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CHARLES CAUDWELL

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JUNE 10, 1926.—Committed to the Committee of the Whole House and ordered  
to be printed

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Mr. WOLVERTON, from the Committee on War Claims, submitted  
the following

REPORT

[To accompany H. R. 12308]

The Committee on War Claims, to whom was referred the bill (H. R. 12308) entitled "A bill for the relief of Charles Caudwell, having considered the same, report thereon with a recommendation that it do pass without amendment.

The facts are fully set forth in a letter addressed to the Speaker, House of Representatives, signed by the Secretary of War under date of May 3, 1926, which is appended hereto and made a part of this report.

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WAR DEPARTMENT,  
Washington, May 3, 1926.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: Transmitted herewith is a draft of a bill for the relief of Charles Caudwell, Congleton, Cheshire, England, a British subject. The purpose of this bill is to effect the refund of the purchase price of certain bake ovens sold to the claimant, and it is recommended, for the reasons hereinafter given, that appropriate relief be provided.

Mr. Caudwell's claim is for the refund of the purchase price of seven 2-deck Perkins's drawplate bake ovens sold to the claimant at London, England, on July 24, 1919, by the Quartermaster Corps, American Expeditionary Forces, under authority of the agent, United States Liquidation Commission, London, England. The ovens were part of the surplus stock of the American forces. In all, 35 ovens, in two lots, were sold to this purchaser—one lot of 21 ovens on or about June 28, 1919, and one of 14 ovens on July 24, 1919. No formal sales contract was executed in connection with the disposition of these ovens. The seven ovens involved in this claim were short certain parts. These seven ovens pertained to the second lot of 14 ovens purchased on July 24, 1919. The claimant paid £4,200 for the 14 ovens in this lot, or £300 for each oven. The proceeds of the sales were deposited to the credit of the Treasurer of the United States as miscellaneous receipts and appear in the July, 1919, accounts of Maj. W. O. Whipps, Quartermaster Corps.

The claimant, prior to delivery of the property, had resold all but five of the ovens he purchased from the American forces to the contracting firm, Joseph Baker & Sons (Ltd.), from whom the ovens had been procured by the Quartermaster Corps. The actual deliveries of the property were taken by Mr. Caudwell's purchaser. Seven of the ovens prior to delivery were found with tubes missing. On September 4, 1919, this shortage of tubes, as well as shortages of parts in respect to ovens previously delivered, valued at £931, was reported to the United States Liquidation Commission, War Department, then at Paris, France, and recommendation made that a refund of the value of the shortages be paid to the purchaser. The Liquidation Commission, by telegram dated September 9, 1919, authorized the payment of the £931 to Mr. Caudwell on account of the shortage of oven parts. That sum, however, was not paid to the claimant. It appears in this connection that further negotiations in respect to settlement for the shortages and delivery of the remaining ovens were in progress between the military authorities, the claimant, and his purchasers. The question had arisen also as to the availability of the funds for disbursement, the proceeds of the sale having been covered into the Treasury. However, when payment of the refund was delayed the claimant's buyers stated that they considered themselves relieved from their obligations to take the seven ovens with parts missing, and claimant himself did not thereafter take delivery, which left the ovens in the hands of the American military authorities. The ovens were sold to another purchaser in April, 1920.

The claim presented to the War Department, according to the claimant's bill of January 12, 1921, amounted to £2,698.15. The department, however, disallowed all items of the claim except the sum of £2,100—the value of seven ovens at £300 each—on the ground that the claimant was entitled to recover only the purchase price of the ovens not delivered. The remaining items included his anticipated profits of £175 on the seven ovens, cost of overhauling, renewal of parts, cleaning and extra cartage in respect of five ovens retained for his own use, amounting to £325, also interest from June 28, 1919, to January 12, 1921, in the sum of £98.15. The sum of £2,100 was accordingly offered to the claimant in full settlement of all claims arising from his purchase of ovens from the American Expeditionary Forces by letter dated June 6, 1921. The claimant, however, did not immediately accept the settlement offered, but continued to press for settlement of his claim in full as presented, especially in respect to the items of cost of overhauling, cartage, and interest, which were not favorably considered by the department as no warranty in respect to location or condition had been given the purchaser. The claimant, through his solicitors, Paddock, Son & Orme, Hanley, England, by letter dated January 20, 1926, finally accepted the sum of £2,100 offered by the department in its letter of June 6, 1921.

Since it appears, in respect to claimant's purchase of 14 ovens from the Quartermaster Corps on July 24, 1919, that this transaction contemplated delivery of complete ovens to claimant, and as seven of such ovens were short of essential parts, no adjustment having been made therefor and the ovens subsequently sold to other parties, it is considered that the refund of the purchase price of seven ovens is equitably due the claimant. It is, accordingly, recommended that payment of \$10,219.65, or so much thereof as might be required to purchase exchange not to exceed the amount of £2,100, be made to claimant, as provided in the inclosed draft of bill. The pounds sterling amount of the claim has been converted to dollars at \$4.8665 to the pound. Only the sum properly due in pounds sterling, however, may be paid.

Maj. John Mather, or other witnesses familiar with the facts, now on duty in the disposal branch, office of the Assistant Secretary of War, will furnish any further information desired in respect to this claim.

This matter has been submitted to the Director Bureau of the Budget, who advises that it is not in conflict with the financial program of the President.

Respectfully,

DWIGHT F. DAVIS, *Secretary of War.*