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SENATE

{ REPORT
No. 1559

MAKING ADJUSTMENT OF THE ACCOUNT BETWEEN THE STATE OF NEW YORK AND THE UNITED STATES

FEBRUARY 22, 1927.—Ordered to be printed

Mr. BORAH, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. J. Res. 207]

The Committee on the Judiciary, to whom was referred House Joint Resolution 207, after consideration, report the same and recommend that the resolution do pass with the following amendments:

On page 2, after the last preamble, insert the following: "and whereas the Comptroller General of the United States in response to Senate Resolution Numbered 324, passed July 22, 1922, reported to the Senate on February 27, 1923 (Senate Document Numbered 325, Sixty-seventh Congress, fourth session), the balance due the State of North Carolina on February 28, 1923;"

On page 2, at the end of the resolution, insert the following:

Be it resolved further, That the Comptroller General of the United States be, and he is hereby, authorized and directed to restate and readjust the claim of the State of North Carolina for and on account of advances and expenditures made by said State in the War of 1812 to 1815, and in so doing he shall adopt and apply the so-called Maryland rule, as set forth in the act of Congress of March 3, 1857 (Eleventh Statutes, page 229).

Amend the title so as to read:

Directing the Comptroller General of the United States to correct an error made in the adjustment of the account between the State of New York and the United States, adjusted under the authority contained in the act of February 24, 1905 (33 Stat. L., p. 777), and appropriated for in the deficiency act of February 27, 1906, and further directing the Attorney General of the United States to restate and readjust the account between the State of North Carolina and the United States for and on account of advances and expenditures made by said State in the War of 1812 to 1815.

This resolution merely permits the Comptroller General to reopen the accounts of the State of New York and the State of North Carolina and equitably adjust the same.

There are printed herewith as a part of this report, reports from Comptroller General J. R. McCarl dated February 16, and February 27, 1923, in which he states the accounts of these two States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, February 16, 1923.

The PRESIDENT OF THE UNITED STATES SENATE,
Washington, D. C.

SIR: There was received by letter of December 6, 1922, from the Secretary of the United States Senate, resolution of the Senate of the United States No. 378, passed December 6, 1922, in which the Comptroller General of the United States is "requested and directed to reexamine and restate the account of the State of New York, for which appropriation was made by the act of Congress approved February 27, 1906 (34 Stat., 29), on the basis of like claims of Pennsylvania and Delaware, with the same force and effect as though appropriation therefor had not been made and accepted by said State, and report to the Senate the result of such statement." In compliance therewith report is made as follows:

The resolution specifically requires the restatement to be "on the basis of like claims of Pennsylvania and Delaware." The claims of Pennsylvania were stated on the basis of computing interest according to what is known as the Maryland rule, as directed by the Comptroller of the Treasury upon request of him by Pennsylvania for revision of the settlement made by the Auditor for the War Department. The auditor applied the Maryland rule in the settlement of the Delaware claim. Similar action as to the settlement of the claims of New York in 1905 was not taken for the reason no request for revision was made of the Comptroller of the Treasury until 1910, and was thus not requested within the statutory period of one year. Reconsideration of the claim by the auditor was denied under the rule effective at the time that appropriation for the claim having been made it must be regarded as a final settlement of the matter by Congress. The situation may be stated in more detail as follows:

The account of the State of New York to be reexamined and restated in accordance with the present resolution is the claim settled by the Auditor for the War Department by which \$118,585.84 was allowed the State by settlement No. 29790, dated June 30, 1905, under the provisions of the act of February 24, 1905 (33 Stat. 777), as follows:

"That the Secretary of the Treasury be, and is hereby, directed to resettle and readjust all claims of the States of New York, Pennsylvania, and Delaware for and on account of advances and expenditures made by said States in the War of 1812 to 1815 with Great Britain; and in computing interest on said advances the Secretary of the Treasury shall apply the same rule as that which was applied in the settlement of the like claims of the State of Maryland under the provisions of the act of Congress approved the 3d day of March, 1857."

The act of Congress authorizing the settlement with the State of Maryland referred to in the foregoing act is the act of March 3, 1857 (11 Stat. 229), and reads:

"Sec. 12. That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the account between the United States and the State of Maryland, as the same was, from time to time, adjusted under the act passed on the 13th May, 1826, entitled "An act authorizing the payment of interest due to the State of Maryland," and on such reexamination to assume the sums expended by the State of Maryland for the use and benefit of the United States and the sums refunded and repaid by the United States to the said State, and the times of such payments as being correctly stated in the account as the same has heretofore been passed at the Treasury Department; but in the calculation of interests due under the act aforesaid the following rules shall be observed, to wit: Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

The settlements of the claims of the States of New York and Delaware by the Auditor for the War Department under the act of February 24, 1905, were accepted at that time by said States. But the State of Pennsylvania applied June 19, 1905, to the Comptroller of the Treasury for a revision of the settlement of its claim as allowed by the Auditor for the War Department June 13, 1905, in the sum of \$16,966.64. Upon said revision the comptroller on October

6, 1905, certified an additional allowance to the State of Pennsylvania of \$20,154.43. The State made application for reopening of the said last-mentioned settlement, alleging that the amount arrived at as due the State was the result of a miscalculation of interest under the provisions of the law authorizing the settlement, whereupon the Comptroller of the Treasury, per decision of November 23, 1905, reconsidered the said claim of the State of Pennsylvania, certifying an additional allowance of \$199,641.58 in addition to the \$37,121.07 theretofore allowed by the auditor and the comptroller, making a total allowance to the State under authority of the act of February 24, 1905, the sum of \$236,762.65. The Comptroller of the Treasury in rendering said decision set forth different methods of calculation for determination of the amount due the State of Pennsylvania in accordance with the aforesaid act, and in connection therewith made the following statement:

"Because differences of opinion shown to exist as to the proper method of ascertaining the amount due the State of Pennsylvania on this account, I deem it proper that when this claim is certified to Congress for an appropriation that it have before it the conflicting calculations and decisions hereinabove mentioned. I will, therefore, take the liberty of forwarding copies of all the decisions and calculations hereinabove mentioned to the chairman of the Committee on Appropriations of the House of Representatives in order that such appropriation may be made as is right and proper under the law and facts."

Appropriation was made by the act of Congress approved February 27, 1906 (34 Stat. 29), for payment to the States of New York and Delaware of the amounts found due by the Auditor for the War Department, and to the State of Pennsylvania for the amount as certified by the Comptroller of the Treasury, supra.

In 1910 the State of New York requested a reconsideration of the action of the Auditor for the War Department, setting forth certain reasons therefor, claiming that in accordance with decision of the Comptroller of the Treasury of November 23, 1905, in the case of the State of Pennsylvania, that the State of New York was entitled to an additional allowance of \$316,713.07. Said application for reconsideration was denied under the ruling then in force that the accounting officers were without authority to further consider a claim after an appropriation therefor had been made by Congress. (See 9 Comp. Dec. 467.) Other applications for reconsideration were rejected by the Comptroller of the Treasury as not within his jurisdiction without authority of Congress to act thereon. The settlement of the claim of the State of Delaware did not involve the controverted questions that arose in the case of the States of Pennsylvania and New York.

In accordance with the "Maryland rule," as stated in the act of March 3, 1857, and as used in determining the amounts allowed to and appropriated for the States of Pennsylvania and Delaware by the act of February 27, 1906, supra, the sums expended by the State of New York for the use and benefit of the United States, and the sums refunded and repaid by the United States to said State and the time of such payments, are assumed as being correctly stated as heretofore passed by the Treasury Department, but interest is required to be calculated up to the time of any payment made, and the payment is required to be applied first to the discharge of interest and any balance to be applied against the principal, but that interest shall not be added to the principal to produce interest, and that the State is to be allowed the interest on such sums only on which the State either paid interest or lost interest by the transfer of an interest-bearing fund. The total amount expended by the State of New York for the use and benefit of the United States as indicated by the sums refunded and repaid by the United States to the said State and the times of such payment under the provisions of the act of March 13, 1817 (3 Stat. 378) and the act of August 5, 1854 (10 Stat. 590), are as follows:

Feb. 3, 1819, warrant 3270	\$80,000.00
May 6, 1819, warrant 3908	20,000.00
Mar. 24, 1821, warrant 7904	23,561.36
Apr. 25, 1822, warrant 9030	2,948.24
Dec. 28, 1822, requisition 599	6,000.00
Mar. 27, 1826, requisition 4259	6,615.02
Jan. 2, 1855, requisition 4317	11,929.45

151,054.07

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Further payments made to the State of New York in connection with this account are stated as follows:

"October 25, 1826, requisition 4927, \$40,264.86, being amount of interest found due in accordance with the act of May 22, 1826 (4 Stat. 192).

"March 6, 1906, warrant 13041, \$118,585.84, being the amount of interest found due by settlement of June 30, 1905, supra."

It appears from evidence on file in this office, as submitted in connection with the claim for interest under the provisions of the act of May 22, 1826, such evidence being certificates of the presidents of the respective banks, that loans were made to the State of New York during the War of 1812 and interest paid thereon at the rate of 6 per cent as follows:

New York State Bank:

July 23, 1812	\$10,000
July 29, 1812	15,000
Aug. 12, 1812	15,000
Sept. 23, 1812	25,000
Nov. 10, 1813	25,000
Apr. 7, 1815	30,000
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	120,000

Bank of New York:

Aug. 21, 1812	50,000
Sept. 30, 1814	20,000
Sept. 29, 1815	40,000
Apr. 27, 1816	180,000
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	290,000

Bank of Albany:

Sept. 3, 1812	25,000
Nov. 23, 1812	40,000
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	65,000

The State is thus shown to have incurred debts during the war largely in excess of the amount which was reimbursed. Therefore, in accordance with the acts cited, the State is entitled to interest on the full amount which has been acknowledged by settlements and reimbursed to the State as having been expended for the benefit of the United States at the rate of interest as paid thereon, being 6 per cent. In accordance with the provisions of the act cited, the time these loans were paid is not required to be considered, although it appears the State shows payments were made by issuance of certificates of stock bearing same rate of interest.

In the settlement for interest under the act of May 22, 1826, the computation was made not from date of loans but from date of expenditures on the equated date of the expenditures in each year. In the settlement under the act of February 24, 1905, the said dates as used in the settlement of 1826 from which to compute interest were used upon the assumption of doing substantial justice between the State and the United States.

In accordance with the method adopted by the Comptroller of the Treasury in the Pennsylvania case, supra, the State having borrowed for war purposes largely in excess of the principal amount refunded by the United States, is entitled to interest on the amount thus refunded from the date of earliest loans of the State by which said amount was secured for war purposes, as follows:

July 23, 1812, New York State Bank	\$10,000
July 29, 1812, New York State Bank	15,000
Aug. 12, 1812, New York State Bank	15,000
Aug. 21, 1812, Bank of New York	50,000
Sept. 3, 1812, Bank of Albany	25,000
Sept. 23, 1812, New York State Bank	25,000
Nov. 23, 1812, Bank of Albany	40,000
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	180,000

As the reimbursement to the State was \$151,054.07, the portion of the loan of November 23, 1812, which is to be used in this calculation is \$11,054.07,

which, with the preceding loans just mentioned, makes the total of \$151,054.07 upon which interest is to be computed.

The computation of interest in accordance with the requirements above set forth is as follows:

\$10,000 at 6 per cent from date of loan, July 23, 1812, to date of first payment by the United States Feb. 3, 1819—6 years 6 months 10 days (interest)-----	\$3, 916. 67
\$15,000 at 6 per cent from date of loan, July 29, 1812, to date of first payment by the United States Feb. 3, 1819—6 years 6 months 4 days (interest)-----	5, 860. 00
\$15,000 at 6 per cent from date of loan, Aug. 12, 1812, to date of first payment by the United States Feb. 3, 1819—6 years 5 months 21 days (interest)-----	5, 827. 50
\$50,000 at 6 per cent from date of loan, Aug. 21, 1812, to date of first payment by the United States Feb. 3, 1819—6 years 5 months 12 days (interest)-----	19, 350. 00
\$25,000 at 6 per cent from date of loan of Sept. 3, 1812, to Feb. 3, 1819—6 years 5 months (interest)-----	9, 625. 00
\$25,000 at 6 per cent from date of loan of Sept. 23, 1812, to Feb. 3, 1819—6 years 4 months 10 days (interest)-----	9, 541. 67
\$11,054.07 at 6 per cent from date of loan, Nov. 23, 1812, to Feb. 3, 1819—6 years 2 months 10 days (interest)-----	4, 108. 43
Total interest due Feb. 3, 1819-----	58, 229. 27
Principal due-----	151, 054. 07
Total principal and interest due Feb. 3, 1819, date of first payment by United States-----	209, 283. 34
Deduct first payment-----	80, 000. 00
New principal-----	129, 283. 34
Interest Feb. 3, 1819, to date second payment by United States May 6, 1819—3 months 3 days-----	2, 003. 89
	131, 287. 23
Deduct second payment by United States-----	20, 000. 00
New principal-----	111, 287. 23
Interest May 6, 1819, to date of third payment by United States Mar. 24, 1821—1 year 10 months 18 days-----	12, 575. 46
	123, 862. 69
Deduct third payment by United States-----	23, 561. 36
New principal-----	100, 301. 33
Fourth, fifth, and sixth payments by United States, being less than interest due, are not applied until aggregate payments exceed interest due.	
Interest from Mar. 24, 1821, to date of seventh payment by United States Oct. 25, 1826—5 years 7 months 1 day-----	33, 617. 66
	133, 918. 99
Deduct total of fourth, fifth, sixth, and seventh payments:	
Apr. 25, 1822, fourth payment-----	\$2, 948. 24
Dec. 28, 1822, fifth payment-----	6, 000. 00
Mar. 27, 1826, sixth payment-----	6, 615. 02
Oct. 25, 1826, seventh payment-----	40, 264. 86
	55, 828. 12
New principal-----	78, 090. 87
Eighth and ninth payments by United States being less than interest due, are not applied until aggregate payments exceed interest due.	
Interest from Oct. 25, 1826, to Feb. 16, 1923, 96 years 3 months, 21 days-----	451, 248. 09
	529, 338. 96
Deduct total of eighth and ninth payments:	
Jan. 2, 1855, eighth payment-----	\$11, 929. 45
Mar. 6, 1906, ninth payment-----	118, 585. 84
	130, 515. 29
Balance due State of New York Feb. 16, 1923-----	398, 823. 67

The foregoing statement is made on the basis used by the Comptroller of the Treasury in the settlement of the claim of the State of Pennsylvania referred to in Senate resolution of December 6, 1922, which appears to leave no discretion in this office in the determination of the amount due the State except in accordance with the basis therein indicated.

In this connection attention is properly invited to the fact that the State of New York is shown on the books of the Treasury Department to be indebted to the United States in the sum of \$4,014,520.71 arising on account of amount deposited with said State per section 13 of the act of Congress approved June 23, 1836 (5 Stat. 55), amended by the act of October 2, 1837 (5 Stat. 201), postponing repayments until otherwise directed by Congress. The act of June 25, 1910 (36 Stat. 776), authorized credit to be given the Treasurer of the United States for the amounts with which he had been charged on account of the moneys advanced to various States under the act of 1836, but provided that said States shall be debited with the amounts of their indebtedness as provided in the act of June 23, 1836, until otherwise directed by Congress. The debt of the State of New York is therefore carried on the books of the Treasury Department as an outstanding indebtedness of said State in accordance with the aforesaid act. Whether there should now be an adjustment of these respective accounts between the State of New York and the United States is, of course, for the consideration and direction of the Congress.

Respectfully,

J. R. McCARL, *Comptroller General.*

OFFICE OF COMPTROLLER GENERAL OF THE UNITED STATES,

Washington, February 27, 1923.

The PRESIDENT OF THE UNITED STATES SENATE,

Washington, D. C.

SIR: There was received by letter of July 24, 1922, from the Secretary of the United States Senate resolution of the Senate of the United States No. 324, passed July 22, 1922, in which the Comptroller General of the United States is requested and directed to reexamine and restate the account of advances and expenditures made by the State of North Carolina for military purposes in the War of 1812 to 1815 with Great Britain, computing interest on said advances and expenditures according to the rule which was applied in the settlement of a like account of the State of Maryland under provisions of the act of Congress approved the 3d day of March, 1857, and which was afterwards applied to like claims of the States of Massachusetts, Maine (July, 1870), New York, Pennsylvania, South Carolina, and Delaware, and report to the Senate the result of such statement. In compliance therewith report is made as follows:

The account of the State of North Carolina to be reexamined and restated in accordance with the present resolution is of loans obtained by the State of North Carolina for the benefit of the United States, on which it paid interest at the rate of 6 per cent, and payments made by the United States on account thereof, as follows:

Loans:

Oct. 31, 1814—		
State Bank of North Carolina	-----	\$12,500
Bank of New Bern	-----	7, 500
Bank of Cape Fear	-----	7, 500
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		\$27, 500
Oct. 31, 1815—		
State Bank of North Carolina	-----	22, 500
Bank of New Bern	-----	2, 500
Bank of Cape Fear	-----	12, 500
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		37, 500
Total		-----
		<hr/>
		65, 000

Payments made by United States on account of loans:

Sept. 17, 1816, warrant 286	-----	30, 000
Nov. 30, 1817, warrant 1284	-----	17, 000
June 10, 1837, warrant 6948	-----	30, 000
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Total	-----	77, 000

The act of Congress authorizing the settlement with the State of Maryland, referred to in the resolution, is the act of March 3, 1857 (11 Stat. 229), and reads:

"Sec. 12. That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the account between the United States and the State of Maryland, as the same was, from time to time, adjusted under the act passed on the thirteenth May, one thousand eight hundred and twenty-six, entitled 'An act authorizing the payment of interest due to the State of Maryland,' and on such reexamination to assume the sums expended by the State of Maryland for the use and benefit of the United States, and the sums refunded and repaid by the United States to the said State, and the times of such payments as being correctly stated in the account as the same has heretofore been passed at the Treasury Department; but in the calculation of interests due under the act aforesaid, the following rules shall be observed, to wit: Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

As to the application of the Maryland rule in connection with other States, see report of February 16, 1923, on resolution of the Senate of the United States, No. 378, passed December 6, 1922, relative to the account of the State of New York.

The computation of interest in accordance with the requirements set forth is as follows:

\$27,500 at 6 per cent from date of loan, Oct. 31, 1814, to date of first payment by the United States, Sept. 17, 1816, 1 year 10 months 17 days-----	\$3, 102. 91
\$37,500 at 6 per cent from date of loan, Oct. 31, 1815, to date of first payment by the United States, Sept. 17, 1816, 10 months 17 days-----	1, 981. 25
Total interest due Sept. 17, 1816-----	5, 084. 16
Principal due-----	65, 000. 00
Total principal and interest due Sept. 17, 1816, date of first payment by United States-----	70, 084. 16
Deduct first payment-----	30, 000. 00
New principal-----	40, 084. 16
Interest from Sept. 17, 1816, to date of second payment by the United States on Nov. 20, 1817, 1 year 2 months 3 days-----	2, 825. 93
Total interest and principal due on Nov. 20, 1817, date of second payment by the United States-----	42, 910. 09
Deduct second payment by the United States-----	17, 000. 00
New principal-----	25, 910. 09
Interest from Nov. 20, 1817, to date of third payment by the United States, June 10, 1837, 19 years 6 months 20 days, \$30,401.18, being greater than such third payment, which was \$30,000, can not, under the Maryland rule, be applied to reduce the principal.	
Interest from Nov. 20, 1817, to Feb. 28, 1923, 105 years 3 months 8 days-----	163, 656. 76
Total interest and principal to Feb. 28, 1923-----	189, 566. 85
Deduct third payment by the United States-----	30, 000. 00
Balance due State of North Carolina Feb. 28, 1923-----	159, 566. 85

The foregoing statement is made on the basis used by the Comptroller of the Treasury in the settlement of the claim of the State of Pennsylvania referred to in Senate resolution of July 22, 1922, and as referred to in Senate resolution of December 6, 1922, relative to the State of New York, which appears to leave no discretion in this office in the determination of the amount due the State except in accordance with the basis therein indicated.

In this connection attention is properly invited to the fact that the State of North Carolina is shown on the books of the Treasury Department to be indebted to the United States in the sum of \$1,433,757.39 arising on account of amount deposited with said State per section 13 of the act of Congress approved June 23, 1836 (5 Stat. 55), amended by the act of October 2, 1837 (5 Stat. 201), postponing repayments until otherwise directed by Congress. The act of June 25, 1910 (36 Stat. 776), authorized credit to be given the Treasurer of the United States for the amounts with which he had been charged on account of the moneys advanced to various States under the act of 1836, but provided that said States shall be debited with the amounts of their indebtedness as provided in the act of June 23, 1836, until otherwise directed by Congress. The debt of the State of North Carolina is therefore carried on the books of the Treasury Department as an outstanding indebtedness of said State in accordance with the aforesaid act. Whether there should now be an adjustment of these respective accounts between the State of North Carolina and the United States is, of course, for the consideration and direction of the Congress.

Respectfully,

J. R. McCARL, *Comptroller General.*

