

IN SENATE OF THE UNITED STATES.

DECEMBER 23, 1831.

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Read, and ordered to be printed.

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Mr. HAYNE made the following

**REPORT:**

The Committee on the Judiciary, to whom was referred the petition of John H. Harrison, have examined the petitioner's case, and find that a bill was passed by the Senate at the last session, founded on a report which is hereto annexed. The committee concur in the views taken in that report, and herewith report a bill for the relief of the said John H. Harrison.

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FEBRUARY 23, 1831.

*The Committee on the Judiciary, to whom was referred the petition of John H. Harrison, praying to be released from a judgment obtained against him as one of the sureties of Francis Adams, report:*

That it appears that Francis Adams was appointed collector of the internal revenue of the United States for the fifth collection district of South Carolina, in the year 1812; that he gave bond, dated 6th June, 1814, for the faithful performance of the duties of his office, in the penal sum of seven thousand one hundred and fifty-one dollars, and that the petitioner and James Adams were his sureties; that he continued to collect the internal duties, under various acts of Congress, passed in 1815 and 1816, until the year 1817, when the office was abolished by law; and that, during this period, he collected and paid over large sums, amounting, as stated by the petitioner, to upwards of fifty thousand dollars; that, when he went out of office in 1817, it was not known to his sureties that he was a defaulter, nor did they learn that he was so till 1828, eleven years after Adams went out of office, when a suit was brought against the petitioner, one of his sureties, and a judgment recovered for three thousand seven hundred and thirteen dollars, consisting chiefly of arrears of interest.

It further appears, that, as early at least as 1819, the default of Adams was known to the officers of the Government, but, from "inadvertence," no step was taken to enforce payment from Adams, nor was the slightest intimation given to the sureties of his default. It has been fully proved, from the certificates and affidavits of respectable witnesses, that, at the time Adams went out of office in 1817, and up to 1825, when he left the State of South Carolina, he was fully able to pay the demand of the United States;

and that, had any proceedings been instituted against him, or had the sureties received notice, they would have been secured from any loss.

It appears that after Adams left South Carolina, in 1825, he went to Georgia, and there wasted a part of his estate; that a judgment being obtained against him there by the United States, he has fled to Alabama, or gone to settle among the Cherokee Indians, carrying, however, as it is alleged, some property with him; and that no bail was taken in the suits brought against him, either in South Carolina or Georgia.

It further appears, that James Adams, the co-security of the petitioner, was also in circumstances which would have enabled him to pay his portion of the debt of his principal; but he has since died, and his heirs have taken off the remnant of his property to another State.

Under these circumstances, the whole debt is claimed of the petitioner, and the committee cannot but think, that, as his liability has arisen entirely from the gross neglect of the officers of the United States, that it would be a measure of *extreme rigor* to exact from him the payment of a judgment, which, the committee understand, would bring an honest and meritorious citizen to ruin.

The petitioner could have secured himself from loss, if ordinary diligence had been used against his principal; and having been lulled into a fatal security by the acts of the Government, the committee think it would be doing him great injustice to enforce the payment of this demand.

The petitioner also alleges, that, though he was prevented (by circumstances which he states) from making his defence before the court where this case was tried, yet he thinks he was not bound in law for the default of Adams, insomuch as the *internal duties*, in the collection of which the default occurred, were chiefly imposed by acts of Congress passed in 1815 and 1816, by which new bonds from the collectors were required; and as no such bond was ever taken from Adams, his sureties in the bond given in 1814 were not, in law, liable for defaults subsequent to the passage of these new acts, imposing additional duties. In support of this legal ground, the petitioner relies on the decision of the Supreme Court in a case reported in 9 Wheaton, 730 to '33, and to the decision of Congress in granting relief to the sureties of John H. Alley. (See act of 7th May, 1822, 9th vol. laws U. S. page 57.)

The committee do not consider the determination of the question of law made in this case, necessary to enable the Senate to decide on the claim of the petitioner for relief, since they believe that, under all of the circumstances, it would be extremely unjust to enforce the demand of the United States against him. They therefore report a bill for his relief, with this expression of their opinion—that, until the decision of Congress can be had upon the claim, all proceedings on the judgment against the petitioner should be delayed, and that the proper efforts should be continued to enforce the payment from Francis Adams, the principal.