority, while in New Orleans the mayor refused to give the pledge of such submission. "There was no capitulation, neither the assurance nor the pledge was given as condition of surrender," in either case. The orders of General Buell were much broader and more definite than those of General Butler. They reached to the conduct of officers and men of his army and put them under express injunctions against all interference with the property and homes of the people who would remain peaceable, and expressly provided for compensation for all property taken for public use.

Your committee are impressed with the conviction that the orders of General Buell (above copied), while in the military occupation of Nashville, which was not "illusory, not imperfect, not transient; but substantial, complete, and permanent," drew after them "the full measure of protection to persons and property consistent with a necessary subjection to military government," and that the citizens of Nashville who remained peaceable during such occupancy, and their property, can not be regarded as remaining enemies, or their property as enemies' property, after the 26th of February, 1862, by intendment of law. They

were protected against this condition by the proclamation of General Buell.

This view seems to derive much additional force from the proclamation of the President, dated August 16, 1861, in which he limits the declaration that certain States and parts of States are in rebellion, as follows:

Except the inhabitants of that part of the State of Virginia lying west of the Alleghany Mountains and of such other parts of that State, and other States hereinbefore named, as may maintain a loyal adhesion to the Union and Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of said insurgents.

The generals of the Army, including General Buell and his successors, permitted this loyal status of the people of Nashville to remain, and followed the avowed policy of the Federal Government in their dealings with them as declared in the case of *The Venice*. Many houses of citizens and some of the churches were used for Army purposes, but they were paid for, or quartermasters' vouchers were given for their use.

In this way the public pledges of General Buell were faithfully observed; the people engaged freely in their business pursuits; the courts were opened and the civil administration of the laws prevailed so far as was "consistent with a necessary subjection to military government."

This condition of the national authority in Nashville, during its military occupation by the Federal Army, is satisfactorily established by the history of that property, the use of which by the Army quartermasters is the foundation of this claim.

On the 24th of May, 1862, a libel of information was filed by the United States district attorney in the circuit court of the United States to sequester, and condemn, and sell, and to confiscate the proceeds of the property, real and personal, for which the corporation called the "Book Agents of the Methodist Episcopal Church South" is claiming rent, and also compensation for such of it as was consumed in the use, or was lost, wasted, injured, or destroyed.

The record of the proceedings in said cause is appended to this report, and is marked Exhibit 1. Under a warrant of arrest issued in pursuance of the prayer of the libel on the 24th of May, 1862, the marshal of the United States arrested the property described in the libel, and indorsed the arrest on the warrant which he returned to the circuit court.

On the 3d of June, 1862, the "Book Agents of the Methodist Episcopal Church South," by that name interposed its claim to the property arrested in the circuit court; gave security for costs; asked to be allowed to intervene for its alleged rights of property and possession, and to plead to and defend against the libel and to replevy the property so arrested and seized, and the court granted the prayer of the petitioner.

The bond to replevy the property was filed on the 4th of June, 1862, in the sum of \$60,000, with two sureties.

On the 27th of June, W. R. Elliston, one of the sureties, applied to the court to be released from the bond for the following reasons set forth in his affidavit: "He states that said co-surety (R. Abbey) has rented out some of the machinery, including a press and type, etc., to other persons without deponent's consent or knowledge and against his wish, and he fears that it will be so used that if destroyed or misused he will be liable upon his bond without his consent to the misuse. He is willing to remain liable for the forthcoming of the property if he and his co-surety can be permitted to hold it in the state in which it was when seized in this case. But his co-surety has not so acted, and has

placed a part of the property beyond his own control, where it may be destroyed and deponent made responsible for the acts of others and against his consent." These statements relate to the fact that R. Abbey, as the agent of the defendant corporation, after the property had been so replevied, had consented or acquiesced in the taking of certain presses and type, lathes and tools, for the quartermasters of the Army, which were taken to the front to be used to do printing and other work for the Army near its lines, then advanced far to the south of Nashville.

On the 28th of June, 1862, Justice Catron, presiding in the United States circuit court, at Nashville, after notice had been served on said Abbey, as agent, etc., heard said motion and entered the following order:

On consideration of the matters founded on this affidavit I refuse to release William Ellison as a surety to this bond.

J. CATRON,
Presiding Judge.

JUNE 28, 1862.

On the 24th of April, 1864, an amended information was filed in said cause by the district attorney of the United States, and a second seizure of the property was made or indorsed on the process. This was a seizure *pro forma*, to secure regularity in the proceedings.

Answers, pleas, and demurrers were filed in the cause, as well by the said corporation as by other intervenors who were admitted to defend the suit for such interests as they claimed respectively. Issues were formed on these several pleas. Afterwards the case was continued by the United States, at the request of the Attorney-General, from term to term, until the 13th of November, 1865, when it was dismissed by the direction of the Attorney-General of the United States. The said Attorney-General says he will no further prosecute herein. And the court imposed certain costs and allowances on the defendants, and certified that there was probable cause for the seizure of the property, thereby certifying to its legality when it was made.

After General Buell entered Nashville the corporation of "Book Agents," etc., continued its business of publishing books, tracts, etc., and doing job work for its customers until the property was arrested under the libel proceedings above referred to; and after the property was replevied it still continued its business. Some of its lathes, presses, types, cases, and tools suited for detached job offices and some other machinery were taken by the quartermasters of the Army, as before stated. With this exception the property remained in the custody of the bailee, the defendant corporation, until on or about January 1, 1864, when the entire establishment, the house and all its contents, were taken possession of by Col. J. D. Donaldson, chief quartermaster of the military Department of the Cumberland, by order of Maj. Gen. George H. Thomas, commander-in-chief of the department, for the use of the Army of the United States, "as confiscable property, and so held and used until the 13th of December, 1865, when what remained of it was returned to said "Book Agents." The following extract from the report of the chief quartermaster of the Department of the Cumberland, dated June 30, 1865, sets forth the circumstances under which the seizure was made:

UNITED STATES PRINTING-HOUSE.

"The Methodist Publishing House," confiscable property in the city of Nashville, was taken possession of in January, 1864, by order of Maj. Gen. George H. Thomas, commanding the department, and used as a Government printing-house. The operations of the establishment up to June 30, 1864, were given in my last annual report. During the year ending June 30, 1865, over 5,300,000 impressions were made; 4,352 forms printed; 101,000 quires of paper used; 223,000 quires of blanks furnished, at a

total cost, to the United States, including pay, commutation, etc., of enlisted men, of \$29,261.40; actual cost to the Quartermaster's Department, \$25,456.45. (These figures are shown by the monthly reports of the officer in immediate charge of the printing-house heretofore forwarded to your office.) The details of the establishment have been under the direction of Brevet Maj. A. W. Wills, A. Q. M., who deserves great credit for its economical management. The average saving to the Government, taking Cincinnati, Chicago, Pittsburgh, and Nashville prices, as shown by monthly reports heretofore sent, is 82½ per cent., though it is believed the actual saving is 100 per cent. No work of any description is allowed until a requisition is first approved at this office. At this writing it is being turned over to the "Bureau of Refugees, Freedmen and Abandoned Lands," as no longer needed for the public service. The concern merits my warmest praise, and I recommend it to your favorable notice and consideration.

The proceedings in this case of libel for confiscation were conducted with as much regularity, and with as little interruption, as if they had been instituted in a court of New York. Justice Catron presided in his circuit court at Nashville, from term to term, with as little obstruction and as little threat from the enemy as he did in the Supreme Court at Washington.

Whatever theories may be advanced, and with whatever skill they may be supported, as to the legal status of the people of Nashville, the fact remains that the national authority was actually enforced there through the national courts, and they administered the laws, local and national, so far as applicable to controversies between citizens, as completely and effectively within the territory protected by the Federal armies as could have been done in any loyal State. This condition of the country included within the operation of General Buell's orders would of itself give to the people there the same protection under the laws of the United States that is so distinctly provided for in the terms of the order, viz: "If the necessities of the public service should require the use of private property for public purposes, compensation is to be allowed."

This law of compensation declared by General Buell is the same that is found in the Constitution of the United States, and in all States regulating the right of eminent domain. This is not the rule that governs in cases of capture or seizure *jure belli*. In such cases the property is taken without reference to compensation. The order of General Buell also provides that "no such appropriation of private property is to be made except by authority of the highest commander present," thus cutting off all right to make a capture of private property in Nashville after the date of the order, except on the conditions named in the order and by the express order of the highest commander.

On the 24th of May, 1862, there was nothing in the military or political situation at Nashville, or in the condition of the people, or in the condition of the property of the book agents' corporation, to prevent the jurisdiction of the United States circuit court from attaching upon the property of that concern, on a libel instituted to condemn it, if the property or its owners were guilty under the confiscation statutes. And when that property was seized under such proceeding, while it continued under the jurisdiction of the circuit court of the United States, it was not liable to capture by the Army. Yet it is scarcely necessary to consider this point, for the reason that the United States has never claimed ownership of this property as captured property, nor even that its seizure for the use of the military department was made *jure belli*. In both instances, when the Government seized the property, first under the libel proceeding, and then under the order of General Thomas, it was seized as confiscable property. It was seized for confiscation under the penal statutes of the United States, and not as property in

which the United States had acquired any interest otherwise than by virtue of those statutes.

Those statutes provide only for condemnation of the property in the courts of the United States after a trial duly had.

They furnish no authority for appropriating the property of rebels without due course of law. The Army can not enforce these statutes except in aid of the powers and proceedings of the courts. It certainly can not exercise jurisdiction under the confiscation laws so as to oust the circuit courts of the United States of a jurisdiction acquired and exercised over property seized under their orders on libels of information.

The following records from the War Department disclose the grounds on which the seizure of the claimants' property was made by order of General Thomas:

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, Tenn., December 28, 1863.

COLONEL: It has been for a long time in contemplation at these headquarters to make an Army printing-office of the Methodist Publishing House in Nashville.

The house has been confiscated by the United States Government, and is represented as being in every way eligible for the printing of blanks and orders and the binding of the same, and by being run by the Government would save from \$25,000 to \$30,000 per year to the Government, without counting loss of time in getting work beyond the Ohio.

The major-general commanding desires that you will examine into the feasibility of the plan of using the office for doing all sorts of printing for the Army, and report upon the same.

Very respectfully,

Assistant Adjutant-General.

Col. J. L. DONALDSON,
United States Quartermaster, Nashville.

CHIEF QUARTERMASTER'S OFFICE,
Nashville, Tenn., January 6, 1864.

GENERAL: In obedience to the order of the major-general commanding, I have had the Methodist Book Concern in this city examined, and find it suitable for the Army printing, and have accordingly directed Capt. J. F. Isom, acting assistant quartermaster, to take possession of it for that purpose.

I am, general, very respectfully, your obedient servant,

J. L. DONALDSON,
Senior Quartermaster.

Brig. Gen. W. D. WHIPPLE, A. A. G.,
Chattanooga, Tenn.

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, January 27, 1864.

Lieut. Col. J. L. DONALDSON,
Senior and Supervising Quartermaster:

The major-general commanding directs that you seize the establishment in Nashville known as the Methodist Printing House, and that you prepare it as early as possible for the printing of forms and binding of books of all kinds required by this army, particularly at these headquarters, such as muster-rolls, returns, record-books for department, corps, division, and brigade headquarters.

Very respectfully, your obedient servant,

W. D. WHIPPLE,
Assistant Adjutant-General.

The letter to Colonel Donaldson, United States quartermaster, asserts that "the house has been confiscated by the United States Government." Such was not the fact, however, as it had only been libeled for confis-

cation, and was in the custody of the court through its bailees at the time when General Thomas ordered its seizure. It is therefore clear that the United States never made a capture of this property. General Buell's order prevented it from capture and seizure, and General Thomas, whatever may have been his power over the property to withdraw the protection of General Buell's orders, did not withdraw such protection. To the reverse, he assumed that it had been confiscated by the Government, and was Government property, and took it into possession as such, as being "in every way eligible for the printing of blanks, orders," etc. It was not seized with reference to its usefulness in any tactical or strategic sense with reference to Army movements. Such a seizure could not oust the circuit court of the United States of its rightful custody and control of this property, and added nothing to the right or authority of the Government in its disposal.

The seizure was made by the commanding general for the convenience of the civil department rather than of the Army, and to save money to the Government in printing for the use of a military department and the Army. The law of military necessity did not apply, but whether or not it was applicable, the protection given by the proclamation of General Buell, by the President's proclamation, and by the custodianship of the property in the hands of the circuit court (either, and certainly all together), places this property beyond the reach of the ordinary rules which apply to enemies' property. When the Government gives such protection to property, it assumes to pay for the use of it, if any urgent necessity requires it to apply the property to the public use. Under such circumstances, the property being relieved by the act of the Government from liability to military capture, the seizure of it, even if it was a military seizure, made by competent authority, was an exercise of the right of eminent domain, which is never exerted except upon the condition prescribed in the Constitution, that just compensation shall be made to the owner.

The application of this provision of the Constitution is not affected by the fact that the seizure was made by a military government. Conceding as a fact that which does not appear to be true, that civil government in Nashville at the time of the seizure of this property was not in full and effectual operation, the military government there, when it undertook to enforce the confiscation of property for the crimes of its owners, under the authority of the statutory laws of the United States, was bound also to respect the Constitution of the United States in the administration of those laws. But there should be a very clear and very grave necessity to justify the Army or a military government in taking property from the lawful custody of a court of the United States. It is to be presumed that the court would surrender the property so in its custody to the Army whenever the necessity was shown to exist, but it should never be held that when a court holds property in its custody for the adjudication of the question whether it is forfeited to the Government for the crime of its owner, the Army or a military government can take the property from the custody of the court and appropriate it to the Government as confiscated property. The court alone can render judgment of forfeiture in such cases, and can alone proceed to condemn and confiscate it, and when it is proceeding to adjudicate in such a matter, and is in the full and free exercise of its lawful authority, neither prevented nor controlled by any cause from discharging its duty, no other authority can take the matter out of the hands of the court and proceed to render judgment, or declare, in any form, that the property is confiscated. Congress could not do so much, and it is not possible

that a military government, while acknowledging the laws of the United States, can lawfully exercise such authority over a court of the United States.

And yet this is the precise attitude of this matter. The property was seized by order of General Thomas, the major-general commanding the department of the Cumberland, as confiscated property, while the United States was suing in its own courts for its condemnation, and it was not released by the Army officers until after the suit had been dismissed and after peace had been proclaimed in Tennessee by the President, when it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

Judge Catron refused to discharge a surety on the replevy bond, because the "book agents," etc., corporation had consented to the use of some of the property by Army quartermasters, thereby holding that the bond was a valid obligation, and that the property was in lawful possession and control of its lawful bailee. His ruling was, in effect, that property in the situation of this property was not subject to the supreme control of martial law, so that the mere taking of it by a quartermaster, under the orders of a military commander, would exonerate the sureties of the bailee from responsibility for its forthcoming.

Judge Catron did not think that the taking of this property in its then situation was a taking under the law of necessity, or under the domination of military force to which the civil power could properly yield, so far, at least, as to surrender its jurisdiction over the property.

In this matter, as well as in the final disposal of the case, and especially in the order made at the request of the Government to enter judgment of *nolle prosequi* in the proceedings, and in certifying to probable cause for the proceedings, so as to protect the informer against damage for an unlawful seizure, and in the imposition of costs on the claimants personally, for which execution was ordered to issue, the circuit court of the United States asserted its jurisdiction, and maintained it over this property continuously from the moment it was seized until it was released by its final judgment. It never admitted that its powers of jurisdiction during this period had been suppressed by martial law, nor that, by any lawful exercise of military force, its custody of the property had been broken. This is the more certain and plain when we recur to the fact that its jurisdiction under the libel was *in rem*, and not merely *in personam*. This is true, not only in consequence of the nature of the proceedings under which the property was seized, but also for the reason that the statutes, known as the confiscation laws, create a forfeiture of the title of the property to the United States for the offense of the owner, or for the offensive use of it by any authority, with the consent or acquiescence of the owner or his agent.

In such cases, and under such proceedings, the Government simply proceeds to assert, through its judicial tribunals, its title to the property, and to dispose of it according to its laws. The jurisdiction of the circuit court did attach on the filing of the libel, and could only be exerted by the arrest of the property, which is an indispensable prerequisite of the exercise of such jurisdiction. The property was arrested under process of law in all respects regular, and the court maintained its custody of the property by express orders, until it finally decided the cause.

This cause proceeded from its beginning to its end, so far as the circuit court of the United States was concerned, just as it would have been conducted in any State not included within the insurrectionary territory.

It is difficult to perceive why the judgment is not equally conclusive, though it was rendered in Tennessee. The court found no impediment to its initiating the suit, or in the execution of its lawful process therein, in exerting its power in continuing the cause, in maintaining its authority, or in making its final orders. The United States attended regularly in court to prosecute its suit through the entire proceeding, and made no suggestion that the Government had relieved the court of its jurisdiction over the property by having interposed the superior power of martial law. The Government, on its own motion, continued the cause in court, thus constantly maintaining the jurisdiction of the court over the property. This jurisdiction was not released, or in any way impaired, but was rather confirmed by the fact that the court had permitted a claimant to replevy the personal chattels included in the arrest or seizure. A bond was interposed and sureties were provided for the return of the property to answer the judgment to be rendered in the cause. Such a bond has no other effect than to change the custody of the property from the marshal to the special bailees. They hold it for the court, and must surrender it to the court when required, and are subject to punishment for their refusal to do it. They are liable also for injury and loss to the property while in their custody. Their custody is the custody of the court, and while it lasts the property is *in gremio legis*. The court may require the bailees to pay rent for the property while it is in their custody, if it is finally condemned. In every respect, therefore, the circuit court of the United States at Nashville had the authority to proceed to final judgment upon every question touching the ownership of this property and its confiscable character. It did proceed to judgment on that subject, at the instance of the United States, and it must be now considered that the United States did not own this property at the time that its Army seized it in January, 1864, or else it waived and solemnly abandoned its right.

The Government has admitted by its refusal to prosecute the suit, and the court has decided, that this property never was forfeited to the United States by the crime of its owners.

The judgment of *nolle prosequi* rendered at the instance of the Government, in which costs are imposed, is not merely an act of amnesty. It is a judgment upon its confession, either that it never had the right to condemn this property or that it was unwilling to assert its right to condemn it, and waived it on condition of the payment of costs by the intervenor. And it must have been for this reason that Justice Catron entered the order that there was probable cause for the prosecution, but not actual cause. The United States is conclusively bound by that judgment, so that none of its courts can now condemn the property, and so that Congress should not assume that it should have been condemned. This view of the matter seems to dispose of it so far as the right of the parties to the property is concerned.

A final judgment of discharge of the property seized for confiscation is as conclusive of the title as a judgment of condemnation would be, because such a judgment binds the courts. Chief-Justice Marshall, in *Williams vs. Armroyd* (7 Cranch, 432), says:

It appears to be settled in this country that the sentence of a competent court, proceeding *in rem*, is conclusive with respect to the thing itself, and operates as an absolute change of property. By such sentence the right of the former owner is lost, and a complete title given to the person who claims under the decree. No court of co-ordinate jurisdiction can examine the sentence. The question, therefore, respecting its conformity to general or municipal law can never arise, for no co-ordinate tribunal is capable of making the inquiry.

The military authorities never seized the property as "captured or abandoned property," but as confiscable property; and in June, 1865, by order of General Thomas, it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

In any view of the case the property remained the property of the "book agents," etc., corporation, and the ownership was not changed by either the legal or military custody to which it was subjected.

The Government of the United States under its laws, duly enforced through the judicial department, arrested and seized as its own the property of the claimant, and put it in charge of the claimant under bond and security as the bailee of the court which became its custodian, and under the further pledge of the laws and the court that the property should be returned to the claimant at the end of the suit if the Government should not make good its assertion of title. And the Government, with its military arm, took the property out of the custody of the law, in which it was held to answer judicial proceedings for its confiscation, for the purpose of enforcing the same statutory right of confiscation by the mere order of a military commander; used it for its own purposes, in which use it was greatly damaged, and returned a part of it to the claimants, much of it having been lost, consumed, and wasted in the use that was made of it. This property having been seized by the court, and also by the Army, for the purpose of confiscation, and not in the assertion of a title by capture, conquest, or other mere right of war, we are relieved from further inquiries into the questions whether the general commanding the Department of the Cumberland could lawfully have captured the property situated as this was, and could have used, converted, or destroyed it at his pleasure, and could also have deprived the claimant of the right of just compensation for it under the Constitution. The property of a citizen in the custody of a court of the United States as confiscable property, can not be taken out of that custody by the executive power for the same purpose without imposing on the Government the duty of paying for the use of it, and for such damage or loss as the owner may sustain by reason of such intrusion upon the property as well as upon the authority of the court.

The testimony in support of this claim is the best and most satisfactory the nature of the case admits of, except that the witnesses have not been subjected to cross-examination. The witnesses are well known, or well vouched for, as men of good standing—the agent, the head clerks in the different departments, engineers, master-mechanics, book-keepers, and other men employed in the house, each testifying to matters under his own supervision. The values of the different kinds of property taken are necessarily inexact, being estimates made up by experts from such data as existed—books, invoices, etc. But there was no sufficient opportunity of taking an inventory of the property itself, the actual possession being taken with but three hours' notice in the bad weather of midwinter. It was a very large printing establishment, and run by steam-power. It was amply supplied with machinery, presses, type, material for stereotyping, lathes, and tools, and had a large stock of paper suited for book and job printing, besides much other material for binding books, and the many appliances which belong to such establishments. It was the largest printing and publishing house south of New York, except the Government Printing Office in Washington. Its capacity is shown by the very large results set forth in the report of the quartermaster of the Department of the Cumberland above copied. Over 5,300,000 impressions were made in one year, and 4,352 forms were

printed, 101,000 quires of paper were used, and 223,000 quires of blanks were furnished in the same period. The cost of all this work to the Government was only \$29,261.40. The average saving to the Government, taking Cincinnati, Chicago, Pittsburgh, and Nashville prices, was 82½ per cent. The actual saving was fully 100 per cent., according to the quartermaster's estimate. The committee understand this statement in the report of the quartermaster to mean that the Government gained a clear profit in the use of this printing house and machinery, and of the material found there, of the entire amount of the work turned out. This was a large sum of money, all of which the claimant could have made if the property had been allowed to remain in its possession. Besides this, the presses and machinery were used so constantly, and were run at such a high rate of speed as greatly to damage them. A large amount of books in the store-rooms were lost or seriously damaged. The stores were taken to house the quartermaster's property, and the claimant was driven out.

While there is not seen by your committee any necessity—certainly no pressing emergency—that this printing establishment should have been taken possession of and conducted by the Army, there was very great and apparent necessity that it should be used for the benefit of the Army, for there was no other property in the country nearer than the Northern cities that would be at all adequate to those necessities; and that it was of great service to the Army is abundantly apparent. General Clinton B. Fisk, of New York, who was intimately conversant with this property and the use the Army made of it, states as follows:

ATLANTIC AND PACIFIC RAILROAD COMPANY,
Drexel Building, New York, April 9, 1874.

MY DEAR SIR: In response to your favor of the 8th instant, I beg leave to say that I was assigned to duty in Nashville, Tenn., in April, 1865, and was in command of the district of Tennessee a part of that and the following year. I was also assistant commissioner of the Freedmen's Bureau, and gave the order (under direction of my superior officer) for the restoration of the property of the Methodist Episcopal Church South to its rightful owners. I was familiar with the facts presented in your memorial to Congress, asking consideration of your claim, and do not hesitate to say that your representations are correct, and the demands of the church you plead for are reasonable. I hope the Committee on War Claims will recommend such award in this case as justice to the multitude of men, women, and children interested in the claim demands. The committee is composed of eminently fair-minded, just, and able men, who will doubtless give this important matter such consideration as it deserves.

Yours truly,

CLINTON B. FISK,
Late Brevet Major-General, U. S. Volunteers.

To Rev. R. ABBEY,
Washington, D. C.

A portion of the building was torn down to arrange for more convenient access to the printing-rooms. Job-offices, consisting of types and presses, were taken away and not returned, and so of lathes and other tools.

Your committee are informed, through the agents of the claimant, that it is willing to accept \$288,000 in full discharge of all liabilities of the Government. The payment of this sum would probably do the Government no injustice if the allowance to be made is placed on the footing of compensation to be awarded for all the damage done the claimant's property and all the profit it could have derived from its use in job-work for the Army.

This is the sum that remains after reducing the price for the rent of the machinery, etc., below the estimates of the witnesses from 25 per cent. to 20 per cent. of its cost, which is the lowest sum named in the

testimony by any of the experts, and reducing the amount claimed for injury done to the property from 50 per cent. to 20 per cent., which is less than half the amount named by any of the experts, and by reducing the charge for merchandise used, etc., from 50 to 25 per cent. Your committee think it more in accordance with a wise and just policy in such cases to make reasonable restitution rather than to enter into an accounting of losses and damages, or of profits that might have accrued to the claimant if there had been no disturbance of its business. In this case there was no wanton destruction of property. There was much unavoidable loss to the claimant, which resulted in no benefit to the Government. The claimant sustained other serious losses by the alteration of the buildings to adapt them to the purposes of the Quartermaster's Department.

The sum of \$238,000, with the present purchasing power of the national currency, would provide a fair means of restoration to the "Book Agents" corporation of the foundation of this charity, and would be, as we understand the proof, a less sum than was saved to the Treasury in the use of material, machinery, houses, and the appliances of this great printing-house. This sum is much below the lowest estimates of any of the witnesses as to the losses actually sustained by the claimant, and would not be adequate compensation if measured by such a standard. But with the prudent use of this sum, at the present prices of property, it is believed that this public charity can be re-instated.

The following statement, made in the petition, your committee find to be correct, viz:

The delay in presenting this claim was unavoidable. The entire business is under control of the general conference, which meets only quadrennially. At its session in 1866 we were advised by counsel to let the matter rest until the affairs of the country should become more settled.

At the conference of 1870 an agent was appointed, but his failing health and inability to spend the necessary time in Washington caused further delay, when the present agent was appointed. The claim was presented to the second session of the Forty-second Congress in December, 1872, but we could not get a report from either of the committees of that session.

On the assembling of the Forty-third Congress our claim was in the hands of the House of Representatives on the day of its organization, but we utterly failed to get a report from the Committee on War Claims, to which it was referred, until one or two days before the close of the first session. Then we have four different reports—one of them stating but little else but that the case had not been fully examined by the committee; another that it was inexpedient *now* to pay the claim; and one favorable and one unfavorable, for reasons stated.

In the second session of last Congress it is well known that little or no business of this character was acted upon, nor could we get our claim before the House.

The loyalty or disloyalty of the claimant, its agents, its membership, or its beneficiaries, does not appear to your committee to be a necessary inquiry in this case.

The Government, acting under its own civil statutes and through its courts in the confiscation of property, puts in issue the only phase of the disloyalty of a citizen which affects his right of property.

The decision of the court that the property is not confiscable is a decision that such person owns and has the right to enjoy it. And the refusal of the United States to proceed under the statutes to get a decree of confiscation on a libel filed for that purpose, which is ended with a *nolle prosequi*, is a final declaration that the Government will not claim the forfeiture. No treasonable use could have been made of this property by the agents of this corporation which would not have been a gross violation of their authority. They could not impress the property of this charitable institution with their crime so as to render it liable to forfeiture. There was no law to justify the circuit court of the United

States, at Nashville, in withholding the property of the claimant when it was not condemned. If it had rented out the property, or sold it, the right of the claimant to the rental, or the proceeds of the sale, would be unquestionable.

The Government can refuse to pay a person who was disloyal any debt it may owe such person, but this discretion should be exercised with wisdom, and for the highest reasons of public policy. Your committee do not believe that public policy or public sentiment requires Congress to refuse to restore this charity.

This corporation was chartered by the legislature of Tennessee 25th of February, 1856, "for the manufacture and distribution of books, tracts, periodicals," etc., "under control of the said Methodist Episcopal Church South, according to the laws and usages of the same, as contained in their present or in any future edition of their Discipline."

It was intended, in the broadest sense, to be an eleemosynary institution through which there could be furnished at very low rates, and also gratuitously, religious literature and school-books to the people. There was no stock of the corporation, and all its increase was to be and was devoted to increasing the usefulness of the charity. The means placed within its control, from whatever source they were derived, were dedicated to the purposes of its foundation. The ecclesiastical body known as the "Methodist Episcopal Church South," which was also a legal corporation, selected the persons to conduct the business of the "Book Agents," etc., corporation, and give general direction to its operations. The discipline of the church referred to in the act incorporating the "Book Agents," etc., is the authentic declaration of the relations of the church to the government. Nothing but the authority that is competent to change this discipline can alter these relations. They have been the same for nearly a century, and were not altered as to either branch of the church by the unfortunate division that occurred in 1845.

These relations conform to and correspond with the constitutional declarations on the subject, leaving no room for any agent of the church, in any way, except by obedience to lawful authority, to participate officially in any matter relating to the government of the country.

When the war commenced, this church found its territorial boundaries cut in twain by the operations of the armies, so that nearly equal portions of it were on the opposing sides. In this emergency it sought to preserve its relations to the Government of the United States, so as to avoid the embarrassments of the war. The deposition of the Rev. Thomas M. Finney on this subject gives a full account of this matter, and is as follows :

STATE OF MISSOURI, *County of* ——— :

Personally appeared before the undersigned, Joseph E. McGinnis, notary public for St. Louis County, Mo., Thomas M. Finney, a man well known to me, who, being duly sworn, deposes and says he is a minister of the gospel in the Methodist Episcopal Church South, and is and has been since the year 1851 a member of the St. Louis Conference of said church. That in the year 1863, seeing the course the war of the rebellion was taking in most of the Southern States, and that a considerable portion of the ministers and members of his said church lay in that direction, said affiant, with other loyal ministers and members of said church, felt great fear and apprehension lest in some way the war might work a real or apparent disturbance or disruption of the relations heretofore existing between said church and the Government of the United States; that, as said affiant understood and believed, some of the leading members and ministers of said church consulted with able lawyers and were advised thus what they had best do, in the then anomalous circumstances of war and general disturbance. Affiant further states that, as he understood and believes, the most suitable measures practicable were adopted under and in pursuance of such

legal advice above alluded to, and conformable as near as practicable to the usage and custom of said church. A general convention of said church was advertised and called to be holden in the city of Louisville, State of Kentucky, on the 6th day of April, 1864, and that the following-named conferences of said Methodist Episcopal Church South appointed delegates to said convention in the usual way or as nearly so as practicable, to wit: the Kentucky and Louisville Conference, comprising the State of Kentucky; the Western Virginia Conference, comprising the western part of the State of Virginia; the Holston Conference, comprising parts of Virginia North Carolina, and Tennessee; the Tennessee Conference, comprising most of the State of Tennessee except the western portion; the Memphis Conference, comprising West Tennessee and North Mississippi; the Missouri and St. Louis Conferences, comprising the State of Missouri; the Arkansas Conference, comprising the State of Arkansas; and the Indian Mission Conference, comprising Western Arkansas and the Indian Territory west thereof. The said delegates representing said conferences met at the appointed place in the city of Louisville on the said 6th day of April, 1864, and organized themselves in the usual way, or as nearly so as practicable, into a general convention of the Methodist Episcopal Church South. The said convention in the regular way appointed this affiant its secretary, in which capacity he then and there acted. The late Rev. Charles B. Parsons, D. D., of Kentucky, was in like manner chosen and acted as president of the convention. The convention declared itself to be "delegates to the convention, and representing loyal members of several conferences of the Methodist Episcopal Church South," and that said delegates "do hereby, in the name of and for the loyal members of several conferences of the Methodist Episcopal Church South, assert their right to and claim possession of and the administration of said property for the original foundation of said charity," meaning the Southern Methodist Publishing House, then in charge of Rev. Richard Abbey, financial secretary thereof, and situated in the city of Nashville, Tenn. So the said convention, in the course of its business, sitting and transacting various business pertaining to its legitimate internal affairs during three days, viz, the 6th, 7th, and 8th days of April, 1864, held and avowed itself on several occasions to be a true, legal, and loyal convention of the Methodist Episcopal Church South in and under the Government of the United States, and holding and affirming its original relation thereto. The said convention, in the name and on behalf of the Methodist Episcopal Church South, of which it was a delegated convention, memorialized the President of the United States on matters of interest to said church; which memorials, as far as is known to this affiant, were duly and respectfully considered.

THOMAS M. FINNEY.

Sworn to and subscribed before me this 26th day of November, A. D. 1872.

JOSEPH E. MCGINNIS,

Notary Public, St. Louis County, Mo.

This action of the convention at Louisville was afterward fully ratified and confirmed by a general conference of the representatives of the entire church, held at New Orleans, in May, 1866, as is more fully seen by the following extract from the journal of said general conference, at pages 90 and 91, viz:

Reports Nos. 2 and 3 of the committee on books and accounts were taken up and adopted, as follows:

2. In regard to sundry papers sent to this committee referring to the action of a convention of preachers held in Louisville, Ky., in April, 1864, and to the action of certain commissioners appointed by that convention, we respectfully report: That, in view of the fact that the members of that convention, representing eight annual conferences, together with the commissioners appointed by them, were acting with the sole design to protect and preserve to its lawful owners the property of the church; and in view of the further fact, that the convention and its commissioners did much toward the accomplishment of that very desirable end, the committee recommend that the general conference approve the action and object of said convention, and also direct the agent of our publishing interests to pay the traveling expenses of the commissioners, and also the fee to the lawyer employed by said commissioners.

Respectfully,

D. R. McANALLY.

NEW ORLEANS, April 16, 1866.

It can not, therefore, be imputed to this great ecclesiastical body that it took ground against the Government of the United States during the war. That the sympathies of many of its members were in favor of the South is not to be denied; still it is a question whether the majority of the whole body were not loyal to the Government. Very many of them

were loyal in the strictest sense of the word. But the Government of the United States can not justly or wisely adopt a policy that will take from the people, even though they were disloyal, the fruits of a charity which provides them with literary, scientific, and religious instruction, and the means of educating their children, for the purpose of enriching its Treasury. There was no such policy in the war. The arms of the United States could not have been directed against such charities as something worthy of destruction. They were restrained, rather, by section 2, paragraphs 34, 35, and 36 of General Order No. 100, which declare that—

34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, such property is not to be considered public property in the sense of paragraph thirty-one; but it may be taxed or used when the public service may require it.

35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places while besieged or bombarded.

36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or Government can be removed without injury, the ruler of the conquering State or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the enduring treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States; nor shall they ever be privately appropriated or wantonly destroyed or injured.

If reasons have heretofore seemingly existed that would justify Congress in withholding compensation to the claimant, they no longer exist in such form as to require the Government to deny an act of justice to the generation now needing the benefits of this great public charity.

The petitions laid before this committee represent that many of the people of the United States, of all sections, earnestly desire that Congress will give just relief in this matter. It is believed that no private claim was ever presented to Congress that was so extensively and earnestly supported by various memorials and recommendations. That four are from State legislatures, one from the general conference of the colored Methodist Church. Others from eight of the bishops of the Methodist Episcopal Church, viz: Bishops Morris, Janes, Simpson, Ames, Bowman, Merrill, Peck, and Haven, and many other ministers of that church. Others from the mayor and council of Nashville and of Edgefield, Tenn.; another from the governor and most of the officials, national, State, and municipal, of Nashville; another from Judge Trigg, of the United States court of Nashville; another from all the judges of the supreme court of Tennessee, with its entire bar; another from about two hundred merchants, bankers, and business houses of Nashville; another from the chiefs of the Indian nation west of Arkansas; others from all the annual conferences of the Methodist Episcopal Church South; and others from many of the leading ministers of the Methodist Episcopal Church, chiefly in New York, Baltimore, Washington, etc.; and others from nearly a hundred colleges and high schools in many parts of the country; and still others from about three thousand individual petitioners in about one hundred cities and towns in twenty-five States. These last include about one hundred and twenty governors, ex-governors, judges, and members of Congress, and fully five hundred other prominent men in civil office, the remainder being mostly lawyers, doctors, and clergymen of all denominations, and other substantial citizens, white and colored, and including all religious beliefs, Jews, Catholics, and Protestants. The papers laid before the committee substantially

support these statements. These memorials indicate a sentiment which is honorable to the people and most gratifying to all who desire that our past differences may cease to be remembered as causes of present or future discord, but may only be adverted to as admonitions to warn us against like evils.

The separation of the Methodist Church, and of the Baptist and Presbyterian Churches as well, into Northern and Southern wings, was the result of differences as to the moral and religious aspect of African slavery. It was nearly twenty years after the first fissure was disclosed in those great religious organizations until the political institutions of the country were thrown into disorder and division by the same questions. A great number of those who believed in the morality and constitutionality of slavery, did not believe that its preservation was worth the cost and suffering of war, or that secession was a rightful remedy. These were Union men as well as pro-slavery men, and when they resided in parts of the country where their views were favored, they were openly opposed to the Confederate States in the war. It is doubtful whether there was a majority of the Methodist Episcopal Church South that were, in sentiment or in political affiliation, disunionists. But however this may have been, as the division of sentiment in this great denomination of Christians was among the first heralds of approaching discord, war, and ruin, so their approaching reunion is a most gratifying proof that we have survived these dangerous troubles, and that the public sentiment, which is so perfectly reflected in their conduct and dealing with each other, has settled down with genuine satisfaction to the work of accomplishing the full and cordial reconciliation of the people throughout the country.

Your committee believe that the passage of the bill which they report and recommend will greatly encourage and assist in completing this good work. Your committee are aware that objections to this bill will be urged which are apparently strong and well worthy of consideration, but they believe that they are met by the facts and views of the law already presented in this report. Your committee do not, therefore, attempt to answer in detail these objections in this report. The majority of the committee believe that the law of the land; justice to a large and helpless class of people; a magnanimous spirit on the part of the Government towards the beneficiaries in a great charity, which has been injured through its action; popular sentiment, North and South, and the heartfelt desire of the people throughout the country for a perfect restoration of peace and amity between them, all concur in supporting the recommendation which they have the honor to submit, that Congress will pass the accompanying bill.

Your committee have anxiously considered how far their recommendations may be drawn into precedent, and become an invitation to other claimants to press upon the country their demands for indemnity for losses during the war. We believe that there can be no other case like this in its essential features. The nature of the charity, as an educational agency; its freedom from mere personal advantage to those who manage it; its usefulness in disseminating knowledge through the poorer classes of our population; and the fact that the Government in the use of its property saved a large expenditure of money which, otherwise, would have been unavoidable; and the further and important fact that when this property was seized by military orders it was in the custody of the United States circuit court, and was entitled to the protection of the law, seem to furnish reasons which are satisfactory to justify Congress in treating this as an exceptional case.

Your committee report the following proofs submitted to them, touching the material facts in the case, numbered from 1 to 20 inclusive. Other testimony was submitted, which it is not considered necessary to print:

EXHIBIT 1.

THE UNITED STATES OF AMERICA
vs.
 THE SOUTHERN METHODIST PUBLISHING HOUSE, }
 its types, &c.

Transcript of record from the circuit court of the United States for the middle district of Tennessee.

MIDDLE DISTRICT OF TENNESSEE, ss:

At a circuit court of the United States, begun and held at the capitol of said State, in the city of Nashville, within and for the district aforesaid, on the third Monday, being the sixteenth day of October, in the year of our Lord eighteen hundred and sixty-five, and the ninetieth year of the Independence of the United States.

Present, the honorable Connally F. Trigg, United States district judge for the several districts of Tennessee; present also, Edwin R. Glascock, marshal of said district, and Edward R. Campbell, clerk of said court.

The following proceedings were had, to wit:

On the 24th day of May, 1862, a libel of information was filed in said court, which is as follows:

Circuit court of the United States for the district of middle Tennessee.

To the judges of the circuit court of the United States for the district of middle Tennessee:

John Trimble, attorney of the United States for the said district, who prosecutes for the United States, exhibits this his libel of information against a certain lot and the buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel, known as "The Southern Methodist Publishing House," in which have been printed a variety of publications, among which were the Nashville Christian Advocate, a newspaper, and the Confederate Almanac, and divers other publications; and also against all the type, presses, machinery of every description, and implements and fixtures of every character connected with the said house or lot, or attached to the property; and against all persons lawfully intervening for their interests therein.

And thereupon the said John Trimble doth allege, articulately propound, and give the said judge to understand that on the first day of January, in the year of our Lord eighteen hundred and sixty-two, at Nashville, in the district aforesaid, on land, the said property was knowingly used and employed by the owners, and with the consent of said owners of said property, in aiding, abetting, and promoting an insurrection against the Government of the United States.

First. For that heretofore, to wit, on the 1st day of January, 1862, and after the proclamation of the President of the United States referred to in the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, the said property hereinbefore described was knowingly used and employed, in the district aforesaid, by the owners thereof, and with the consent of said owners, in aiding, abetting, and promoting an insurrection or resistance to the laws of the United States.

Secondly. For that heretofore, to wit, on the day and year aforesaid, at, to wit, in the district aforesaid, and after the proclamation aforesaid, the said property was knowingly used and employed by the owners aforesaid, and with the consent of the owners thereof, in aiding, abetting, and promoting persons engaged in said rebellion and resistance to the laws of the United States, in this, that at the time above specified, and at divers times previous thereto, said Southern Methodist Publishing House did publish various articles and numerous publications aiding and abetting and promoting said insurrection or resistance to the laws of the United States.

The said attorney of the United States, upon behalf of the said United States, saith that all and singular the premises are true.

Wherefore he prays that process in due form of law issue against the house and lot, type, machinery, implements, etc., to enforce the seizures, confiscations, and condemnations thereof, and requiring notice to be given to all persons concerned in interest to appear and show cause, on the return day of said process, why the forfeiture should not be decreed.

JOHN TRIMBLE,

Attorney of the United States for the Middle District of Tennessee.

On the 24th day of May, 1862, a warrant of arrest was issued, which is as follows.

MIDDLE DISTRICT OF TENNESSEE:

The President of the United States to the marshal for the middle district of Tennessee, greeting:

Whereas a libel of information hath been filed in the circuit court of the United States for the middle district of Tennessee, on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the said district, on behalf of the United States of America, against a certain lot and the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as the Southern Methodist Publishing House; and also against all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot, or attached to said property, for reasons and causes in said libel of information mentioned, and praying that the usual process and monition of said court in that behalf to be made, and that all persons interested in the said house and lot, type, presses, implements, and fixtures may be cited in general and special to answer the premises; and all due proceedings being had, that the house and lot, type, machinery, presses, implements, and fixtures may be, for the causes in said libel of information mentioned, condemned, and the proceeds thereof distributed according to law.

You are therefore hereby commanded to attach the said house and lot, type, machinery, presses, implements, and fixtures, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited and the proceeds thereof distributed according to the prayer of the said libel of information; and that they be and appear before the said court to be held in and for the middle district of Tennessee, on the first Monday, being the 6th day of October next, in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Roger B. Taney, chief-justice, at Nashville, in the middle district of Tennessee, this the 24th day of May, in the year of our Lord 1862, and of the Independence of the United States the eighty-sixth year.

{ SEAL OF THE U. S. CIRCUIT COURT }
{ MIDDLE DISTRICT OF TENNESSEE. }

HORACE H. HARRISON, *Clerk.*

Upon the back of the said warrant of arrest is indorsed the return of the marshal, which is as follows:

Came to hand the same day issued. In obedience to the within warrant I have arrested a lot with the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property within mentioned, and have cited all persons having or pretending to have any right, title, or interest therein, as by said warrant I am commanded to do.

Dated at Nashville the 26th day of May, 1862.

E. R. GLASCOCK,

United States Marshal Middle District Tennessee.

By W. LELLYETT,

Deputy Marshal.

On the 3d day of June, 1862, a claim was filed in said court, which is as follows:

THE UNITED STATES

vs.

A CERTAIN LOT AND THE BUILDINGS THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property.

The "Book Agents of the Methodist Episcopal Church South," a corporation created for literary and religious and charitable purposes by the legislature of the State of Tennessee, by act passed the 26th February, 1856, chapter 136, sections 1 and 2, through Richard Abbey, one of its authorized agents, states that the said corporation

is the true and *bona fide* owner of all of the aforesaid property above described and seized under and by virtue of the warrant in this case, and that no other person is the owner thereof; that the place of business of the said corporation is the city of Nashville, in the State of Tennessee, and that the said Abbey is a citizen of the United States and of the State of Tennessee.

And the said corporation, Book Agents of the Methodist Episcopal Church South, pray to be made a defendant to this cause, being the claimant of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any such motions as may be advised by its counsel.

The personal property seized in this cause would not probably sell for more than sixty thousand dollars, but its actual value cannot be accurately stated.

The said claimants pray to be allowed to file the bond specified in No. 9 of the rules of this court, and to replevy said personal property according to said rules, and to be restored to the use and occupation of said real estate.

Personally appeared in open court Richard Abbey and made oath that the facts set forth in the foregoing statements are true to the best of his knowledge and belief; that he is agent of claimants, "Book Agents of the Methodist Episcopal Church South," and fully authorized to file the above claim.

R. ABBEY.

Sworn to and subscribed before me this 3d day of June, 1862.

H. H. HARRISON, *Clerk*.

On the 3d day of June, 1862, a bond for costs was filed by claimants, which is as follows:

Know all men by these presents, that we, R. Abbey, agent, and John W. Hunter, are held and firmly bound unto the United States of America in the sum of two hundred dollars, lawful money of the United States, to be paid to the said United States, for which payment well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 3d day of June, 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of Middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the district aforesaid, against "The Southern Methodist Publishing House, its type, machinery, implements, and fixtures," more particularly described in the information and monition in the above-entitled suit, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified.

And whereas, also, a claim has been filed in said court by R. Abbey, as agent of "The Book Agents of the Methodist Episcopal Church South," "alleging that they are the owners of the said lot and buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as 'The Southern Methodist Publishing House,' and all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot, or attached to said property."

Now, therefore, the condition of this obligation is such that if the said R. Abbey, agent, or John W. Hunter, or either of them, shall defend the prosecutions thereof and respond in costs in case the said R. Abbey, agent, shall not support his said claim, then this obligation to be void; otherwise to remain in full force and virtue.

R. ABBEY, *Agent*. [SEAL.]

JOHN W. HUNTER. [SEAL.]

On the 4th day of June, 1862, a replevy bond was filed by the claimant which is as follows:

Circuit court of the United States for the middle district of Tennessee.

THE UNITED STATES OF AMERICA

vs.

THE LOT AND BUILDING THEREON KNOWN AS THE SOUTHERN Methodist Publishing House, and the presses, type, machinery, fixtures, and implements connected with the said house or lot or attached to said property.

} Libel of information, No. 8.

Know all men by these presents that we, Richard Abbey, agent of "The Book Agents of the Methodist Episcopal Church South," and Richard Abbey and William R. Elleston are held and firmly bound unto the United States of America in the sum of \$60,000, lawful money of the United States, to be paid to the said United States, for the payment of which, well and truly to be made, we bind ourselves and each of

us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this 4th day of June, A. D. 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, attorney of the United States for the district aforesaid, against the lot and building thereon known as the Southern Methodist Publishing House, and the presses, types, machinery, fixtures, and implements of the said publishing house more particularly specified in the information and monition in the above-entitled suit, No. 8, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified;

And whereas also a claim has been filed in said court by the said "Book Agents of the Methodist Episcopal Church South" as owners of the said property, to wit, of the said lot and building thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel, known as the Methodist Publishing House, and also the type, presses, machinery of every description, implements, and fixtures of every character connected with the said house and lot or attached to said property;

And the said claimants having obtained an order from the circuit court of the United States for the redelivery of said property and a delivery of the possession of said real estate to the said claimants upon the execution of this bond:

Now, if the property seized as aforesaid shall be forthcoming, if so ordered by the court on the final hearing of this cause, to be subject to the decree or decrees to be pronounced in said cause, then this obligation to be void; otherwise to remain in full force and effect.

R. ABBEY, *Agent*.

R. ABBEY. [SEAL.]

W. R. ELLESTON. [SEAL.]

On the 27th day of June, 1862, a motion and affidavit was filed in said court by W. R. Elleston, which is as follows:

THE UNITED STATES

v.

A CERTAIN LOT AND BUILDING THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being a large building adjoining the City Hotel, and known as the Methodist Publishing House, and also against all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot or attached to said property.

In this cause William R. Elleston makes oath that he became a surety on the replevy bond given for the replevy of the property attached in this cause under rule No. 9, adopted by this court.

The bond is in the sum of \$60,000, and is also signed by R. Abbey, the only co-security.

He states that said co-security has rented out some of the machinery, including a press, type, etc., to other persons without deponent's consent or knowledge, and against his wish, and he fears it will be so used that if destroyed or misused he will be liable upon his bond, without his consent to the misuse.

He is willing to remain liable for the forthcoming of the property if he and his co-security can be permitted to hold it in the state in which it was when seized in this case. But his co-security has not so acted, but has placed a part of the property beyond his own control, where it may be destroyed, and deponent made responsible for the acts of others and against his consent.

He therefore prays that the said Abbey have notice of this proceeding, that this deponent be released as surety on his said bond, and the property be redelivered to the marshal, to be held subject to the decision of the court in this cause, unless the said Abbey or his principal, the "Book Agents of the Methodist Episcopal Church South," will give other security.

W. R. ELLESTON.

Sworn to and subscribed before me this 27th June, 1862.

HORACE H. HARRISON, *Clerk*
By E. R. CAMPBELL, *D. C.*

Notice to R. Abbey on above motion, given June 27, 1862.

To R. Abbey, agent of the Methodist Publishing House South:

You are hereby notified that a motion has been made by W. R. Elleston to be released from the bond given for the redelivery of the property of the Methodist Publishing House South on account of the renting out of a portion of the property without his consent:

You are therefore notified to be and appear before the circuit court of the United States for the middle district of Tennessee, on June 28, 1862, at 11 o'clock in the forenoon of that day.

HORACE H. HARRISON, *Clerk.*
By E. R. CAMPBELL, *D. C.*

(Indorsed:) Came to hand same day issued. Executed by making known to R. Abbey the contents and leaving a copy of summons or notice with him.
June 27, 1862.

E. R. GLASCOCK,
United States Marshal,
By W. LELLYETT,
Deputy.

(Upon the back of the affidavit and motion of W. R. Elleston, before set out, is the following indorsement:)

On consideration of the motion founded on this affidavit I refuse to release William Elleston as a surety to this bond.

June 28, 1862.

J. CATRON,
Presiding Judge.

On the 20th day of April, 1864, an amended information was filed, which is as follows:
Circuit court of the United States for the middle district of Tennessee. April term, 1864.

And now comes Horace H. Harrison, esq., attorney of the United States for said district, who prosecutes herein in the name and on behalf of the said United States, and by leave of the court, obtained at the October term, 1863, and propounds as follows in addition to and as an amendment to his original information, No. 8, filed in this court:

The said attorney, by way of amendment, brings this information against all the types, presses, machinery of every description, and implements and fixtures connected with or used by "The Book Agents of the Methodist Episcopal Church South" in its publishing house in the public square in the city of Nashville. Also against all the right, title, interest, and estate of the said "Book Agents of the Methodist Episcopal Church South" in a lot of land in the city of Nashville, in the district aforesaid, on the public square in said city, more particularly described in the deed to said lot to said book agents, a duly-certified copy of which is herewith filed and made a part hereof, and the buildings and improvements, and all the hereditaments belonging and appertaining to said lot known as the Southern Methodist Publishing House, and against all persons lawfully intervening for their interests therein.

And thereupon the said attorney of the United States doth now allege, articulately propound, and give the judge of said court to understand and be informed that the said personal property has been heretofore seized in this cause before the filing of the original information, and the right, title, interest, and estate of the book agents of the Methodist Episcopal Church South was seized or levied on the 20th day of April, 1864, upon an order of seizure issued by the said attorney of the United States in pursuance of instructions from the Attorney-General of the United States, and the same is now in the custody of the marshal of said district, seized as aforesaid as forfeited to the United States for the causes following, to wit:

First. For that heretofore, to wit, at Nashville, in the district aforesaid, on the 1st day of January, 1862, and on divers other days before and since the day last aforesaid, and after the passage of the act of Congress, approved on the 6th day of August, 1861, entitled "An act to seize and confiscate property used for insurrectionary purposes," and after the public warning and proclamation provided to be given and made by the President of the United States, by the first section of the act of Congress aforesaid, had been duly given and made, and during the insurrection and resistance to the laws mentioned in said act, the said property herein described was knowingly used, or employed by the owners thereof, to wit, by a certain person or corporation called the "Book Agents of the Methodist Episcopal Church South," in aiding, abetting, and promoting the insurrection and resistance to the laws mentioned in said act of Congress, or persons engaged therein.

Second. That heretofore, to wit, at Nashville, in the district aforesaid, on the first day of January, 1862, and on divers other days, before and since the day last aforesaid, and after the passage of said act of Congress, and after the said public warning and proclamation had been duly given and made by the President of the United States, as provided by the act of Congress aforesaid, and during the insurrection against the Government of the United States mentioned in said act of Congress, the said owner of said property heretofore described, to wit, the said "Book Agents of the Methodist Episcopal Church South," consented to the use or employment of said property in aiding, abetting, or promoting such insurrection or resistance to the laws or persons engaged therein. By means whereof, and by force of the statute in such case made and provided, the said property became forfeited to the United States, and liable to seizure, confiscation, and condemnation.

Third. That all and singular the premises are true.

Wherefore the said attorney of the United States prays that all proper process upon the filing of this amended information issue, including the usual monitions warning all persons claiming or pretending to have any interest in said property to appear on the second Monday in May, 1864, to show cause, etc., and make their allegations, etc.; that the said personal property, and all the right, title, estate, and interest of the "Book Agents of the Methodist Episcopal Church South" in the real estate herein described, be sold, and the proceeds, after paying costs and allowances, be paid over to the use of the United States, and that the court will make all necessary orders and decrees herein as to law and justice may appertain.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

On the 20th day of April, 1864, an order of seizure was issued by the attorney of the United States for the middle district of Tennessee, which, together with the return of the United States marshal for said district thereon, is as follows, to wit:

OFFICE OF THE ATTORNEY OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF TENNESSEE,
Nashville, Tenn., April 20, 1864.

The marshal of the United States for said district will seize all the right, title, claim, and interest of the "Book Agents of the Methodist Episcopal Church South" in the Southern Methodist Publishing House lot in the city of Nashville and district aforesaid, and you will make return to me and notify the tenant, if any, in possession.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

RETURN OF THE MARSHAL INDORSED ON SAID ORDER.

Came to hand 20th April, 1864, and executed by seizing all the right, title, claim, and interest of the Book Agents of the Methodist Episcopal Church South in the Southern Methodist Publishing House lot in the city of Nashville, and gave notice to R. Abbey, agent, the tenant.

April 20, 1864.

E. R. GLASCOCK,
Marshal Middle District of Tennessee.

On the 30th day of April, 1864, a demurrer to the original and amended information was filed by the claimants, which is as follows:

THE UNITED STATES

vs.

THE LOT AND BUILDING KNOWN AS THE SOUTHERN METHODIST Publishing House, and the presses, type, machinery, fixtures, and implements connected with the same. }

And the said Book Agents of the Methodist Episcopal Church South come into court by attorney and say that the information and amended information filed in this cause and the matters therein contained are not sufficient in law, and that the said defendant is not bound by the law of the land to answer the same, and this the defendant is ready to verify: wherefore, for want of a sufficient information in this behalf, said defendant prays judgment, and that by the court the said information and amended information be dismissed and the defendant be discharged from the premises therein specified.

RUSSELL HOUSTON, *Proctor.*

JOINDER IN DEMURRER.

And the said United States, by Horace H. Harrison, attorney of the United States, come and say that the said information is sufficient in law.

Wherefore the said United States prays the judgment of the court, etc.

HORACE H. HARRISON,

Attorney of the United States for the Middle District of Tennessee.

On the 9th day of May the plea of Myers, Hunt & Co. was filed in said cause, which is as follows:

THE UNITED STATES OF AMERICA

vs.

A CERTAIN LOT OF PRESSES, MACHINERY, ETC., SEIZED BY the marshal in the Southern Methodist Publishing House, in the city of Nashville, Tenn., and now in the circuit court of the United States for the middle district of Tennessee.

Abram Myers, Wm. S. Hunt, and Michael Powers, partners, trading under the firm name and style of Myers, Hunt & Co., citizens of the United States and of the State of Tennessee, residents of Davidson County, in said State, make oath and represent to the honorable court that they are the true and bona fide of the following property, to wit:

One extra large iron lathe, worth \$850; 1 other large iron lathe, worth \$300; 1 large iron lathe, worth \$125; 1 bench-cutter and machinery to same, with gear complete, worth \$75; 1 large grindstone with frame, worth \$40; 3 iron vises, worth \$12 each, \$36; 1 drill-press, with machinery and gear complete, worth \$150; 1 lot of small tools, hammers, chisels, etc., worth \$75; which have been seized and attached by the marshal of said court upon the warrant of said court, and now held by said marshal and embraced in the libel aforesaid, and that no other person is the owner thereof; that the aggregate value of said property is about \$1,801.

They therefore pray that they may be made defendants and claimants of said property so seized and attached as aforesaid; that the said property so seized and held by said marshal be delivered to them upon their giving bond, &c., to have the same forthcoming according to the order and judgment of the court; and for their defense in this cause that they be authorized and permitted to make any motion, file any plea, demurrer, or answer to which they may be advised by counsel.

ABRAM MYERS.
M. POWERS.

JNO. S. BRIEN,
Counsel for Claimants.

Subscribed and sworn to before me this 9th day of May, 1864.

E. R. CAMPBELL, *Clerk.*

On the 3d day of June, 1862, an entry was made on the minutes of said court, which is as follows:

THE UNITED STATES

vs.

A CERTAIN LOT AND THE BUILDINGS THEREON SITUATED near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "the Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot or attached to said property.

This day the "Book Agents of the Methodist Episcopal Church South," a corporation created by the legislature of Tennessee, through Richard Abbey, one of the authorized agents, who is a citizen of the United States and the State of Tennessee, came into court and made oath that the said corporation is the bona fide owner of said property, and that no other person is the owner; that the place of business of said corporation is the city of Nashville, in the State of Tennessee, and the said corporation "Book Agents of the Methodist Episcopal Church South" ask to be made defendants to this cause, being the claimants of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any motions as it may be advised to make, any motion consistent with the rules of practice of this court, which is granted upon the execution of the bond for costs which is due.

And thereupon the said corporation, through its agents aforesaid, pray that the said corporation be permitted to replevy the said type, machinery, presses, implements, and fixtures connected with the said house or lot attached to said property, and to have the possession of the real estate delivered over by the marshal upon the execution of the bond provided for in rule No. 9, adopted by this court on the 27th May, 1862.

Which prayer is granted, and the said property will be redelivered upon the execution of a bond conditioned as provided in said rule:

On the 5th day of May, 1863, an order was entered in said court, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE,
type, presses, machinery, &c. }

On application of the attorney of the United States, who prosecutes herein, it is ordered that the cause be continued until the next term.

On the 6th day of November, 1863, an entry was made on the minutes, which is as follows:

THE UNITED STATES }
vs.
THE GUN FACTORY. }

THE UNITED STATES
vs.
THE UNION AND AMERICAN NEWSPAPER. }

THE UNITED STATES
vs.
THE REPUBLICAN BANNER. }

THE UNITED STATES
vs.
THE NASHVILLE GAZETTE. }

THE UNITED STATES
vs.
LOTS NOS. 1, 2, 3, 22, AND 24, ON COLLEGE HILL,
used in manufacturing cannon. }

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE. }

THE UNITED STATES
vs.
THE BAPTIST PUBLISHING HOUSE. }

THE UNITED STATES
vs.
THE NASHVILLE PATRIOT NEWSPAPER. }

THE UNITED STATES
vs.
THE LOT AND BUILDINGS CORNER CHERRY AND
Franklin streets, used in making gunpowder. }

THE UNITED STATES
vs.
THE POWDER-MILLS OF WATSON & VEDDER. }

THE UNITED STATES
vs.
ELLIS & MOORE FOUNDRY. }

THE UNITED STATES
vs.
BRANNAN'S FOUNDRY. }

In the foregoing causes, on application of the attorney of the United States, leave is granted to amend the information and proceedings therein, and a copy of said amended proceedings will be delivered by the marshal to the claimants or defendant of record in any of said causes, on or before the first Monday in February next.

On the 22d day of November, 1864, an entry was made on the minutes, which is as follows:

THE UNITED STATES }
vs.
 THE SOUTHERN METHODIST PUBLISHING HOUSE. }

This cause is ordered to be continued until the next term.

On the 28th day of October, 1865, an entry was made on the minutes, which is as follows:

THE UNITED STATES }
vs.
 THE NASHVILLE GUN FACTORY. }

THE UNITED STATES }
vs.
 LOTS NOS. 1, 2, 3, 22, AND 24, COLLEGE HILL, }
 Nashville. }

THE UNITED STATES }
vs.
 THE METHODIST PUBLISHING HOUSE. }

THE UNITED STATES }
vs.
 LOT USED IN MAKING POWDER, CHERRY ST. }

THE UNITED STATES }
vs.
 THE POWDER-MILLS OF WATSON & VEDDER. }

THE UNITED STATES }
vs.
 BRENNAN'S FOUNDERY. }

On the 23d day of October, 1865, an entry was made on the minutes which is as follows:

This day the attorney of the United States for this district announced to the court that under the instructions of the Attorney-General of the United States he was directed to continue and omit all further proceedings in all cases under the acts of Congress commonly called the "confiscation acts" pending and undetermined in this district until further instructions from the office of the Attorney-General, and thereupon moved the court to continue all of said causes.

Upon consideration thereof, it is ordered by the court that the above causes, being all the causes in this court pending and undetermined under said act of Congress, be continued.

On the 23d day of October, 1865, an entry was made on the minutes which is as follows:

THE UNITED STATES }
vs.
 THE SOUTHERN METHODIST PUBLISHING HOUSE, ETC. }

Came the attorney of the United States, and the claimants, by their attorney; and the demurrer being solemnly argued, it is considered by the court that the said demurrer be overruled, with permission for the claimant to rely upon the matters raised by the demurrer on the trial of the cause.

On the 13th day of November, 1865, an entry was made on the minutes which is as follows:

THE UNITED STATES }
vs.
 THE SOUTHERN METHODIST PUBLISHING HOUSE, ETC. }

Came the United States attorney, and the claimants, by their attorney, and, by direction of the Attorney-General of the United States, the said attorney says that he will no further prosecute herein.

It is therefore considered by the court that the information and proceedings in this cause be dismissed, and the property therein seized be restored to the claimant on payment by them of the costs and allowances in said cause, And the court allows to

John Trimble, former United States attorney, the sum of \$100; to Horace H. Harrison, present United States attorney, \$50; to the marshal, \$250; and to the clerk, \$100, for their services in this cause, for which let *fi. fa.* issue.

A certificate of probable cause of seizure is hereby awarded in this cause to the persons concerned therein.

UNITED STATES OF AMERICA,
Middle District of Tennessee, ss:

I, Edward R. Campbell, clerk of the circuit court of the United States for the middle district of Tennessee, do hereby certify that the foregoing is a true and perfect transcript of the record and proceedings had in said court in the cause of the United States against The Southern Methodist Publishing House, etc., as the same appears on record and from the files remaining in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Nashville, in said district, this 12th day of November, 1877.

[SEAL.]

E. R. CAMPBELL,
Clerk United States Circuit Court.

AFFIDAVIT OF BREVET LIEUT. COL. A. W. WILLS.

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson, State of Tennessee, A. W. Wills, a person well known to me, who, being duly sworn, deposes and says that in the late war of rebellion he was an officer in the Federal Army, brevet lieutenant-colonel and assistant quartermaster, stationed at Nashville, Tenn., in the years 1864 and 1865, and was detailed under command of General J. L. Donaldson, chief quartermaster of the Army of the Cumberland, and placed in charge of the Southern Methodist Publishing House, in said city of Nashville, then recently seized by the United States Army, by order of the late Major-General Thomas, and used as a Government printing house for the said Army of the Cumberland. Affiant had immediate charge of said printing house from about 1864 until about or near the close of the year 1865, when it ceased to be used by the Army.

Affiant further states that the demand for Army printing increased greatly and much beyond the general anticipation, and this Methodist publishing house being the only large establishment of the sort in the South known to this affiant, and it being impracticable to procure suitable printing machinery from the North in suitable time to meet these demands and necessities, the said publishing house was of very great, if not almost or quite essential, service to the Army of the Cumberland.

And this affiant further states that in consequence of and by the use of the large and ample machinery, extensive buildings, type and printing materials of the said publishing house he was enabled to furnish the Army printing at an immense saving of money to the Government, as his reports to the proper department will more fully show.

A. W. WILLS.

The above statement is made by me at the request of R. Abbey, esq., agent of the corporation. The facts therein contained are a matter of record among my reports on file in the office of the Quartermaster-General, United States Army, at Washington, D. C.

A. W. WILLS.

Sworn to and subscribed before me this September 20, 1873.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 16, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the Forty-fourth Congress of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 16th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF THOMAS D. FITE.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the said county and State, Thomas D. Fite, a man well known to me, who, being duly sworn, deposes and says that he is a wholesale dry goods merchant and property holder in the city of Nashville, State of Tennessee; that he has been a merchant in said city

for twenty years, and is well acquainted with the property in said city of Nashville known as the Southern Methodist Publishing House, and that according to his best judgment the lot and building thereon, owned and occupied by said publishing house, and which was taken and used by the United States Army in the years 1864 and 1865, was in 1864 worth \$150,000 at a fair estimate and valuation.

THOS. D. FITE.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF A. L. P. GREEN.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson and State of Tennessee, the Rev. Alex. L. P. Green, D. D., a man well known to me, who, being duly sworn, and says that he is, and has been for more than thirty years, a citizen of Nashville, Tenn., or its immediate vicinity, and a considerable owner of real estate in said city; that he is familiarly acquainted with the property in said city known as the Southern Methodist Publishing House, he having assisted in the purchase and fitting up of the same; and he believes a just and fair estimate of the value of said property—that is, the ground and buildings thereon—in 1864, to be \$150,000.

A. L. P. GREEN.

Subscribed and sworn to before me the 1st day of October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM R. WARREN.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, Tenn., the Rev. William R. Warren, a man well known to me and of undoubted respectability and credibility, who, being duly sworn, deposes and says that for several years previous to 1864 he was chief clerk in one of the front stores and salesrooms of the Southern Methodist Publishing House, situate in the city of Nashville, Tenn.; that said publishing house was a very large one, as this affiant believes one of the largest in the United States, and by far the largest south of the city of Washington, D. C., having two large front stores and several large ware-rooms, in which were kept large quantities of books, paper, and stationery of all kinds, besides, in the rear of part of the same building, large printing, folding, binding, and stereotyping rooms, with many smaller offices, etc.; and that it was all in good order and condition in the month of December, 1863, in the proper custody of Rev. R. Abbey, financial secretary, one of the agents of said house.

Deponent further says that in December, 1863, or January, 1864, this entire establishment was taken possession of by the Army of the United States for the use of the United States by Colonel Donaldson, chief quartermaster or quartermaster-general, and, as deponent understood, by order of Maj. Gen. George H. Thomas.

The back building, or manufacturing department, was converted into a Government printing house for said Army, while the rest of the building, including the front stores and ware-rooms, were mostly used by the said Army for a Government saddle and harness factory.

This affiant does not know the precise value of the books, paper of various kinds, and general stationery in these front stores and ware-rooms so taken possession of as above for the use of said Army at that time, but he estimates it at \$180,000, according to his best judgment.

This affiant further states that so urgent were the necessities of the Army for the immediate occupancy of those stores and ware rooms, etc., that much of the merchandise therein was thrown into indiscriminate piles here and there like so much rubbish, there being no place to store it; some of it was removed several times and piled in different places in fruitless attempts to save it from extreme loss and damage. While there was no willful attempt to destroy said property, so far as this affiant knows, it was most of it necessarily damaged in order to clear the rooms for the immediate use of the said Army, its necessities being immediate and pressing, as affiant was informed and as it seemed to be.

This affiant, with others formerly employed in the said stores, at the instance and under the direction of the Government officers immediately in command, assisted in endeavoring to save this property from loss; but such were the pressing demands of the Army for the immediate use of the rooms, it was impracticable except to a very limited extent.

This affiant further states that he has duly considered the amount of loss and damage to said merchandise, of all kinds, in the manner and for the reasons above stated, and he estimates it at 50 per cent. upon the whole value, which estimate he believes to be fair and just.

And this affiant further states that he has no means of knowing with accuracy the whole amount of the said stationery, paper, ink, blank-books, etc., that was actually taken and used by said Army for the benefit of the United States, but he estimates the same according to his best judgment, at \$90,000, which estimate he believes approximates accuracy as near as the nature of the case admits of.

W. R. WARREN.

Subscribed and sworn to before me the 1st of October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,

Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C. December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN W. HUNTER.

THE STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, the Rev. John W. Hunter, a man well known to me, who, being duly sworn, deposes and says that he is well acquainted with the Southern Methodist Publishing House, in Nashville, Tenn., its business and general condition, he having been for about eight years employed in the same as head clerk in the principal retail store of the same, prior to the occupation of the said publishing house by the Army of the United States in the years 1864 and 1865.

Affiant further states that when the officers of the U. S. Army took possession of the said publishing-house in December, 1863, or January, 1864, deponent does not remember which, it was done so suddenly, hurriedly, and unexpectedly that it was not practicable to take any inventory or account of the paper, ink, and general stationery so taken by the said Army for the use of the same; but, affiant having carefully examined such data as is within his reach, he estimates the same at \$90,000, which estimate approximates exactness as nearly as practicable.

JOHN W. HUNTER.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,

Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee of War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before the said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee of War Claims of the House of Representatives.

AFFIDAVIT OF HUGH CARROLL.

THE STATE OF TENNESSEE, *Davidson County* :

Personally appeared before me, Josiah Ferriss, notary public in and for the said county and State, Hugh Carroll, a man well known to me, who, being duly sworn, deposes and says that he is now and for the last sixteen years has been general book-keeper in the Southern Methodist Publishing House, in Nashville, Tenn.; that when the United States Army took possession of the said publishing-house and its contents, on or about the 1st day of January, 1864, for a Government printing-house and saddle and harness manufactory, it was done so suddenly that no inventory was or could be taken of any part of the merchandise and personal property either in the sales or manufacturing departments of the said publishing-house; but from the best data within his knowledge, after a careful examination of the same, he estimates the said merchandise in the front stores, ware and sales rooms, including paper, ink, and everything not pertaining to the manufacturing department, at \$180,000.

And said affiant in like manner estimates the manufacturing implements and machinery, including bindery, types, and all manufacturing material, implements, and machinery so taken possession of by the United States Army, at \$312,000, which estimates this affiant believes to be just and fair and as near exactness as is practicable.

HUGH CARROLL.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
*Notary Public.*HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM KELSEA.

STATE OF TENNESSEE, *Davidson County* :

Personally appeared before me, Josiah Ferriss, notary public in and for said county and State, William Kelsea, a man well-known to me, who, being duly sworn, deposes and says that at and for about nine years previous to December, 1863, when the Army of the United States took possession of the Southern Methodist Publishing House, in Nashville, Tenn., he was the superintendent and manager of the stereotyping department of said publishing house, he being a professional printer and stereotyper by regular apprenticeship and employment, having then worked at the same for more than twenty-five years.

Affiant further states that he was very familiarly acquainted with the stereotype foundry, plates finished and unfinished, as well as all the implements, furniture, machinery, metal of various kinds, etc., in and pertaining to said department of said publishing house at the time it was taken possession of as above by the Army of the United States.

And he further states that when the said Army took possession of said publishing house and foundry there was in the latter considerable quantities of stereotype plates, some finished and some in the course of manufacture, as well as other material, metal of several kinds, etc., pertaining to the stereotyping business.

He further states that when said Army took possession of said property he, this affiant, had in his possession the keys of the stereotype rooms and minor apartments of the same; that the Army printers broke open the doors so locked, as he was informed and presumes, to obtain the metal, implements, etc., therein, for the use of the said Army; and he states that said Army printers did take and use said materials, metals, etc., for Army purposes.

And this affiant further states that he has recently, in the last few days, made diligent examination, from all the data practicable, of the plates, metal, and material in said foundry department to taken possession of by and used for the benefit of the United States; and while he can not state with exactness the value thereof, there being no possible opportunity of taking an inventory of the same, for lack of time, as the property was taken hurriedly and without notice, he estimates the value of the same, from his knowledge as a stereotyper and his recent examination, to be \$4,550.70, which estimate he believes to be fair and just.

WILLIAM KELSEA.

Subscribed and sworn to before me the 1st day of November, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

I am personally acquainted with William Kelsea, and have known him for a number of years. He is a man of integrity and perfectly reliable in any statement he may make.

JOS. S. CARELS,
Chief Clerk Nashville Post-Office.

NASHVILLE, TENN., November 9, 1872.

HOUSE OF REPRESENTATIVES,
Washington, December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF ROBERT P. SPILLERS.

THE STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, State of Tennessee, Robert T. Spillers, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer, and by occupation for five years a superintendent of printers and printing; that he is now the superintendent of the Southern Methodist Publishing House, in the city of Nashville, Tenn., by which office he superintends, controls, and manages the entire printing and manufacturing portions of said publishing house; that he has held this office ever since the United States Army occupied and used the same in the years 1864 and 1865.

Affiant further says that when this publishing house was taken possession of by the United States Army it had capacity for the employment of about two hundred operatives, and was esteemed by competent judges to be a very fine and valuable publishing and book manufacturing house in all its appointments.

And he further states that when said printing implements and machinery were delivered up by the United States it was almost all of it in a seriously injured and damaged condition. Much of the machinery had been broken and otherwise injured, types, cuts, etc., destroyed, or in a confused and useless state. The stereotype foundry was wholly destroyed while in the possession of the Government, or so nearly so that the remaining fragments were practically useless.

This affiant estimates the value of all the manufacturing machinery and implements of said house when the Army took it at \$312,000. He also considers that a fair rent per annum for the use of the same would be 25 per cent. on the value thereof.

The affiant further states that he has taken sufficient care to estimate the value of the damage of the same, in consequence of bad and improper usage, and fixes it at 50 per cent. on the value thereof.

R. T. SPILLERS.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF WILLIAM G. DASHIELL.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferriss, a notary public in and for said county, William G. Dashiell, a man well known to me, who, being duly sworn, deposes and says that he is, by regular apprenticeship and vocation, an engineer and machinist; that he has been engaged in that business about seventeen years; that he is now in the employment of the city of Nashville, in said State of Tennessee, as chief engineer and machinist to the water-works of said city; that, as engineer and machinist, he has had charge of the machinery of the same about one year.

And this deponent further says that on or about the 11th day of January, 1864, he was employed by the Army of the United States, known as the Army of the Cumberland, under the command of Maj. Gen. George H. Thomas, and by the chief quartermaster of said Army, Col. J. L. Donaldson, whose headquarters were at said city of Nashville, to take charge of and run the engine, presses, and other machinery of the Southern Methodist Publishing House, so called, in said city of Nashville, then in the service of the United States and used as a printing-house for the use of said Army of the Cumberland; that he remained in said service and in charge of said engine and machinery about two full years—so long as the Army used the said machinery. The precise date of his dismissal from said employment is not now remembered.

Deponent further says that when he took charge of said machinery, as it was received from the Rev. R. Abbey, the agent of said publishing-house, it was very fine and costly machinery, all in excellent condition and calculated for the manufacture of books and fine printing, which kind of presses and machinery is calculated and intended to run much slower than printing-presses for the printing of blanks and the like for Army purposes.

Deponent was required by the officers immediately in command to run the said machinery much faster than its proper capacity, and he was still required to run it faster and faster, for that the wants of the Army were pressing for blanks and other printing until he replied to such orders that it was impossible to give the said machinery greater speed without the most imminent danger of tearing it all to pieces and endangering the lives of the operatives working the same. That all the time, or nearly so, that the United States Government used the said machinery, which, as aforesaid, was about two years, it was run beyond its intended capacity, generally at about twenty-five revolutions per minute beyond.

And deponent further says that, in consequence of said machinery being pushed beyond its proper capacity, the presses and other parts of the machinery were frequently broken and otherwise injured. Some of the most valuable presses were broken five or six times. When so broken they were repaired temporarily so as to answer for the printing of blanks such as the Army required; but in many instances it was impracticable to restore them to their original condition for book-printing.

Deponent further says that many of the printers here so engaged in using this machinery, types, etc., were very poor printers, and very incompetent to work in almost any printing-office, much less one of such fine and costly implements and machinery as constituted this I now speak of. Moreover many of them were reckless and careless in using the implements, types, etc., and that in consequence of such incompetent workmen the property in question suffered still further damage.

Deponent further says that, as engineer and machinist, according to his best judgment, he estimates the damage to the aforesaid property, because of the pressing demands of the Army, and for the reasons above stated, at the time it was so used by the United States Army, at 30 per cent. on the value thereof.

Deponent further says that he does not know the precise value of the machinery and property hereinbefore spoken of, for he had no opportunity of making an inventory of the same; but he estimates the same according to his best judgment at the time it was taken possession of by the United States Army as aforesaid at a large value. And he further states that in his best judgment as engineer and machinist he believes a fair and reasonable rent per annum for the use of said property hereinbefore described would be 30 per cent. on its value.

And the deponent further states that among the property above spoken of were large quantities of stereotype-plates, some finished and ready for use, and some unfinished; that considerable quantities of these plates were taken by the Government workmen from time to time and used for Government purposes for metal for various purposes, but this affiant does not know what quantities of such plates were so used.

Deponent further says that among the property so pressed into the service of the United States as aforesaid were three large iron lathes which were used by the Government during several years as above, and that he considers a fair rent for such lathes to be ———.

WILLIAM G. DASHIELL.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF W. F. BANG.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, notary public in and for the said State and county, William F. Bang, a man well known to me, who, being duly sworn, deposes and says that he is a citizen of Nashville, Tenn., where he is and for twenty-five years has been a master printer, publisher, and proprietor, and is well acquainted with the printing and publishing business; and that he has a good general knowledge of the condition of the Southern Methodist Publishing House in said city of Nashville as it existed in the hands of the Rev. R. Abbey at the time it was taken by the Army of the United States for a Government printing-house, about the first of the year 1864, and that in his judgment, as printer and publisher, a fair rent for the use of the printing and manufacturing portion of the same would be 20 per cent. per annum on the entire value thereof.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.]

W. F. BANG.
JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN M. HUDSON.

STATE OF TENNESSEE, *Davidson County:*

Personally appeared before me, Josiah Ferriss, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer and machinist in printing-machinery, and is accustomed to the control and oversight and management of first-class printing-presses and such like machinery.

He further says that he was familiar with the printing-machinery, presses, &c., of the Southern Methodist Publishing House in Nashville, Tenn., at and before the occupation and use of the same by the Army of the United States in 1864 and 1865, and that ever since the return of said property by the United States to the Rev. R. Abbey, the agent of the said publishing house, this affiant has had the charge, management, and control of the said printing-presses, engine, machinery, &c., in which occupation he is now engaged.

And affiant further states that when this machinery was returned by the United States to the said R. Abbey, agent, it was all or nearly all in a damaged condition, whereas when the Government received it, it was all in good order, but when so returned the printing-presses had been all broken or otherwise seriously injured. The presses were large and expensive, not intended for job-printing, such as the Government required, but for book-printing. The Army printing would therefore almost necessarily injure them greatly, especially if run at a speed beyond their ordinary capacity. These presses were eight in number, large, and of fine style. Their condition when the Army printers left them showed plainly that they had been run at a speed far beyond their capacity.

Affiant further states that his opinion, as printer and machinist, is that the damage to said presses and other implements and machinery in their press-rooms from overwork and being applied to classes of work for which they were not well suited to, and by incompetent or careless workmen, was 50 per cent. on the value thereof. Much of the machinery can not be restored to its original condition.

This affiant is also of opinion, as printer and machinist, that a fair and reasonable rent per annum for the machinery and implements above spoken of would be 20 per cent. on the value thereof.

He further states that a reasonable rent for the use of the large iron lathes belonging to said publishing house, and used by said Army for turning cannon and other metal, would be \$17 per week for each; and further, that when the machinery went into the hands of the Government it was all supplied with a full outfit of belting in good order, all of which was worn out by the Government printers. It was worth—

Affiant further states that he has been engaged in the said printing business, chiefly as pressman and machinist, for the last twenty years.

J. M. HUDSON.

Subscribed and sworn to before me this 1st October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,

Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF RICHARD ABBEY.

STATE OF TENNESSEE, *Davidson County*:

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, Richard Abbey, minister of the Gospel, a man well known to me, who being duly sworn, deposes and says: That in May, 1858, he was duly elected by the general conference of the Methodist Episcopal Church South, according to the regular forms and usages thereof, one of the agents and managers of the Southern Methodist Publishing House, so called and known, an eleemosynary and literary corporation, duly chartered by the State of Tennessee, and located and doing its principal business in the city of Nashville, Tenn., the corporate name of which corporation being the Book Agents of the Methodist Episcopal Church South, the office held by this affiant being usually called financial secretary. That after the 17th day of February, 1862, he, the said Abbey, had the sole management and control of said publishing house until the 15th day of October, 1865, and that he remained in said office of financial secretary, in the employ of said corporation, as one of its agents, until the 30th day of April, 1866.

Affiant further states that said publishing house, up to the time it was taken possession of by the Army of the United States, as hereinafter stated, was one of the largest and completest in the United States, as this affiant believes, its property in Nashville being worth, as taken and held by the said Army, nearly if not quite \$700,000. The ground and buildings around and occupied by said corporation were worth, in 1864, in the judgment of this affiant, \$150,000 at a low valuation. The front stores of this building, five in number, were occupied as sales and ware rooms while the rear buildings were used for printing, stereotyping, binding, etc., for an extensive publishing house.

Affiant further states that on or about the 1st day of January, 1864, this entire establishment, the house and all its contents, were taken possession of by the chief quartermaster of the Military Department of the Cumberland, Col. J. L. Donaldson, by order of Maj. Gen. George H. Thomas, commander-in-chief of the same, for the use of the Army of the United States, and was so held and used by said Army, and out of the possession of this affiant, until the 13th day of December, 1865, when it was—that is, what was left of it—restored to this affiant.

Affiant further states that when so taken he made every effort to induce the said Donaldson to confine his impressment to the rear buildings containing all the printing and manufacturing implements, fixtures, and machinery, and leave in the possession of this affiant the front stores and ware-rooms, containing paper, general stationery, books, etc. But this Colonel Donaldson peremptorily refused to do, saying to me, "I take immediate possession of the entire property, everything; the building entire and everything therein." For so he construed General Thomas's order; and he took possession of the entire property that day in the name and for the use of the United States.

The rear portions of the building, types, machinery, etc., were converted into a government printing office or printing house, while the front stores and ware rooms were used as an army-saddle and harness factory. So that while this publishing house sustained a great portion of the entire expense of the public printing of this great branch of the Army of the United States, and of the paper on which that printing was done, and furnished large and ample stores and ware-rooms for an extensive Government saddle and harness factory, it was necessarily prevented from pursuing its

great work of supplying the whole country with a wholesome, moral and religious literature, which is its proper and legitimate business.

Deponent further says that in cleaning the stores and ware-rooms above mentioned for the reception of the Government saddlery and to make room for the workmen, so urgent were the necessities of the Army, as affiant was informed, that the books and stationery, much of it, was removed in the greatest possible haste, so much so that large quantities were hurriedly piled indiscriminately in great heaps, and some of it removed several times in attempts to save some of it from total loss, but the orders to clear the rooms were so peremptory and urgent that much of it was destroyed or damaged.

Affiant further states that when this property was so taken as above, he had just finished the building of a front store in a vacant space, of the value of \$5,000, which store was entirely demolished and removed to make more easy access to the back buildings for the Government workmen.

And affiant further states that a lot of printing material, constituting what printers call a job-office, comprising a printing-press and complete outfit, was taken out of the said publishing house, and from the possession of this affiant, by order of the commander of the post at Nashville, and for the use of a corps of United States Engineers, and finally carried to the front, as affiant was told and believes. No part of this printing-office was returned. The value thereof, at a low estimate, as this affiant believes, was \$5,500. It was taken on or about the 15th July, 1862.

And affiant further states that, by order of the United States post-commander of Nashville, in like manner three large iron lathes belonging to said publishing house were taken from his possession on or about the 10th January, 1863, and removed a short distance to another Government building where they were used by the United States Army for the turning of cannon and other metals. They were returned on or about 15th December, 1865.

Affiant further states that while this house was so in the possession of the Army, certain alterations were made in the interior of the building, for the benefit of the Government and its workmen; and that in the belief of this affiant it would cost \$5,000 to restore the house to its original condition.

And this affiant further says that he has made careful estimate of the personal property, machinery, implements, and merchandise of all kinds in said publishing house, and put into the service of the United States and used by the Army as above explained; and he believes the value to be as follows, according to the best data within reach: The merchandise in front stores he values at \$180,000, and the machinery, type, presses, bindery, etc., at \$312,000.

Affiant further states that he has made careful estimates and cost of the damage to the merchandise in the front stores, to make room for the Government saddlery and workmen as above explained, and believes it to be 50 per cent. on the value thereof at a low and fair estimate.

And affiant further states that when the Army took possession of the said publishing house, its machinery was supplied throughout with a complete set of belting, which was worn out by the Army printers in the service of the United States, and rendered worthless.

Affiant further states that while the said Army took and kept actual possession of all the merchandise of every kind in the front stores and sales-rooms, they did not actually consume the whole of the same, for that some of it was returned to this affiant when the whole property was restored; affiant has made careful examination of all data within his reach to ascertain as nearly as practicable the amount thereof which was actually used and consumed by the said Army, and he estimates and values the same at \$90,000.

Affiant further states that he had in his possession, made at the proper times and by the proper officers, the regular orders and receipts for the three iron lathes, and for the job-office for the Government engineers, above spoken of; but the copies of said orders and receipts were accidentally destroyed by fire.

R. ABBEY.

Subscribed and sworn to before me the 1st of October, 1872.

[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF JOHN W. CARTER.

STATE OF TENNESSEE, *Davidson County* :

Personally appeared before me, Josiah Ferris, a notary public in and for said county and State, John W. Carter, a man well known to me, who, being duly sworn, deposes and says that in the year 1863, and for about six years previously, he was a clerk in the Southern Methodist Publishing House; that he usually lodged in the house and was well acquainted therein during all the time said house was occupied by the Army of the United States in the years 1864 and 1865. He further says that when the said Army took possession of said publishing house, Mr. R. Abbey, the agent in charge of same, had recently built a store in a vacant space in front of said premises, which store was torn down and removed by the Army workmen of said Army to make more easy access to the book buildings, for the accommodation of the Army printers moving the printing machinery, etc., of said publishing house.

This affiant does not know of his own knowledge the precise value of said new store, but from his knowledge of stores and rent in Nashville at that time, believes the said store would have rented for about a thousand dollars a year.

This affiant also knows that while the said Army of the United States occupied the said house there were various alterations, changes, etc., made therein for the accommodation and benefit of the said Army workmen, such as removing shelving, making stairs, cutting away cornice, making privies, sewers, etc. He does not know what it would cost to restore the said premises to the original condition before the changes and alterations were made, but from the best of his knowledge and belief, approximating such cost, he estimates it at five thousand or thereabouts.

J. W. CARTER.

Subscribed and sworn to before me the 19th October, 1872.

[NOTARY SEAL.]

JOSIAH FERRIS,
*Notary Public.*HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVIT OF J. M. HUDSON.

STATE OF TENNESSEE, *Davidson County* :

Personally appeared before me, Josiah Ferris, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says, in addition to what he has formerly stated in a deposition previously made touching the occupancy and use by the Army of the United States of the Southern Methodist Publishing House in the years 1864 and 1865, that the belting on the machinery in said house taken and worn out by said Army in using the same in doing the Government printing, as stated in the said former deposition, was of the value of \$750, in the judgment of this affiant as machinist, according to the best and most accurate estimate he is able to make of the same.

J. M. HUDSON.

Subscribed and sworn to before me this 23d day of October, 1872.

[NOTARY SEAL.]

JOSIAH FERRIS,
*Notary Public.*HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF SAMUEL M. HARRISON.

OFFICE OF UNITED STATES LOCAL INSPECTOR OF STEAM-VESSELS,
Nashville, October 1, 1872.

This is to certify that I am personally acquainted with William G. Dashiell, the present chief engineer of the Nashville water works, and I know him to be a gentleman and a first-class engineer, and would give credit to any statement he might make.

SAM. M. HARRISON,
U. S. Local Inspector Boilers, Nashville, Tenn.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF EDWARD H. EAST.

I have known A. L. P. Green, Thomas D. Fite, Thomas O. Summers, Hugh Carroll, W. R. Warren, J. W. Hunter, William H. Bang, A. H. Redford, Richard Abbey, and Robert T. Spillers for many years, none of them for less than five years and many of them for more than twenty years. They are personally among the best class; no better citizens can be found in this or any other community. They are gentlemen of intelligence (some of them in a high degree), of the most conscientious regard for truth, and entitled to full faith and credit under all circumstances.

I am, respectfully,

EDWARD H. EAST,
Chancellor of the Seventh District of Tennessee.

SEPTEMBER 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

CERTIFICATE OF E. R. CAMPBELL.

UNITED STATES OF AMERICA,
Middle district of Tennessee:

I, E. R. Campbell, clerk of the circuit court of the United States for the district aforesaid, do hereby certify that I am well acquainted with the standing and reputation of Rev. A. L. P. Green, Thomas D. Fite, Rev. Thomas O. Summers, Hugh Carroll, Rev. W. R. Warren, J. W. Hunter, Wm. F. Bang, A. H. Redford, and Rev. Richard Abbey, and from my knowledge of the men, and also from their general reputation, would say that they are entitled to full faith and credit in any deposition or otherwise. In fact they rank among the best and most substantial men of Nashville, and implicit faith would be given them before the courts.

[SEAL.]

E. R. CAMPBELL,
Clerk United States Circuit.

NASHVILLE, TENN., September 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War Claims of the House of Representatives.

AFFIDAVITS OF REV. JOHN B. MCFERRIN AND REV. R. ABBEY, RELATIVE TO CLAIM OF THE SOUTHERN METHODIST PUBLISHING HOUSE.

Personally appeared before me, Josiah Ferris, a notary public in and for Nashville, in the county of Davidson, Tenn., John B. McFerrin, a man well known to me, and being duly sworn, deposes and says that in May, 1858, he being a Methodist minister, was elected by the General Conference of the Methodist Episcopal Church South the general agent of the Southern Methodist Publishing House, in Nashville, Tenn., the Rev. R. Abbey being at the same time and by the same General Conference elected financial secretary of the same publishing house, the same being a corporation chartered by the legislature of Tennessee; and that this affiant and the said Abbey continued to discharge their several duties as above designated, and so jointly to manage said publishing house until about the middle of February, 1862, when this affiant left Nashville and did not return until May, 1865. And affiant further states that in the period from June, 1858, to February, 1862, when the affiant left Nashville as above, the business and finances of said publishing house were under the sole control of himself and said Abbey.

Affiant further states that during his connection with said publishing house as general agent as aforesaid, no part of the building, machinery, types, presses, or other property of said publishing house was permitted to be used by or for the benefit of the Confederate Army, so-called; nevertheless, prior to the 16th of February, 1862, some of the machinery of said house was for a time used for the benefit of said Confederate Army under imperative demand. Some of the printing presses and types were also used in the period above named for the printing of a book to be for the use of the Confederate Army, called "Hardee's Military Tactics;" but this book was not published by said publishing house, but by the State of Tennessee, while the Confederate forces occupied Nashville. The work was simply done as a job—not directly for the State, but for J. O. Griffith & Co., who were the State printers.

[SEAL.]

J. B. MCFERRIN.

Subscribed and sworn to before me the 17th of January, 1874.

JOSEPH FERRIS,
Notary Public.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Before me, the subscriber, a notary public within and for the district and county aforesaid, duly commissioned and qualified, personally appeared the Rev. Richard Abbey, who, having been duly sworn, deposes and says: That from the month of May, 1858, until the 17th of February, 1862, he and the Rev. J. B. McFerrin, D. D., were the agents who had the entire management and control of the corporation in Nashville, Tenn., chartered by the legislature of Tennessee, under the name and style of "The Book Agents of the Methodist Episcopal Church South," and commonly known as the "Southern Methodist Publishing House;" and that from the said 17th of February, 1862, until after the close of the war of the rebellion, he, the said affiant, had the entire management and control of said corporation and its business, being, without intermission, actively and practically engaged in said duties from said month of May, 1858, till the month of April, 1866.

Deponent further says, that during the entire period of 1860 and 1861, and as long as the said McFerrin continued in the said business, as above stated, it was distinctly agreed and understood between them that suitable care must be taken by them that the said publishing house, being a church institution, must be kept, as far as possible, entirely aloof from all connection, entanglement, or alliance with the civil and military strife and commotion then threatening the country so fearfully. This understanding, affiant believes, was strictly and faithfully carried out as far as was in the power of said agents during the entire period above named. And so, in pursuance of this understanding, none of the property, machinery, or implements of any kind of this institution, was at any time or to any extent used by them, or permitted to be used in any way for the benefit of the so-called Confederacy, or to encourage secession of States or for the Confederate army or soldiers, their adherents, their government, or their cause.

Nevertheless, the following things are true, viz: During several weeks, affiant does not know how long, but up to the time of the capture of Fort Donelson, the 16th February, 1862, a portion of the machinery of said publishing house was used by the Confederates, or for their benefit, in the manufacture of war-like iron; but this was done under military coercion and against the consent of the proper authorities of said publishing house. The city of Nashville was then in the unmolested possession of Confederate troops, where they were improving their military equipments. By order of the governor of Tennessee, as affiant understood and believes, a book was printed at said publishing house called Hardee's Military Tactics; but over this matter the

house had no control, under the circumstances. A weekly newspaper was published at the same house, by order of the General Conference of the Methodist Episcopal Church South, called the *Christian Advocate*. In that paper several articles or paragraphs were inserted by the local editor, at different times, the tendency of which was to encourage the Confederates and secession. But neither the publishing house nor any of the officers thereof had any control or right of control of the editor of that paper as to what he would or would not print in it, he being placed there by and responsible only to the said General Conference.

Affiant further states that no moneys of said publishing house were ever used, paid, or in any way appropriated for the use, benefit, or advantage of said Confederates, either in the purchase of Confederate bonds or otherwise, so far as he knows or believes. He was the financial secretary of said publishing house for eight years, during the entire period of the late war, and he has no recollection of ever seeing a Confederate bond.

It is intimated it might be further proper to state here what portion of the officers or employes of said publishing house went South with the Confederates, on the evacuation of Nashville or afterward. The agents, editors, superintendents of manufacture, foremen, etc., of the house at that time were about twenty or more in number, as well as recollected; of these, one of the two agents and two of the three editors went South, all the rest remaining, as well as now recollected. Affiant is unable to recollect that any of the printers, binders, or other operatives or employes of said house went South with the Confederates, or that any of those remaining were ever seriously charged with being or were generally considered disloyal to the United States.

Affiant further states that after the said 17th February, 1862, and until the close of the war, he held no correspondence with any person or persons within the Confederate lines touching the affairs of said publishing house, nor would he at any time in the war have received or entertained any demands, requests, or counsel from anybody in that quarter on the subject of said business. At one time such a request was made in regard to a particular matter of not much importance, but was promptly declined.

And further this deponent sayeth not.

R. ABBEY.

Sworn and subscribed before me this twenty-ninth day of January, in the year eighteen hundred and seventy-four.

[SEAL.]

N. CALLAN,

Notary Public, City of Washington, D. C.

[Extract from the Discipline of the Methodist Episcopal Church South.]

"SEC. XXIII. OF THE RULERS OF THE UNITED STATES OF AMERICA.

"The President, the Congress, the general assemblies, the governors, and the councils of state, as the delegates of the people, are the rulers of the United States of America, according to the division of power made to them by the Constitution of the United States, and by the constitutions of their respective States. And the said States are a sovereign and independent nation, and ought not to be subject to any foreign jurisdiction."

By the above fundamental law the Methodist Episcopal Church South was placed of old, and has ever remained, under the protection of the Constitution and laws of the United States; but its well-known and highly-cherished policy is, to have nothing whatever to do with any civil or political questions. And so, in the time of the late war, the church—that is, that portion of it which then had legal existence in the United States—by the advice of competent counsel, held a general convention in Louisville, Ky., in April, 1864, at which its ancient and unchanged relation to the United States was, among other things, fully asserted. But this declaration of loyalty to the existing Government, though frankly and fully expressed, did not infringe upon its sacred doctrine of total non-interference in civil and secular questions. After the Southern people were re-admitted to their former citizenship by the Government, and so, the church reunited, the General Conference of the whole church, which sat in New Orleans in April, 1866, formally "approved the acts and doings" of this convention of 1864, and paid its expenses. All this is in full proof before Congress.

R. ABBEY,
Agent, etc.

WASHINGTON, D. C., January 30, 1874.