

## Statement of the case.

Mr. Justice CLIFFORD dissented from the decree, upon the ground that the act of Congress in question did not confirm any claim previously adjudged void by the Federal courts in pursuance of a prior act of Congress conferring jurisdiction to hear and determine the controversy.

UNITED STATES *v.* WRIGHT.

Under the 5th section of the act of March 3, 1863 (12 Stat. at Large, 702), which declares that "whenever by reason of the presence of a military or naval force near any post-office, unusual business accrues thereat, the Postmaster-General is hereby required to make a special order allowing proportionately reasonable compensation to the postmaster, and for clerical services," the Postmaster-General is the sole judge to determine not only whether the exigencies in the case provided for by the act have arisen, but also, in case that he decides that they have, to determine the manner and extent of the allowance to be made. It is not competent for a court or jury to revise his decision.

ERROR to the Circuit Court for the Middle District of Tennessee.

This was an action by the United States against a principal and his sureties on a postmaster's bond. At the trial, the defendants claimed, by way of set-off, under the 5th section of the act of March 3, 1863,\* certain credits which were proved to have been presented by the postmaster to the department and disallowed. The section mentioned provides:

"That whenever, by reason of the presence of a military or naval force near any post-office, unusual business accrues thereat, the Postmaster-General is hereby required to make a special order allowing proportionately reasonable compensation to the postmaster, and for clerical services, during the period of such extraordinary business."

Testimony was admitted as to the presence of United States military forces near the office of the postmaster during

\* 12 Stat. at Large, 702.

## Opinion of the court.

the term to which his claim related, and the court charged the jury that "if they were satisfied that, owing to the presence of such forces near said office, during said time, an increased amount of business had been occasioned, it would be proper for them to inquire as to what clerical assistance, if any, was rendered necessary thereby, and to allow said postmaster as a credit the fair compensation for such necessary clerical assistance."

The question was, the correctness of this charge. It depended, of course, upon the construction to be given to the 5th section above quoted of the act of March 3, 1863.

It is necessary to state that by the 9th section of the act of July 5, 1836,\* which prescribes the general duties of the Postmaster-General, that officer is, among other things, required

"To control, according to law, . . . the allowances to postmasters, the expenses of post-offices, and other expenses incident to the service of the department; to regulate and direct the payment of the said allowances and expenses for which appropriations have been made," &c.

*Mr. Bristow, Solicitor-General, and Mr. C. H. Hill, Assistant Attorney-General, for the United States.* No opposing counsel.

Mr. Justice DAVIS delivered the opinion of the court.

The instruction given by the learned judge who tried the case was clearly erroneous, for it referred to the jury a matter which, under the law, rested wholly in the discretion of the Postmaster-General. The act of March 3, 1863, which embraces the section upon whose construction the disposition of the case depended, effected great changes in the administration of the post-office department, but it did not take from the Postmaster-General the right to control and regulate the allowances to postmasters and the expenses of their offices, which was conferred by the 9th section of the act of July 5, 1836. Indeed, it would seem that the general

\* 5 Stat. at Large, 81.

## Syllabus.

power granted by that section was sufficient to meet the exigencies provided for by the fifth section of the act of March 3, 1863, but be this as it may, the latter section did nothing more than to require the Postmaster-General, in case the business of a particular post-office was considerably increased, on account of the location of the national forces in its vicinity, to compensate the postmaster for the extra labor performed and the additional expenses incurred.

The section did not go further and prescribe rules to govern the action of the Postmaster-General, nor did it seek to interfere with the judicial discretion of that officer. Congress constituted him the sole judge to determine not only whether the exigencies in the case had arisen, but if they had, the manner and extent of the allowance, and it is not competent for court or jury to revise his decision, nor is it re-examinable anywhere else, as there is no provision in the law to that effect. It may be safely laid down as a general rule, says Story, Judge, "that where a particular authority is confided to a public officer to be exercised by him in his discretion, upon an examination of facts, of which he is made the appropriate judge, his decision upon these facts is, in the absence of any controlling provisions, absolutely conclusive as to the existence of those facts."\*

JUDGMENT REVERSED, AND A VENIRE  
DE NOVO AWARDED.

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MANN v. ROCK ISLAND BANK.

In this case the court expresses its dissatisfaction with appeals being made whose only effect is to throw upon *it* the burden of making minute investigations and analyses of evidence in controversies where the case turned in every point upon simple questions of fact, and where there is not a doubtful question of law involved in the entire record. And, declaring its conviction that the time of this court, due to other parties

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\* Allen v. Blunt, 3 Story, 745.