CITY OF BALTIMORE, STATE OF MARYLAND

JANUARY 16 (calendar day, JANUARY 23), 1926.—Ordered to be printed

Mr. Bayard (for Mr. Stanfield), from the Committee on Claims, submitted the following

REPORT

[To accompany S. 451]

The Committee on Claims, to whom was referred the bill (S. 451) for the relief of the city of Baltimore, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

Similar bills passed the Senate in the Sixty-seventh and Sixty-eighth Congresses.

The facts are fully set forth in Senate Report No. 42, Sixty-eighth Congress, first session, which is appended hereto and made a part of this report.

[Senate Report No. 42, Sixty-eighth Congress, first session]

The Committee on Claims, to whom was referred the bill (S. 1761) to reimburse the city of Baltimore, State of Maryland, for moneys expended to aid the United States in the construction of works of defense during the Civil War, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts in the case are fully set forth in Senate Report No. 484, Sixty-seventh Congress, second session, which is appended hereto and made a part of this report.

[Senate Report No. 484, Sixty-seventh Congress, second session]

The Committee on Claims, to whom was referred the bill (S. 2095) to reimburse the city of Baltimore, State of Maryland, for moneys expended to aid the United States in the construction of works of defense during the Civil War, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment: In line 6, after the word "of," strike out the remaining part of the bill and insert in lieu thereof the following: "$173,073.60, expended by said city in carrying out the request of
Maj. Gen. R. C. Schenck, United States Army, to aid the United States in the construction of works of defense in and around the city of Baltimore, on account of the Civil War."

The bill, as thus amended, is aimed to reimburse the city of Baltimore for interest paid by it for a period of 30 years at the rate of 6 per cent on the sum of $96,152 raised by it on bonds necessary to produce said sum and expended by the city at the request of Maj. Gen. Robert C. Schenck, by authority of the War Department, to aid the United States in the construction of works of defense in and around the city of Baltimore during the Civil War. Proofs that the city expended the amount claimed by way of Interest on said principal sum are fully set forth in official documents of the city hereto attached and marked "Exhibit A."

The principal sum of said $96,152, raised as the result of said bond issue in 1863, was reimbursed to the city of Baltimore by a provision in the sundry civil act of March 3, 1879 (20 Stat. L. 385), as follows:

"To enable the Secretary of the Treasury to refund to the city of Baltimore, State of Maryland, amounts advanced at the request of Maj. Gen. R. C. Schenck, dated June 20, 1863, to aid the United States in the construction of works of defense, the accounts to be passed by the accounting officers of the Treasury, not to exceed the amounts examined, allowed, and approved by the Secretary of War, a sum not exceeding $96,152 is hereby appropriated out of any money in the Treasury not otherwise appropriated."

At the time this refund was made it was not the practice of the Government to reimburse cities or States for the interest they had found it necessary to pay to maturity on bonds issued by them for the purpose of raising funds to aid the United States in the national defense.

However, following the decision of the Supreme Court of the United States in the case of the State of New York v. the United States (160 U. S. p. 598), decided January 6, 1896, wherein the court held that interest paid by the State of New York on its bonds issued to defray its expenses to raise and equip troops was a part of the cost, charges, and expenses properly incurred within the meaning of the act of July 27, 1861 (12 Stat. L. 276) to reimburse to the State by the Federal Government, the Supreme Court holding that such interest, when paid, became a principal sum as between the State and the United States; that is, became a part of the aggregate sum paid by the State for the United States—the principal and interest so paid constituting a debt from the United States to the State—it being the same as if the United States had itself borrowed the money through the agency of the State. Congress has from time to time reimbursed the other loyal northern States for interest paid on bonds issued to provide funds to be used in aiding the United States in the suppression of the rebellion.

This is all that the pending bill proposes to do on behalf of the city of Baltimore.

A list of the 17 States which have received the same consideration at the hands of Congress is hereto attached and marked "Exhibit B."

There is also attached and marked "Exhibit C" the decision of the Comptroller of the Treasury of April 14, 1902, in the case of the State of Indiana, and a memorandum, Exhibit D, from which it will be seen that the proposed reimbursement to the city of Baltimore is directly in line with reimbursement that was made by Congress to the State of Indiana and various other States by way of refund for interest paid on bonds to date of maturity, said reimbursements being made on the doctrine announced by the Supreme Court of the United States, supra, that the Government of the United States is called upon to reimburse to the States every dollar said States properly paid out on obligations incurred by them in the national defense.

The Senate, in passing in the first session of the present Congress Senate bill 546, passed May 6, 1921 (see S. Rept. 24, 69th Cong., 1st sess.), to reimburse to the State of Massachusetts the sum of $233,885.82 "for interest and premium paid for coin in payment of interest on bonds issued for money borrowed and expended at the request of the President of the United States during the Civil War in protecting the harbors and fortifying the coast" of Massachusetts, reaffirmed the above doctrine. It is now proposed to again reaffirm this doctrine to the end that the city of Baltimore be accorded like consideration by way of reimbursement.
ORDINANCE NO. 50 OF THE CITY OF BALTIMORE TO PROVIDE FOR THE DEFENSE OF THAT CITY DURING THE CIVIL WAR, APPROVED JUNE 18, 1863.

[No. 50. An ordinance to provide for the defense of the city of Baltimore by paying a bounty to volunteers who may enlist under the call of the President of the United States, bearing date of June 15, 1863, to form the quota of troops that may be apportioned to said city.]

SECTION 1. Be it enacted and ordained by the Mayor and City Council of Baltimore, That the sum of $400,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated to be used exclusively as a bounty fund, and to be paid to such persons as may volunteer prior to the 26th day of June, 1863, to form the regiments or companies of artillery that may be raised under the call of the President of the United States, under date of June 15, 1863, in the city of Baltimore, for the purpose of forming the quota of said city, and to be mustered into the service of the United States, said bounty to be disbursed in the manner following:

SEC. 2. And be it enacted and ordained, That every private and noncommissioned officer, bugler, fifer, and drummer who may have enlisted, or who shall enlist, under the said call of the President of the United States prior to the 26th day of June, 1863, in any of the aforesaid regiments or companies of artillery, counted in and forming the quota of troops that may be apportioned to the city of Baltimore, and none others, shall, on being mustered into the service of the United States, receive the sum of $50, and shall receive the further sum of $10 per month for the space of five months from and after the day he shall have been mustered into service as aforesaid, provided that the total amount of bounty paid to each volunteer shall not exceed the sum of $100.

SEC. 3. And be it enacted and ordained, That the colonel of a regiment, the captain of a company mustered into the service, or the recruiting officer duly authorized by the governor of Maryland to recruit, shall certify to the register of the city the names of those privates, noncommissioned officers, buglers, fifers, and drummers who have been mustered into the service of the United States for six months as aforesaid, and who are entitled to receive the benefits of this ordinance, and the register shall record such names in a book to be kept for that purpose, and require each volunteer, when the bounty under this ordinance is paid to him, to receipt for the same, giving the date of payment in said record.

SEC. 4. And be it enacted and ordained, That every volunteer claiming the benefits of this ordinance shall first make oath before some justice of the peace for Baltimore City, stating that he has enlisted in the —— Maryland regiment, and is a member of company —— or —— company of artillery, such oath to be certified to by the justice of the peace before whom the same was taken. The register of the city, on the production of said certificate and affidavit, and on being satisfied that the holder of the same is the identical party who is named in said certificate, and that he has been returned as a volunteer duly mustered into the United States service, as provided for by this ordinance, is authorized and required to pay the aforesaid sum of $50, and, on payment of the same, shall give the person receiving the said sum a certificate, which certificate shall not be transferable, except to the wife, children, mother, or sisters of the person in whose favor it is drawn: and there shall be conspicuously marked on the face of said certificate “not transferable,” which, on presentation to the register, shall entitle the holder to the separate monthly installments of $10: Provided, That before said volunteer shall receive said monthly installments of $10, the register shall be satisfied that the applicant has been mustered into the United States service as aforesaid: And provided further, That said monthly installments shall not be paid by the register in any case where he shall be in possession of reliable information that any person applying for the same has deserted from the service of the United States.

SEC. 5. And be it enacted and ordained, That in case of the death of such volunteer, private or noncommissioned officer, at any time after he may have been mustered into the United States service as aforesaid, and before he may have received said bounty or said monthly installments, his widow, if any, or, if no widow, his orphan or orphans, if any, or his, her, or their guardians, and if no orphan or orphans, his mother, and if no mother, his unmarried sister or sisters shall be entitled to receive such amount as said deceased volunteer would have been entitled to receive; and before the register shall pay over said amount, he shall require satisfactory proof of the right of the party to receive the same, under oath or otherwise.

SEC. 6. And be it enacted and ordained, That the certificates and affidavits mentioned in the third and fourth sections of this ordinance shall be filed by the register, and by him kept subject to the inspection of the mayor and city council.

SEC. 7. And be it enacted and ordained, That in order to meet the disbursements required by this ordinance the commissioners of finance are hereby authorized, in
their discretion, to issue $400,000 of city bonds, or so much thereof as may be needed from time to time, bearing interest at the rate of 6 per cent per annum; interest payable half yearly, and redeemable in 30 years; dispose of the same at market price, and deposit proceeds with the register; and should the bonds command a premium, the register shall set aside the premium as a sinking fund, and from and after 10 years there shall be levied annually 3 cents on every hundred dollars of assessable property as a sinking fund for the redemption of the debt thus created.

Sec. 8. And be it enacted and ordained, That every volunteer claiming bounty money under the foregoing sections of this ordinance, before he shall be entitled to the same, shall have passed, before a competent Army surgeon, such searching examination into his physical condition as is required of recruits before entering the Regular United States Army, and shall produce satisfactory evidence of the same to the city register.

Approved June 18, 1863.

John Lee Chapman, Mayor.

Ordinance No. 51, Approved June 24, 1863, Being Supplemental to Ordinance No. 50, Approved June 18, 1863, of the City of Baltimore, to Provide for the Defense of That City during the Civil War.

[No. 51. A supplement to Ordinance No. 50, entitled "An ordinance to provide for the defense of the city of Baltimore by paying a bounty to volunteers who may enlist under the call of the President of the United States, bearing date of June 15, 1863, to form the quota of troops that may be apportioned to said city," approved June 18, 1863, providing for the further defense of the city by the erection of fortifications, and to aid in the recruiting of the Baltimore Battery of Light Artillery.]

Whereas, for the defense and protection of the city of Baltimore, it is deemed necessary that fortifications should be erected at various points around said city; and whereas, a portion of the money appropriated in the ordinance to which this is supplementary, providing for the payment of a bounty to volunteers in the regiments of infantry and cavalry and companies of artillery now being raised under the last call of the President of the United States to form the quota of troops that may be apportioned to said city, will not be required: Therefore—

Section 1. Be it enacted and ordained by the mayor and city council of Baltimore, That the sum of $100,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated to pay the expenses of erecting embankments and intrenchments around said city, and other works of like character, required for the further defense and protection of said city from invasion, the amount to be taken out of the $400,000 appropriated in the ordinance to which this is a supplement, entitled "An ordinance to provide for the defense of the city of Baltimore, by paying a bounty to volunteers who may enlist under the call of the President of the United States, bearing date of June 15, 1863, to form the quota of troops that may be apportioned to said city," approved June 18, 1863.

Sec. 2. And be it enacted and ordained, That the mayor of the city, the presidents of the two branches of the city council, together with one member from each of said branches, to be appointed by said mayor and presidents, be, and they are hereby, constituted a committee, of which the mayor shall be chairman ex officio, four of whom shall be a quorum for the transaction of business, to which shall be exclusively intrusted the expenditure of the money hereby appropriated as, in the judgment of said committee, may best accomplish the object herein contemplated; and the committee is hereby authorized to draw on the register from time to time for such sums as may be thus needed.

Sec. 3. And be it enacted and ordained, That the benefit of the ordinance to which this is a supplement be, and the same is hereby, extended to any person who shall, before the 26th day of June, 1863, volunteer and be mustered into the service of the United States, as a member of the company known as the Baltimore Battery of Light Artillery, under the command of Capt. F. W. Alexander.

Sec. 4. And be it enacted and ordained, That so much of the ordinance to which this is a supplement, together with all other ordinances and parts of ordinances that may conflict with this ordinance, be, and the same are hereby, repealed.

Approved June 24, 1863.

John Lee Chapman, Mayor.
ORDINANCE NO. 52 OF THE CITY OF BALTIMORE, APPROVED JUNE 27, 1863, BEING A FURTHER SUPPLEMENT TO ORDINANCE NO. 50, APPROVED JUNE 18, 1863, FOR THE DEFENSE OF THE CITY OF BALTIMORE DURING THE CIVIL WAR.

No. 52. A further supplement to ordinance No. 50, approved June 18, 1863, for the defense of the city of Baltimore.

SECTION 1. Be it enacted and ordained by the mayor and city council of Baltimore, that the defense committee appointed by ordinance No. 51, approved June 24, 1863, to take charge of the money appropriated to erect fortifications around the city, etc., be, and they are hereby, authorized to pay any further expenses for the defense of the city that in their judgment are just and proper, the amount to be taken out of the $400,000 appropriated in ordinance No. 50, approved June 18, 1863, to which this is a further supplement, and all ordinances or parts of ordinances that are in conflict with the provisions of this ordinance be, and the same are, hereby repealed.

Approved, June 27, 1863.

JOHN LEE CHAPMAN, Mayor.

REPORT OF THE DEFENSE COMMITTEE APPOINTED BY AUTHORITY OF ORDINANCE NO. 51 OF THE CITY OF BALTIMORE, APPROVED JUNE 24, 1863, SHOWING HOW THE DEFENSE FUND AUTHORIZED BY ORDINANCES NOS. 50, 51, AND 52 WAS EXPENDED.

[Second Branch City Council Journal, pp. 56-59.]

TUESDAY, JANUARY 19, 1864.

The branch met pursuant to adjournment.

Present: Samuel Duer, Esq., president, and all the members except Messrs. Barron and Moody.

The following report was received from the first branch and read:

MAYOR'S OFFICE, CITY HALL, BALTIMORE, JANUARY 18, 1864.

To the members of the first and second branches of the City Council of Baltimore:

Gentlemen: The defense committee appointed under the provision of ordinance No. 51, approved June 22, 1863, respectfully report to your honorable body their doings in the discharge of the trust committed to them.

The ordinance referred to appropriates the sum of $100,000 to pay the expenses of erecting embankments and intrenchments around the city, and other works of like character, required for the further defense and the protection of the city from invasion, and it enacts that the mayor of the city, the president of the two branches of the city council, together with one member from each of said branches, to be appointed by said mayor and presidents, shall constitute a committee to which shall be exclusively intrusted the expenditure of the money so appropriated.

On Monday, the 22d of June, the day on which the ordinance was approved, the mayor and the presidents of the two branches met and completed the organization of the committee by the appointment of Messrs. C. Sidney Norris of the second branch, and Robert M. Proud of the first branch, as associate members; and the committee so constituted immediately assumed the duties of their trust.

The work on the intrenchments had been commenced on the Saturday previous by colored laborers, impressed for the purpose by the police under the authority of Maj. Gen. Schenck.

The first act of the committee was to communicate with the military authorities, with a view of determining what duty should be assumed by them. The interview resulted in an understanding that all materials should be supplied by the Government, and that the labor only should be furnished by the city. The character of the intrenchments, their number, location, etc., of course, were matters entirely outside of our province, to be determined solely by the military; so also of the number of hands required for the execution of the work. The great object being to put the city in a condition of defense in as short a time as possible, as many hands were called for as could be advantageously employed upon the various intrenchments, and it became the first duty of the committee to see that such labor was supplied, and organized as well as the circumstances would admit, so as to secure accurate returns of the time of each laborer. This was accomplished by arranging the men in squads under the separate superintendents furnished with books in which to keep a record of each man's time.

From these books, after revision by our clerks, the committee in person paid to each of the colored laborers the amount due him. This necessarily cost the members of the committee much labor and time; but they felt a deep sense of the responsibility of their position, and as the haste with which the force of employees was organ-
ized had made it impracticable to arrange a system of accountability on the part of subordinates, they determined to take upon themselves this onerous duty. They have therefore the satisfactory assurance that, although the works by which our city has been placed in a defensive position have cost more than they would have cost if they had been constructed at leisure, and with the economy of labor which under such circumstances would have been practicable, yet that there has been no misappropriation of money and that it has been honestly paid to those who by their labor have earned it.

The aggregate amount expended by the committee on the intrenchments and for clerk hire, stationery, and other necessary expenses in the performance of their duties is $93,310.73. They have also, under the provisions of ordinance No. 52, which authorized them “to pay any further expenses for the defense of the city that in their judgment are just and proper,” paid out the further sum of $841.27 to defray the expenses of the volunteer military companies temporarily organized by the union leagues and other citizens, making the entire sum drawn from the city treasury and paid out by the committee $96,152.

There remain upon our books a large number of balances, apparently due to laborers employed upon the works, amounting in the aggregate to between two and three thousand dollars; but as the committee have repeatedly advertised for all such parties to make their demands within a time designated and these persons have not done so, it is questionable whether they ever will, or having failed to do so in proper time, whether such claims should hereafter be allowed.

There is a class of claims which have been presented to the committee, growing out of the erection of barricades in the streets of the city as a part of the proposed system of defense. This was done by the marshal of police, under the direction of the military authorities, before the organization of the committee, doubting whether such claims, contracted without any agency of theirs or of any officer of the corporation, came properly within the range of the duties assigned to them, have refused to recognize them.

These claimants, principally carters, laborers, etc., ought to be paid, and the committee can not understand why, as work was done under military order, they have not been recognized and satisfied at the Quartermaster’s Department.

Indeed, not only the particular class of claims referred to, but the whole outlay made by the city, is a legitimate charge against the General Government. Apart from the essential fact that the defenses of the city of Baltimore practically constituted part of the defenses of the National Capital, we had a right to look to the Government for protection against invasion.

Upon being informed that there were no funds at the disposal of the military authorities applicable to this purpose, the mayor and city council did not stop to inquire why this was the case, but promptly made an appropriation to meet the emergency. We can not doubt that Congress will make the necessary provision to reimburse the city, and we respectfully suggest that our Representatives in Congress be requested to urge the passage of a law for that purpose, and also to provide for the unpaid expenses upon the barricades.

The committee have preserved the record of their payments and the vouchers for them in a box, which has been deposited in the keeping of the city register, and they ask of the councils the appointment of a special committee for the purpose of giving to their accounts a thorough examination.

In conclusion, the committee will state that the outlay now reported has resulted in the erection of a series of defensive works, 22 in number, which, although we hope and believe never will be brought into actual use, if occupied by an adequate force would present a very strong defense against an invading army.

The surviving members of the committee can not close this report without an allusion to the loss which, in common with other members of the corporation, they have sustained in the death of their late colleague, C. Sidney Norris, Esq., and without bearing their testimony to the fidelity with which he discharged his share of the duties of their trust. His exactness and precision in the details of business, his industry, his strict integrity and nice sense of justice, his sound practical judgment, his courtesy and kindness toward associates and subordinates, as well as his conscientious fidelity as a citizen, were all illustrated in the manner in which, on his part, those duties were performed. He lived to complete all the duties of that trust except the uniting in this report. In performing this part of their work without him his associates feel it a duty and a privilege to place on record this testimony to his virtues and to their own sense of personal and public loss in his death.

JOHN LEE CHAPMAN.
JAMES YOUNG.
SAMUEL DURR.
ROBT. M. PROUD.
CITY OF BALTIMORE, STATE OF MARYLAND.

The following message was received from the first branch:

IN FIRST BRANCH,
Baltimore, January 19, 1864.

GENTLEMEN OF THE SECOND BRANCH: We respectfully propose, with your concurrence, the reference of the accompanying report from the defense committee to a joint special committee.

By order.

ANDREW J. BANDEL, Clerk.

On motion of Mr. Brooks, the proposition contained in the message was concurred in. The president appointed Messrs. Brooks, Kennard, and Foreman as the committee on the part of this branch.

[First Branch Council Journal, Feb. 1, 1864, p. 150.]

Mr. C. C. Keyser, from the joint special committee on the accounts and disbursements of the defense committee, submitted the following report and resolution:

"The joint special committee, to whom was referred the report of the defense committee of the city of Baltimore, beg leave to state that they have examined the books of record and vouchers for the disbursements made in furtherance of their trust and find them correct and entirely satisfactory in every respect.

"The committee indulge the hope that a slight digression from the usual manner of rendering such reports, by stating that the accounts, etc., were found correct, may not be ill-timed nor an unnecessary procedure in the premises, when the magnitude of the labor performed by the commission shall have been duly considered.

"The defenses, 22 in number, which have been completed under the supervision of the commission, now present a belt of fortifications which for symmetry of construction and durability in a military point of view will remain as enduring monuments to the memory of each of the gentlemen constituting said commission.

"The nature of the trust which was so arduous and at the same time so important, involving, as it did, the defense and protection of the great metropolis of our State, was met with an unswerving patriotism, undaunted zeal, and that degree of ability which can not fail to challenge the hearty approbation of a grateful and loyal community.

"The committee, therefore, feeling the weight of the obligation resting upon them, and as an expression of what they deem the sense of this community for the invaluable services rendered by said commission in the hour of peril, respectfully submit the following resolution:

"Resolved by the mayor and city council of Baltimore, That the gratitude of the loyal and good citizens of Baltimore City are eminently due and are hereby tendered to each gentleman constituting the defense committee of said city, for devotion and fidelity to their trust and exalted patriotism, which was found equal to the great emergency, when the lives and dearest rights of our citizens were menaced by the outlaws of an unholy and malignant rebellion.

"C. C. KEYSER,
"Jos. J. Robinson,
"Wilson G. Horner,
"First Branch.
"William Brooks,
"Geo. I. Kennard,
"Valentine Forman,
"Second Branch."

The above resolution was adopted by the first branch on February 11, 1864. (First Branch Council Journal, p. 195.)

The above resolution was unanimously adopted by the second branch on February 12, 1864. (Second Branch Council Journal, p. 135.)

BALTIMORE; MD., June 6, 1921.

I, Richard Gwinn, register of the mayor and city council of Baltimore, do hereby certify that the foregoing is a full and true copy of the report of joint special committee of the first and second branch city councils. (First Branch Council Journal, February 1, 1864, p. 150.)

In testimony whereof I have hereunto set my hand as city register and affixed the seal of the mayor and city council of Baltimore this 6th day of June, 1921.

[Seal.]

RICHARD GWINN, City Register.
CITY OF BALTIMORE, STATE OF MARYLAND.

CITY OF BALTIMORE, Md.,
MUNICIPAL DEPARTMENTS.

I, Benj. S. Applestein, librarian of the city of Baltimore, State of Maryland, hereby certify, as legal custodian of the records of the city of Baltimore, embracing the official ordinances and resolutions passed by the city councils of the said city, that I have caused to be compared with the official records of the city of Baltimore the copies of certain ordinances and resolutions set forth on the attached statement.

That such examination and comparison of the official ordinances and resolutions with the official records in my custody disclose that the attached copies are correct proof-read copies of the ordinances and resolutions passed by the councils of the city of Baltimore, in the years 1863 and 1864, of which they purport to be copies.

BENJ. S. APPLESTEIN.

Sworn to and subscribed before me this 6th day of May, 1921.

Loretta M. J. Byrne,
Notary Public.

ANNUAL REPORT OF THE REGISTER OF BALTIMORE CITY AND OF THE COMMISSIONERS OF FINANCE, DECEMBER 31, 1893 (P. 12), FUNDED AND GUARANTEED DEBT.

The total funded and guaranteed debt of the city, as of December 31, 1893, is $34,100,475.56; on December 31, 1892, it was $34,663,297.48, a decrease of $562,821.92, and is thus accounted for. The exempt 6 per cent loan amounting to $410,353.87, and the consolidated 6 per cent loan amounting to $2,211,068.05, becoming due on September 1, 1893, the commissioners of finance commenced the redemption of these loans, and paid of the exempt loan $393,253.87 and of the consolidated loan $2,206,068.05, leaving $17,100 of the exempt and $5,000 of the consolidated unredeemed, the certificates of stock not having been presented for redemption. There was issued of the public improvement loan 1940, $1,759,500, and for the McDonogh fund an extension of the exempt and consolidated loans, as per ordinance of the mayor and city council, $280,000; and there was redeemed of the consolidated 1890 loan $2,000 and public park loan $1,000.

CITY OF BALTIMORE, Md.,
MUNICIPAL DEPARTMENTS.

I, Richard Gwinn, city register, hereby certify that I have caused to be examined the financial records of the city of Baltimore, covering the interest payments on, and the redemption of, the city bonds issued under authority of ordinance No. 50, approved June 18, 1863.

That such examination discloses that there has been redeemed of the bonds issued under ordinance No. 50 of 1863 bonds to the extent of $393,253.87.

That the interest on said bonds had been paid out of the city treasury before the redemption thereof was made.

In testimony whereof I have hereunto set my hand as city register, and affixed the seal of the mayor and city council of Baltimore, this 6th day of June, 1921.

RICHARD GWINN, City Register.

CITY OF BALTIMORE, MARYLAND,
MUNICIPAL DEPARTMENT.

I, Benj. S. Applestein, librarian of the city of Baltimore, State of Maryland, hereby certify, as legal custodian of the records of the City of Baltimore embracing the official reports of the city register of said city, that I have caused to be compared with the official records of the city of Baltimore the copy of a certain report set forth on the attached statement.

That such examination and comparison of the official register's report with the official records in my custody disclose that the attached copy is correct proof-read copy of the funded and guaranteed debt of the register's report of 1893 of Baltimore city, of which it purports to be a copy.

BENJ. S. APPLESTEIN.

Sworn to and subscribed before me this 7th day of May, 1921.

Loretta M. J. Byrne,
Notary Public.
EXHIBIT B.

In the matter of reimbursement for interest paid on bonds issued with which to raise funds to aid the United States in the national defense during the Civil War, a list of the 17 States which have received the same consideration at the hands of Congress as it is proposed to accord to the city of Baltimore.

The deficiency act of July 1, 1902 (32 Stat., 586), provided appropriations, as follows:

- Indiana: $635,859.20
- Iowa: 456,417.89
- Michigan: 382,167.62
- Ohio: 458,559.35
- Illinois: 1,005,129.20
- Vermont: 289,453.56

The deficiency act of March 3, 1903 (32 Stat., 1078), provided appropriations, as follows:

- Kentucky: $1,323,999.35
- Maine: 1,228,186.94
- New Hampshire: 1,172,928.27
- Connecticut: 608,560.59
- New Jersey: 479,833.20
- Rhode Island: 31,289.71

The deficiency act of April 27, 1904 (33 Stat., 424), provided appropriations, as follows:

- Massachusetts: $1,611,740.85
- Wisconsin: 1,758.30

The deficiency act of March 4, 1907 (34 Stat., 1374), provided appropriation, as follows:

- Minnesota: $67,792.23

The deficiency act of March 4, 1909 (35 Stat., 911), provided appropriation, as follows:

- Kansas: $425,065.43

The deficiency act of March 4, 1911 (36 Stat., 1321), provided appropriation, as follows:

- Pennsylvania: $41,890.71

EXHIBIT C.

DECISION OF THE COMPTROLLER OF THE TREASURY, APRIL 14, 1902, IN THE CLAIM OF THE STATE OF INDIANA.


Treasury Department,
Office of Comptroller of the Treasury,
Washington, D. C., April 14, 1902.

The State of Indiana, on the 8th day of June, 1868, under the provisions of the act of Congress of July 27, 1861 (12 Stat., 262), and joint resolution of March 8, 1862 (12 Stat., 614), making provision for the reimbursement to States on account of the costs, charges, and expenses properly incurred by them for enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting their troops employed to aid in suppressing the War of the Rebellion, filed its certain claim against the United States with the Auditor for the War Department, then called the Second Auditor, wherein said State claimed that the United States was justly indebted to it on account of interest paid on certain war bonds issued by it in order to raise money and used by it for the purposes mentioned in said act and resolution, supra, and for discount suffered by it for the negotiation of said bonds, and for certain expenses incurred by its commissioners who negotiated said bonds, and for certain losses in exchange incurred for the payment of the semiannual interest on said bonds, said interest being by the

1 Additional to that allowed by act of Feb. 14, 1902.
terms of said bonds payable in New York City, and for certain payments made by it for printing, expressage, and other incidental expenses accruing out of said bond issue.

The claim includes interest paid out by the State on said bonds up to and including the 1st day of May, 1868.

The amount of said claim was for $606,979.41.

The Auditor, on the 26th day of September, 1886, disallowed said claim in toto, and under the system of accounting then in vogue certified the result of said audit to the Second Comptroller of the Treasury for final disposition:

"This installment is a claim filed by the State of Indiana against the United States for reimbursement of discount, expenses, and interest on war-loan bonds. It was filed in this office June 8, 1868, for the sum of $606,979.41, under act of Congress approved July 27, 1861 (12 Stat. 276).

"It is the declared policy of the United States not to pay claims of this character unless provided for by special contracts or special laws. It will not be contended that any express authority is contained in the act of July 27, 1861, to reimburse the items composing this installment, and under the rule laid down by the late Attorney General (9 Op. Att. Gen., 59), that authority can not be taken by mere inference.

"The amount of $606,979.41 is therefore disallowed and certified to the Second Comptroller for his action thereon."

The said Second Comptroller, on the 11th day of October, 1886, confirmed the action of the said Auditor and disallowed said claim in toto, in language as follows:

"The foregoing report of the Auditor of the 29th ultimo is approved. The balance of $606,979.41 is accordingly disallowed, and the settlement of said eighth installment of the claim of the State of Indiana under the act of July 27, 1861, is hereby completed and finally closed."

The State of Indiana, on the 24th of March, 1899, through Dudley & Michener, its attorneys, filed with the Comptroller of the Treasury a petition to reopen the said settlement of said claim as made by the Second Comptroller, and asked therein that the same, after being reopened, be referred by the Comptroller to the Court of Claims for adjudication.

On the 19th day of September, 1899, the State was denied a reopening of said claim by the Comptroller, for the reason that the said Comptroller was not authorized by law to reopen claims settled by his predecessor on a construction of law, however erroneous said construction may have been. (6 Comp. Dec., 236).

Under the act of Congress making appropriations for urgent deficiencies for the present fiscal year, approved February 14, 1902, it is provided:

"In refunding to States expenses incurred in raising volunteers, namely:

"To the State of Maine, one hundred and thirty-one thousand five hundred and fifteen dollars and eighty-one cents.

"To the State of Pennsylvania, six hundred and eighty-nine thousand one hundred and forty-six dollars and twenty-nine cents.

"To the State of New Hampshire, one hundred and eight thousand three hundred and seventy-two dollars and fifty-three cents.

"To the State of Rhode Island, one hundred and twenty-four thousand six hundred and seventeen dollars and seventy-nine cents.

"And the claims of like character arising under the act of Congress of July twenty-seventh, eighteen hundred and sixty-one (Twelfth Statutes, page two hundred and seventy-six), and joint resolution of March eighth, eighteen hundred and sixty-two (Twelfth Statutes, page six hundred and fifteen), as interpreted and applied by the Supreme Court of the United States in the case of the State of New York against the United States, decided January sixth, eighteen hundred and ninety-six (Sixth United States Reports, page five hundred and ninety-eight), not hereafter allowed, or heretofore disallowed, by the accounting officers of the Treasury, shall be reopened, examined, and allowed. and, if deemed necessary, shall be transmitted to the Court of Claims for findings of fact or determination of disputed questions of law to aid in the settlement of the claims by the accounting officers."

The claim of the State of Indiana, disallowed by the Second Comptroller on the said 11th day of October, 1886, is a claim of like character with the claims of the States of Maine, Pennsylvania, New Hampshire, and Rhode Island, in said act set out and mentioned. Therefore, under and by authority of said act, and at the request of the State of Indiana, through its attorney general, the Hon. William L. Taylor, the said claim of the State of Indiana is now reopened, and will be settled and allowed under the rule of construction given to said acts of indemnity as announced by the Supreme Court in the case of New York v. United States (160 U. S., 595).
The State of Indiana, by the Hon. William L. Taylor, its attorney general, on the 1st day of April, 1902, filed a new and separate claim with the Auditor for the War Department for interest accrued and paid on the bonds mentioned in the first claim herein after the 1st day of May, 1868, in the sum of $121,327.21.

The Auditor for the War Department disallowed, by certificate No. 18418, said last-mentioned claim in toto on the 10th day of April, 1902, for the reasons as follows:

"This claim is for interest paid by the State from May 1, 1868, to the redemption of its interest-bearing bonds.

"By an examination of the records and other evidence on file in the Treasury Department, it is shown that on May 1, 1868, the State had redeemed bonds in the amount of $1,776,000. The remainder of the $2,000,000 issue, or $224,000, upon which the State claims interest from May 1, 1868, to May 1, 1881, is shown to have been offset by the United States through the direct tax, which, by the decision of the Court of Claims, was due and payable on June 30, 1902.

"The amount of the direct tax to be paid by Indiana was, in addition to what had been paid by the State, $700,442.43, which eliminated the principal of $224,000 on that date. (June 30, 1862.)

"Under the principle announced in the opinion of the Court of Claims in the claims of the following States: Maine, New Hampshire, Pennsylvania, and Rhode Island, the payment of interest by the State of Indiana after May 1, 1868, is held to be an unreasonable expense as contemplated by the acts of July 27, 1861, and March 8, 1862."

From this act of the auditor the State of Indiana appealed to the comptroller for revision on the said 10th day of April, 1902.

In order that the entire claim of Indiana for reimbursement on account of interest paid on its war bonds, discounts suffered on the negotiations of the same, expenses incurred in negotiating the same, and exchange, expressage, printing, and all other expenses properly incurred on account of said bond issue may be considered and adjusted at one time—the only way in which an intelligent understanding of the claim can be had—I have consolidated said two claims and will consider as one claim but certify my action therein separately as to each of said claims.

These claims, as directed by Congress, are to be allowed under the principles announced in the New York case, supra, as laid down by the Supreme Court in that decision. Hence it is of prime importance to understand what were the facts in the New York case and the law announced by the Supreme Court as applicable to these facts.

The case is long and the facts voluminous. I will therefore content myself with a résumé only of the decisive facts in that case.

New York had pending in the Court of Claims a claim wherein it was asserted that the United States was indebted to it in the sum of $131,188.02 for interest paid out by it on war bonds and to the canal sinking fund of the State, the proceeds of such bonds and such money borrowed from her sinking fund having been used by her with which to raise and equip her troops for the civil war.

The Court of Claims gave judgment in favor of the State of New York for $91,320.84, the amount of interest she had paid on the war bonds, but refused to give judgment for the balance of $39,867.18, representing interest paid by the State to her canal fund for sums borrowed from said fund.

The Government and the claimant both appealed from the judgment of the Court of Claims to the Supreme Court. The judgment of the Court of Claims was reversed on this appeal, for the reason that the State of New York was also entitled to a judgment for the said sum of $39,867.18, the amount paid by it as interest on moneys received by it by way of loan from its canal fund and applied by the State for the purpose of arming and equipping its troops.

I know of no better way to state the principles announced in that case than to quote the decision bodily, commencing at the second paragraph on page 619 thereof, which part of the decision recites the pertinent facts upon which the judgment of the Supreme Court is based and lays down the principles of law upon which the liability of the Government was based to reimburse the States for moneys paid out by them in raising and equipping of troops:

"The entire sum for which the State asked judgment was $131,188.02, of which $91,320.84 represented the amount paid as interest on moneys borrowed for the purpose of raising troops for the national defense, and for the repayment of which, with interest at 7 per cent, the State executed its short-time bonds. The balance, $39,867.18, represented the amount paid as interest on moneys received by way of loan from canal fund and applied by the State for the same purpose.

"On behalf of the Government it is contended that payment by the United States of the above sum of $91,320.84 is prohibited both by the statute, act of March 3,
1863 (c. 92, 12 Stat., 765; Rev. Stat., sec. 1091), providing that interest shall not be allowed on any claim up to the time of rendition of judgment thereon by the Court of Claims, unless upon a contract expressly stipulating for the payment of interest, and by the general rule based on grounds of public convenience, that interest 'is not to be awarded against a sovereign government, unless its consent to pay interest has been manifested by an act of its legislature, or by a lawful contract of its executive officers.' (United States v. North Carolina, 136 U. S., 211, 216; Angarica v. Bayard, 127 U. S., 251, 260.)

"The allowance of the $91,320.84 would not contravene either the statute or the general rule to which we have adverted. The duty of suppressing armed rebellion having for its object the overthrow of the National Government was primarily upon that Government and not upon the several States composing the Union. New York came promptly to the assistance of the National Government by enrolling, subsisting, clothing, supplying, arming, equipping, paying, and transporting troops to be employed in putting down the rebellion. Immediately after Fort Sumter was fired upon its legislature passed act appropriating $3,000,000, or so much thereof as was necessary, out of any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States. In order to meet the burdens imposed by this appropriation the real and personal property of the people of New York were subjected to taxation. When New York had succeeded in raising 30,000 soldiers to be employed in suppressing the rebellion, the United States, well knowing that the national existence was imperiled and that continued support of the State was required in order to maintain the Union, solemnly declared by the act of 1861 that 'the costs, charges, and expenses properly incurred' by any State in raising troops to protect the authority of the nation would be met by the General Government. And to remove any possible doubt as to what expenditures of a State would be so met the act of 1862 declared that the act of 1861 should embrace any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States. And to remove any possible doubt as to what expenditures of a State would be so met the act of 1862 declared that the act of 1861 should embrace any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States. And to remove any possible doubt as to what expenditures of a State would be so met the act of 1862 declared that the act of 1861 should embrace any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States. And to remove any possible doubt as to what expenditures of a State would be so met the act of 1862 declared that the act of 1861 should embrace any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States. And to remove any possible doubt as to what expenditures of a State would be so met the act of 1862 declared that the act of 1861 should embrace any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States. And to remove any possible doubt as to what expenditures of a State would be so met the act of 1862 declared that the act of 1861 should embrace any moneys in its treasury not otherwise appropriated, to defray any expenses incurred for arms, supplies, or equipments for such forces as were raised in that State and mustered into the service of the United States.

"Before the act of July 27, 1861, was passed, the Secretary of State of the United States telegraphed to the governor of New York acknowledging that that State had then furnished 50,000 troops for service in the War of the Rebellion, and thanking the governor for his efforts in that direction. And on July 25, 1861, Secretary Seward telegraphed: 'Buy arms and equipments as fast as you can. We pay all. And on July 27, 1861, that 'Treasury notes for part advances will be furnished on your call for them.' On August 16, 1861, the Secretary of War telegraphed to the governor of New York: 'Adopt such measures as may be necessary to fill up your regiments as rapidly as possible. We need the men. Let me know the best the Empire State can do to aid the country in the present emergency.' And on February 11, 1862, he telegraphed: 'The Government will refund the State for the advances for troops as speedily as the Treasury can obtain funds for that purpose.' Liberally interpreted, it is clear that the acts of July 27, 1861, and March 8, 1862, created, on the part of the United States, an obligation to indemnify the States for any costs, charges, and expenses properly incurred for the purposes expressed in the act of 1861, the title of which shows that its object was 'to indemnify the States for expenses incurred before as well as after its approval. It would be a reflection upon the patriotic motives of Congress if we did not place a liberal interpretation upon those acts and give effect to what we are not permitted to doubt was intended by their passage.

"So that the only inquiry is whether, within the fair meaning of the latter act, the words 'costs, charges, and expenses properly incurred' included interest paid by the State of New York on moneys borrowed for the purpose of raising, subsisting, and supplying troops to be employed in suppressing the rebellion. We have no hesitation in answering this question in the affirmative. If that State was to give effective aid to the General Government in its struggle with the organized forces of rebellion, it could only do so by borrowing money sufficient to meet the emergency, for it had no money in its treasury that had not been specifically appropriated for the expenses of its own government. It could not have borrowed any moneys that the General Government could have borrowed money without stipulating to pay such interest as was customary in the commercial world. Congress did not expect that any State would decline to borrow and await the collection of money raised by taxation before it moved to the support of the Nation. It expected that each loyal State would, as did New York, respond at once in furtherance of the avowed purpose of Congress, by whatever force necessary, to maintain the rightful authority and existence of the National Government. We can not doubt that the interest paid by the State on its bonds, issued to raise money for the purposes expressed by Congress, constituted a part of the costs, charges, and expenses properly incurred by it for those
objects. Such interest, when paid, became a principal sum as between the State and the United States; that is, became a part of the aggregate sum paid by the State for the United States. The principal and interest so paid constitutes a debt from the United States to the State. It is as if the United States had itself borrowed the money through the agency of the State. We therefore hold that the court below did not err in adjudging that the $91,320.84 paid by the State for interest upon its bonds issued in 1861 to defray the expenses to be incurred in raising troops for the national defense was a principal sum, which the United States agreed to pay, and not interest within the meaning of the rule prohibiting the allowance of interest accruing upon claims against the United States prior to the rendition of judgment thereon.

"The Court of Claims disallowed so much of the State's demand as represented interest paid by it on moneys borrowed from the canal fund. The installment of interest paid into that fund by the State was $48,187.13. But, as the State itself earned interest to the amount of $8,319.95 on a part of the money obtained by it from the commissioners of the canal fund, it only claimed $39,867.18 on account of interest paid to that fund.

"The canal fund was made by the constitution of the State a sinking fund for the ultimate liquidation of what is known as the canal debt of New York. In April and May, 1861, $2,039,683.06 from the taxes of 1860 reached the treasury of the State, and under the constitution and laws of New York that amount should have been invested in securities for the benefit of the canal fund and the interest derived from those securities paid into the fund. The State was permitted to use a part of the above sum under an agreement by its officers that interest thereon at the rate of 5 per cent should be paid. It recognized and fulfilled that agreement, and now claims that the interest it so paid to the canal fund constituted a charge or expense properly incurred in raising, subsisting, and supplying troops to suppress the rebellion.

"We are of opinion that, so far as the question of the liability of the United States is concerned, there is, on principle, no difference between the claim for $91,320.84 and the claim for $39,867.18. We do not stop to inquire whether the action of the canal commissioners in allowing the State to use a part of the moneys collected for the benefit of the canal fund was strictly in accordance with law. Suffice it to say that the canal fund was entitled to any interest earned upon moneys belonging to it, and fidelity to the constitution and laws of New York required the State to recognize that right in the only way it could at the time have been done, namely, by paying the interest that ought to have been realized by the commissioners of the canal fund if they had invested in interest-paying securities the moneys they permitted the State to use for military purposes. If the canal-fund money used by the State comptroller to defray the expenses of raising and equipping troops had been borrowed upon the bonds of the State sold in open market, the interest paid on such bonds would, for the reasons we have stated, be a just charge against the United States on account of expenses properly incurred by the State for the purposes expressed by Congress. Thus would have been the result if the moneys of the canal fund had been invested by the commissioners directly in bonds of the State bearing the same rate of interest that was paid to the commissioners of that fund. The substance of the transaction was that the State, for moneys that could not be legally appropriated for the ordinary expenses of its own government, and which the law required to be so invested as to earn interest for the canal fund, used those moneys for military purposes, under an agreement by its officers, subsequently ratified by the State, to pay interest thereon. It was, in its essence, a loan to the State by the commissioners of the canal fund of money to be repaid with interest.

"The obligation of the United States to indemnify the State, on account of such payment, is just as great as it would be if the transaction had occurred between the State and some corporation from which it borrowed the money. It is not the case of the State taking money out of one pocket to supply a deficiency in another over which it had full power; for, although the moneys brought into its treasury by the collection of taxes were under its control, the State was without power to manage and control taxes collected for the canal fund, except as provided in its constitution and laws. It could not legally have become a party to any arrangement or agreement involving the use, without interest, of the moneys of the canal fund that had been set apart for the ultimate payment of the canal debt.

"We are of the opinion that the claim of the State for money paid on account of interest to the commissioners of the canal fund is not one against the United States for interest as such, but is a claim for costs, charges, and expenses properly incurred and paid by the State in aid of the General Government, and is embraced by the act of Congress declaring that the States would be indemnified by the General Government for moneys so expended.
"As the State was entitled to a larger sum than $91,320.84 the judgment is reversed, and the cause is remanded with directions for further proceedings not inconsistent with this opinion."

As I understand this decision it announces the doctrine in language that can not be misunderstood that the Government of the United States is under legal obligation to reimburse to the States every dollar that said States properly paid out upon obligations incurred by them for any of the purposes expressed in the reimbursement acts of 1861.

That interest paid by States in procuring means with which to raise and equip troops is not considered as interest but as part of the costs, charges, and expenses properly incurred in raising and equipping of troops.

That all proper and necessary costs, charges, or expenses incurred by States in raising money for such purposes should on proper demand be reimbursed to said States.

To put it in the terse language of the decision, "It is as if the United States had borrowed the money through the agency of the State"; that is, the United States constituted the States its agents to borrow money. It follows that every cent such States were compelled to pay out on account of loans should be reimbursed to them by their principal, the United States, without any deduction or rebate whatsoever.

The facts of this claim of Indiana, to state them briefly, are—

It is shown by the report of the auditor for the State of Indiana for the fiscal year ending October 31, 1860, that the State owed—

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>An interest-bearing debt of</td>
<td>$7,770,273.50</td>
</tr>
<tr>
<td>Internal-improvement bonds outstanding</td>
<td>383,000.00</td>
</tr>
<tr>
<td>5 per cent State stock outstanding</td>
<td>5,322,500.00</td>
</tr>
<tr>
<td>24 per cent State stock outstanding</td>
<td>2,054,773.50</td>
</tr>
<tr>
<td>Total State debt October 31, 1860</td>
<td>7,770,273.50</td>
</tr>
</tbody>
</table>

It is also shown by this report that the running expenses of the State for said fiscal year were $1,621,107.48.

That its entire receipts for the same period of time were only $1,658,217.88.

Leaving a cash balance in the treasury on November 1, 1860, of $134,660.39.

It is apparent from these facts that there was no money in the treasury of the State of Indiana in 1861 which could have been used to defray the expenses of enlisting, enrolling, arming, equipping, and mustering troops into the service of the United States.

If Indiana were to raise and equip troops to meet the then existing emergency she must borrow money. It required ready money to accomplish these things. Considering alone the condition of her finances and not considering what is a matter of common history that many of her misguided citizens, especially along the Ohio River, were in almost open rebellion against the Government, it is not strange that her credit was not of a gilt-edge order. But the Legislature of Indiana, being dominated at the time by the master spirit of her great war governor, Oliver P. Morton, passed an act which was approved and became a law on the 13th day of May, 1861, authorizing the governor of Indiana, for the purpose of obtaining money for repelling invasion and to provide for the public defense, to issue $2,000,000 of bonds, $200,000 thereof to be in bonds of the denomination of $500 each, and the residue of the $2,000,000 in bonds of the denomination of $1,000 each, all of said bonds to draw interest at the rate of 6 per cent per annum, payable semiannually on the 1st day of May and November in each year, said bonds to have coupons or interest warrants attached, the first of which shall become due on the 1st day of May, 1862, the interest falling due between the date of sale and the first day of November, 1861, to be payable in advance, said bonds to be payable to bearer 20 years after date, the interest payable on presentation and surrender of coupons as they become due, both bonds and coupons to be payable at the Indiana agency in the city of New York, the bonds to be signed by the governor and countersigned by the auditor, numbered and registered in the office of the auditor and secretary of the State. The form of bond is set out in the act.

Section 3 of the act authorized the board of sinking fund commissioners of the State to purchase said bonds at par to the extent of any money they might have on hand subject to loan, and the interest when paid on said bonds to be disposed of in the same manner as the interest arising from the ordinary loans to individuals.

Section 2 of the act made provision for the appointment of a board of loan commissioners, consisting of three persons, who were to be paid $5 per day for each day they were actually engaged in negotiating the loan, together with their actual expenses.
It was also provided in said section that said bonds, when ready for sale, should be delivered to said commissioners and sold by them as the wants of the treasury of the State should from time to time demand, and the money arising therefrom, together with all exchange and any premium that might accrue thereon, should be paid by said commissioners into the State treasury. It was also provided in said section that the said board of loan commissioners should, as therein provided, on the first days of August, November, February, and May of each year file with the auditor of the State a report containing the number and denomination of bonds sold and the price received therefor and the time when sold.

Section 5 of said act made provision for an annual tax of 5 cents on each $100 in value of the taxable property of the State with which to provide a fund for the payment of the interest on said bonds, and to provide a sinking fund with which to pay the principal of said bonds when they should mature. That the excess of said taxes collected after paying the accruing interest on said bonds should be put into the sinking fund, with authority to the sinking fund commissioners to purchase any of said bonds if they could be procured on reasonable terms; and if not, then to invest the same in other Indiana securities, said commission to keep a record of the number and amount and price paid for such bonds, from whom and when purchased. For the final payment of said bonds, with interest thereon, the faith of the State was irrevocably pledged.

Section 9 of said act declared that because the ordinary revenues of the State were insufficient to meet the necessary expenses growing out of the then insurrectionary acts of certain States, and emergency existed for the passage of such act, and that it would be in force from and after its passage.

That in pursuance of the said act of the legislature Jesse J. Brown, J. H. Boyle, and James M. Ray were appointed as members of the board of loan commissioners.

That from time to time, commencing the 28th day of May, 1861, and extending to and including the 14th day of August, 1862, the said loan commissioners negotiated and sold all of said bonds; that none of said bonds sold at a premium; that said bonds sold all the way from 5 to 17 per cent discount; that said bonds the sum of $125,000 were sold on May 28, 1861, to the commissioners of the sinking fund of Indiana at par; that the further sum of $108,500 of said bonds were sold on the 14th day of August, 1862, to the State debt sinking fund at a discount of 5 per cent: that said sum of $125,000 par value of said bonds sold to the commission of the sinking fund at par were redeemed by the State on the 20th day of January, 1867, and the accrued interest thereon at that time and paid by the said State amounted to $42,437.50.

These bonds so sold to the commissioners of the sinking fund, and upon which the above amount of interest was paid, was a borrowing of funds by the State from one of its trust funds set apart by the constitution and laws of the State of Indiana, and not subject to the control of the Legislature of the State of Indiana, nor subject to be used by the State to defray its current expenses, or to the payment of the principal or interest on said war bonds.

That the said $108,500 par value of bonds sold to the State debt sinking fund on August 14, 1862, at 5 per cent discount, was on the same day redeemed by the State at the same rate of discount for which they were sold.

These two transactions represent all the transactions had with the State's sinking funds relative to sales of these bonds.

The remainder of said issue of two millions of dollars was sold to individuals and corporations at discounts varying from 5 to 17 per cent.

The State suffered an apparent discount on account of the sale of said bonds in the sum of $243,603.40. This was only an apparent discount, however. The facts show that the State received on account of the sinking fund and other purchasers of bonds allowing the State to redeem bonds sold at a discount at the same price for which they were sold, the sum of $91,756.50; net discount, $151,846.90.

The State paid on account of salaries and expenses of negotiating the sale of said bonds by said bond sale commissioners the sum of $1,633.89.

The State paid on account of printing, commissions, and expenses made necessary on account of said bond issue the sum of $421.46.

The State paid on account of exchange in paying the semiannual interest on said bonds in the city of New York the sum of $609.54.

The State paid out in semiannual interest on said bonds up to and including the 1st day of May, 1868, the sum of $367,154.98.

The State received on account of rebate of interest due on bonds when sold the sum of $6,982.75.

Deducting this latter amount from the sum of the above five amounts showing the items in favor of the State leaves the sum of $314,684.02, being the sum of the amounts going to make up the correct amount of the discounts, charges, expenses, and interest paid and suffered by the State of Indiana on account of the sale of said bonds up to and including the 1st day of May, 1868.
If the United States had taken care of the principal and interest of these bonds, and paid them at maturity, as she might have done, and which would have been entirely proper for the principal to have done for her agent, it would have been the duty of the State of Indiana to have accounted to the Government of the United States for whatever sum it may have received on account of the sale of said bonds, and the duty of the Government of the United States to have reimbursed it for any and all legitimate expenses it was put to in making the sales. The question of discount and interest would not have entered into the account.

But the Government left the State of Indiana to take care of and pay said bonds, principal and interest, under the terms of its contract as made and set out in said bonds and on the best terms it could get from the bondholders, agreeing to reimburse it for all costs, charges, and expenses growing out of and connected with the sale of said bonds, provided it used the money obtained from their sale for the raising, arming, and equipping of its troops for the War of the Rebellion.

The facts in the case clearly show that during the year 1861 the State of Indiana used all the money it derived from the sale of these bonds, and a much larger amount, some of which was advanced to the State by the Government in the way of a trip, which it discounted, and other moneys which it borrowed through the heroic efforts of Gov. Morton from other sources, in arming, equipping, and putting in the field its soldiers. All of said money realized on account of said bond sale was used during the years 1861-62 for the purpose aforesaid. The facts also clearly show, without going into details, which would unduly extend this decision, that the State and the United States, in the payment of these bonds and paid them when it had moneys which could be expended for that purpose and when the bondholders would accept payment before the bonds were due under their terms. If the whole bond issue had run until it was due under the terms of the bonds, as it might have done, the interest at 6 per cent, the rate thereon, on these bonds would have amounted at their maturity to $2,400,000.

It seems perfectly clear to me that to reimburse the State of Indiana on account of its expenditures because of this bond sale it will be necessary for the United States to repay to it every dollar it legitimately expended on account of principal and interest, together with all expenses in the negotiation of their sale. The State became liable for and paid the principal of these bonds, as well as the interest, as it accrued. Therefore, to reimburse it we must repay all such sums, the State losing the interest on such payments from the time it made them for the reason that the United States in the absence of a special contract does not pay interest.

The above relative to interest paid by the State on said bonds is not the view of the Court of Claims, as seemingly announced by it in the State of Maine v. United States (36 C. C. R., 531).

In that case the State of Maine, to arm and equip its troops for the War of the Rebellion, issued bonds and sold them at par and paid them principal and interest. It showed that it used a portion of the proceeds of said bond sale to arm and equip its troops.

The Court of Claims on its claim for reimbursement on account of this bond issue did not allow it the amount of interest paid on the amount of bonds sold and the proceeds of which it used in arming and equipping its troops, but stated the account as will appear by "Exhibit A" accompanying this decision.

It seems to me that it is perfectly apparent that the method adopted by the Court of Claims in the settlement of that account did not follow or apply the principles of reimbursement as announced in the New York case. It did not in any sense of the word reimburse the State of Maine on account of interest paid by it on the bonds which it sold and the proceeds of which it used in raising and equipping its troops. The case was settled on the basis that when the Government made a payment to Maine that this payment was to be deducted from the amount of bonds which it had sold and the proceeds of which it used in arming and equipping its troops, and stopped the interest on the amount paid by the Government at the date of such payment.

If these payments had been made to the bondholders and had been applied by them to the principal of the bonds, the theory advanced by the Court of Claims would have been correct; but these payments were not made to the bondholders and did not stop the interest on the bonds which the State of Maine was compelled to pay. The payments to Maine by the United States were necessarily made on the principal of these bonds, or rather they were made to reimburse Maine for the moneys it used in arming, equipping, and supplying its troops. This money was procured from the sale of the bonds. The moment the State of Maine incurred an expense in arming and equipping her troops and furnished proper vouchers to show said facts, it was the duty of the United States to reimburse it for such expenses regardless of where or how she got the money.
Stopping the interest accruing on bonds which neither the State nor the United States could have paid without the consent of the bondholder at the time a partial payment was made to the State necessarily to reimburse it for moneys which it had actually expended and which it was obligated to repay to its bonded creditors, strikes me as a most remarkable proposition, no more remarkable, however, than unjust. It is for a principal to say to his agent, 'You have incurred a debt on my account, and by my authority, and for my benefit, which will continue to draw interest for years, and which you are obligated to pay, principal and interest, out of your own means; you used the principal sum, it is true, for which the obligation is given, upon which you will be compelled to pay the stipulated interest for years, and the principal when due, for my benefit, but I will repay you in full the principal sum which you and not I will have to pay at maturity, and thereby I will release myself from all further obligation on account of the obligations you incurred for my use and benefit. It is true you will have to pay both principal and interest out of your own means, the principal when due under the terms of your obligation, and the interest half-yearly from the date of the obligation to its maturity, yet, because I now repay you the principal, I am released from reimbursing you for the interest hereafter paid by you.'

The above is just what the Court of Claims by its calculation, or rather method of calculation, did to the State of Maine in the case supra.

While I exceedingly dislike to disagree with a court of the eminence of the Court of Claims, or any other court, yet I can not bring my conscience up to the point of deliberately wronging the State of Indiana, or any other State, by adopting a method of calculation which does not reimburse or make whole these States on account of the expenses paid by them which the Supreme Court says shall and ought to be reimbursed to them.

I am convinced that the Court of Claims was led into what I believe was an error and one which worked a great wrong to the State of Maine by adopting the calculation of an accountant, who no doubt is a good accountant, whose figures are no doubt correct, but who certainly has not shown himself possessed of either a legal or an equitable mind.

Believing, as I do, that in order to reimburse the State of Indiana the Government must repay to it all interest which it was compelled to pay on account of this bond issue, I therefore certify a difference of $514,684.02 as a legal claim from the audit hereinbefore set out and reopened, to be paid when Congress shall make an appropriation therefor.

Regarding the appeal from the auditor, I find that since the 1st day of May, 1868, the State paid and was compelled to pay as interest on the bonds that were outstanding at that date the sum of $121,175.18.

That the State had paid and taken up these bonds as rapidly as it had the money with which to redeem them, as raised by taxation or otherwise procured, as soon as the holders thereof would allow them to be redeemed under the terms of said contract. That all of said bonds were redeemed within twenty years from the date of their issue. I therefore certify a difference in such appeal of $121,175.18 as a legal claim to be reported to Congress for an appropriation.

R. J. TRACEWELL,
Comptroller.

NOTE.—If these two claims were figured as to interest paid by the State of Indiana on these war bonds according to the method adopted by the Court of Claims in the Maine case, which was evidently followed by the auditor in his audit on the new claim, it would have resulted in a difference of $236,669.11 of interest allowable to the State on the first or reopened claim; and in the second, or new claim, no allowance for interest whatever would have been made, because, applying the payments made to the State by the Government up to the 1st day of May, 1868, as ruled in the Maine case, none of these bonds were outstanding on said last-mentioned date for the purpose of reimbursing the State on account of interest afterwards paid thereon.

But in truth and in fact $224,000 of these bonds were outstanding on said 1st day of May, 1868, and the interest the State paid on these outstanding bonds is the amount allowed to the State on the claim filed April 1, 1902.

The deficiency act of July 1, 1902, provided as follows: "The accounting officers of the Treasury are authorized to reopen and adjust the claims of Pennsylvania, Maine, New Hampshire, and Rhode Island on the basis of like claims of other States herein provided for." (32 Stat. L., 586.)

These States were allowed under the act of February 14, 1902, prior to comptroller's decision of April 14, 1902. The above act of July 1, 1902, was to grant to them the additional benefits of the above decision.

April 27, 1904, the following was enacted as a part of the deficiency appropriation act of that date: "That the accounting officers of the Treasury be, and they are hereby, authorized and directed to reopen and adjust the claims of New Jersey and Wisconsin for which appropriation was made by the act of Congress approved March 3, 1903, on the same basis of like claims of Indiana, Michigan, Kentucky, Maine, and Pennsylvania, with the same force and effect as though appropriations therefor had not been made and accepted by the said State." (33 Stat. L., 428.)

"The accounting officers of the Treasury are hereby authorized and directed to reopen and adjust the claim of the State of Missouri, under an act to reimburse the State of Missouri for moneys expended for the United States in enrolling and equipping and provisioning militia forces to aid in suppressing the rebellion, approved April 17, 1866, on the basis of like claims of Indiana, Michigan, New York, Maine, and Pennsylvania." (33 Stat. L., 428.)

The deficiency act of June 30, 1906, provided as follows: "The Secretary of the Treasury is authorized to reopen, adjust, and audit the claim of the State of Minnesota for expenses incurred in suppressing Indian hostilities within the State in 1862, under the act of Congress approved March 3, 1863, and ascertain and determine under the rules applied in the cases of certain States for expenses in raising and equipping volunteers for the War of the Rebellion the amount actually expended by said State for interest on money borrowed for expenses so incurred and report the amount so ascertained to Congress for consideration." (34 Stat. L., 637.)

The deficiency act of May 30, 1908, provided as follows: "The Secretary of the Treasury is authorized and directed to reopen, adjust, and audit the claim of the State of Kansas for interest and discount on moneys borrowed by said State for the purpose of repelling invasions and suppressing Indian hostilities, and ascertain and determine, under the rules applied to the claims allowed to States under the act of July 27, 1891, the amount actually expended by said State for such interest and discount, and report the amount so ascertained to Congress for consideration." (35 Stat. L., 480.)

Private act No. 71, approved December 13, 1910, provided as follows: "That the accounting officers of the Treasury are hereby directed to readjust and settle the claim of the State of Pennsylvania against the United States for money paid to its militia for their services while employed in the service of the United States in the year 1863. And in such settlement said officers are directed to allow the State for money which it paid as interest on money borrowed to pay for said services not to exceed the sum of $43,000." (36 Stat. L., pt. 2, 1879.)

Note. — Following the above precedents the Senate, on May 6, 1921, passed Senate bill S46, granting similar relief to the State of Massachusetts in the sum of $233,885.82 by way of reimbursement for interest paid on bonds issued and money expended at the request of the United States during the Civil War.