

## HEIRS OF JOHN BAPTIST LABONTE.

[To accompany Bill H. R. No. 254.]

MARCH 2, 1860.

Mr. FERRY, from the Committee on Revolutionary Claims, made the following

### REPORT.

*The Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Captain John Baptist Labonte, report:*

That this claim was favorably reported on the 15th day of February, 1859. That report, with the evidence, has been re-examined, and your committee, concurring entirely with that report, adopt it, and report a bill in all respects the same as the one then reported.

Mr. CLAWSON, from the Committee on Revolutionary Claims, made the following report:

*The Committee on Revolutionary Claims, to whom was referred the petition of the heirs of John Baptist Labonte, a captain in the revolutionary war, praying to be paid the half-pay for life promised by certain resolves of Congress, having had the same under consideration, report:*

That it appears from the testimony of John Moutey, who is certified to be a person of credibility, that he is a United States pensioner for services as a private in Colonel Hazen's regiment of Canadians in the revolutionary war; that he was well acquainted with John Baptist Labonte, who was a captain in Colonel James Livingston's regiment of Canadians in the continental service of the revolutionary war, and that said Captain Labonte served, commencing at the siege of Quebec, and continuing to the close of the war. This witness' testimony is corroborated by the New York records of the revolutionary war, and by the returns made by General Hazen and Colonel Livingston, and who is returned as a commissioned officer of the rank of captain of infantry, and as being entitled to receive from said State of New York the several lots of land granted to him as set opposite to his name in the said list and return made of the Canadian and Nova Scotia refugees for military services during the revolutionary war.—(See N. Y. Balloting Book, page 186.)

The legislature of the State of New York granted lands to several soldiers who served under Captain Labonte to the close of the war,

whose names had been omitted in the returns, for their military services in the war of the revolution.—(See the Laws of N. Y. of April 2, 1806, vol. 4, page 459, Webster's edition.) It appears that Colonel Livingston's regiment was deranged in 1781, and that by the list of deranged officers in the New York Balloting Book Captain Labonte's name does not appear among the deranged, supernumerary, or resigned officers. Your committee, therefore, infer that he became annexed to Colonel Hazen's regiment, under the resolution of Congress of October 3, 1780.—(See Journal of Congress, 1780, vol. 3, page 553.)

Upon this state of facts a claim is made under one or both of the following resolves of Congress:

*“Resolution.—In Congress, October 21, 1780.*

*“Resolved, That the officers who shall continue in the service to the end of the war shall also be entitled to half-pay during life, to commence from the time of their reduction.”*

*“Resolution.—In Congress, March 8, 1785.*

*“Resolved, That the officers who retired under the resolve of the 31st of December, 1781, are equally entitled to the half-pay or commutation with those officers who retired under the resolves of the 3d and 21st October, 1780.”*

Captain Labonte's name does not appear on the books of the treasury as having received commutation, or being entitled thereto, as no officer by that name appears on the books. The absence of his name may be accounted for by the letter from the War Department of July 27, 1803, to the Secretary of State, at Albany, wherein he states that “all returns of the New York line made subsequent to the year 1781, and some of those made previous to that period, were consumed with the War Office, in November, 1800. It will, therefore, be impossible to make an accurate return of the officers and soldiers who served in the line aforesaid.”

It appears from the Senate's list of private claims (page 439) that the heirs and descendants of Captain Labonte made application to the Senate on petition at the 33d Congress for the commutation pay and bounty land, and that a favorable report was made thereon, (No. 82,) and that the bill (No. 186) passed the Senate, but that no action was had in the House; and that subsequently on the creating of the Court of Claims a petition was filed there, and evidence taken and the case submitted, but that since the said submission, and before any judgment thereon, the case is withdrawn, in consequence of the decision of the Court of Claims, allowing certain acts called acts of limitation to be pleaded in law, in exclusion to the merits of the claim.

In view of all the circumstances of this case, and the direction that has been given to similar cases submitted to your committee, they are of the opinion this claim is a just one, and ought to be paid, without regard to the acts of limitation, and report a bill accordingly.