

HOUSE....No. 61.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 10, 1840.

Ordered, That Messrs. WALLEY, of Roxbury,
WATERS, of Salem,
WILLIAMS, of West Springfield,
* CLAPP, of Belchertown,
SWASEY, of Lynnfield,

be a Committee, with such as the Senate may join, to consider whether any, and if any, what farther measures can be taken to secure an early adjustment of the claim held by this Commonwealth against the General Government, for services rendered during the last war.

Sent up for concurrence.

L. S. CUSHING, *Clerk*.

SENATE, March 12, 1840.

Concurred: and Messrs. BOWDOIN and EASTERBROOKS are joined.

CHA'S CALHOUN, *Clerk*.

* Mr. CLAPP obtained leave of absence, and Mr. RICHARDSON, of Boston, takes his place. S. H. WALLEY, Jr.

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 17, 1840.

The Joint Special Committee who were instructed by an order of the 10th inst. to consider whether any, and if any, what further measures can be taken to secure an early adjustment of the claim held by this Commonwealth against the General Government, for services rendered during the last war, have attended to that duty, and ask leave respectfully to

REPORT,

That, in the opinion of your Committee, nothing further can be expected to be accomplished in favor of a liquidation of the balance claimed of the general government by this Commonwealth,—until Congress is prepared to act definitively in this matter.

It must be unnecessary to go into detail upon the subject of this claim—as the files of preceding legislatures furnish elaborate statements and reports of agents and legislative committees.

In reference to the present state of the claim, we find a very full statement which was submitted by the agent, and published with the documents of the House (No. 54) in the year 1838. From this it appears, that Congress submitted the subject to the Secretary of War, for his examination and decision. Accordingly, after a full and thorough investigation of the merits of the claim, and an application to the matters in detail, of the principles which had governed in other cases of State claims, according to the judgment of the Secretary of War, it was as-

certained and allowed by him, and so reported to Congress under date of December 23d, 1837, as follows: "The original amount of these claims was \$843,349 60, which by a payment of \$11,000 in 1817, and one of \$419,748 26 in 1831, was reduced to \$412,601 34, which is still claimed. Of this sum, it appears upon applying the same principles which have governed the department in the settlement of similar claims made by other states, there will be due \$272,716 14, of which \$45,539 66 being for arms and accoutrements purchased by the State, arms, &c., to that amount, must be charged to the State, and be withheld from its quota, under the act of 1808, for arming and equipping the militia. And all warlike stores, remaining in the State, which are paid for by the general government, must be delivered up to the possession and use of the United States."

It further appears that the Senate in the month of February, 1839, made provision for the allowance to this State, of the sum of \$272,716 14, pursuant to the communication just recited, which was made to the House of Representatives, by Mr. Poinsett, Secretary of War—and that this allowance was struck out of the bill by the House, on the 3d March, 1839.

In reply to an inquiry, which was submitted by the entire delegation of Massachusetts in the House of Representatives, to the Secretary of War—"Whether any additional steps, on the part of the State, are necessary, to give despatch to this long delayed claim?"—Mr. Poinsett declares, under date of March 20, 1839, "that he examined the claim and settled the principles applicable to each item, and found the further sum of \$272,716, due to the State of Massachusetts, and so reported to the House. It was contended by some members of the Military Committee that the accounts should have been examined and settled by the proper accounting officers of the treasury, upon the principles established by this department, and that the resolution of the House of Representatives of 24th February 1832, contemplated this being done, when it directed that the examination should be made according to

the rules and cases set forth in the act of May, 1830, which provides expressly "that the proper accounting officers of the treasury, under the superintendence of the Secretary of War, be, and they are hereby, authorized and directed to credit and settle the claims of the State of Massachusetts, against the United States, for the services of her militia, during the late war." If this view of the law and resolutions of Congress be correct, then the items allowed by me require the examination of the third auditor, and the credits allowed by him, will be the balance due the State of Massachusetts. But it appeared to me, taking the two resolutions (of 1832 and 1836,) together, that my examination was not confined to the cases under the act of 1830; but extended to "services, disbursements, and expenditures during the late war with Great Britain," and that the rules of evidence, applied by the accounting officers of the treasury, were to be disregarded; and that in all cases where the evidence adduced, in my judgment, proved the truth of the items of claim, or any part thereof, to act in like manner as if the proof consisted of such vouchers and evidence as is required by existing rules and regulations touching the allowance of such claims.

In my opinion, *this resolution devolved the duty of the examination upon me*, and directed the manner in which it should be made; and after fulfilling that obligation, I reported to the House of Representatives the balance due the State of Massachusetts."

This correspondence is fully reported and commented upon in a report made by a joint committee of this Legislature, in the year 1839, which is No. 68 of Senate Documents. How then stands the case? Plainly thus: the claim is referred, under a resolution which proposes to do *justice* by the admission of truth untrammelled by such technicalities as might interfere with the object sought. It is referred to the Secretary of War; and after a thorough and laborious investigation by the agent in connexion with the Secretary, a balance is reported to be due. The Senate vote the appropriation needed,

to pay the balance allowed,—the House refuse, and as appears from a subsequent letter from Mr. Poinsett, the refusal is either from mistake or unwillingness ; since it is manifestly his opinion that no further action is called for other than granting the appropriation.

Since the report of 1839, another year has passed away, and nothing is done by Congress towards meeting our claim.

Two years and three months have passed by since Mr. Poinsett's report was made to the House of Representatives.

Under these circumstances, what ought Massachusetts to do? Has she not cause to complain of long delay and protracted injustice? Will she be true to herself, if she seems, by silence, to acquiesce in this continued delay? We think not.

Your Committee are unanimously of the opinion, that it becomes this Legislature to express in a suitable manner, their deep sense of the manifest injustice which has been done to this Commonwealth, by Congress, in withholding so long, the payment of moneys advanced more than twenty-five years since, for the common good ; for the protection of our country from a foreign foe ; and not only so, but even in delaying, year after year, to pass the necessary appropriation to pay a part of the claim reported by the officers of the government to be due, and rightfully belonging to this State.

Entertaining these views, your Committee beg leave to propose the adoption of the following resolves.

By order of the Committee.

S. H. WALLEY, Jr., *Chairman,*

On the part of the House.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty.

R E S O L V E S

Concerning the Massachusetts Claim.

Resolved, That the people of this Commonwealth, have just cause of complaint, on account of the treatment which they are receiving at the hands of the general government, inasmuch as the amount of claim for disbursements and expenses incurred by this State in the last war with Great Britain, which has been examined and allowed by the officer duly appointed to make such examination, is withheld from them.

Resolved, That the course pursued by Congress in this matter, toward Massachusetts, is a manifest violation of justice; and, that she would not be true to herself, if she would consent to remain contented and silent, while she is deprived of her acknowledged rights.

Resolved, That His Excellency, the Governor, be requested to forward a copy of these Resolves, to our Senators and Representatives in Congress; requesting them to lay them before Congress for their consideration, and urging the importance and justice of an early appropriation to be made by Congress, of an amount required to pay the sum ascertained to be due.

Resolved, That it shall be the duty of the Treasurer and Receiver General of this Commonwealth, with the consent of His Excellency, the Governor, upon receiving any sum of money, on account of the claim of said Commonwealth, for militia services, against the United States, to pay over one-third of the nett amount received, after deducting one-third of the amount required to defray the expenses incurred to the State of Maine ; and to apply the balance towards the payment of the debt of this Commonwealth, as provided for by the fourth section of an act, making provision for the unfunded debt of the Commonwealth, passed on the second day of April, in the year one thousand eight hundred and thirty-nine.

