

other way than by a resort to the slow process of an appeal to the Judicial power of the country. He contends that a charter being once granted to the Bank by Congress, to exercise certain powers, the manner in which those powers shall be exercised is placed beyond legislative control,—that any attempt to investigate the manner in which its affairs have been conducted, is not only a violation of the rights of the individuals whose business with the Bank may be brought under review, but is also a violation of the rights given to the Bank by its charter; and he plainly declares it as his opinion that the courts only have the right to correct existing abuses, and that, of course, can only be in cases in which the particulars of the cases can be laid before them. If this doctrine be admitted to be correct, it needs no great degree of labour, we think, to satisfy the mind of any reasonable man, that great caution, at least, should be exercised, in granting a charter to an institution possessing such a weight of influence as the language of its advocates would lead us to conclude is possessed by the Bank. The language of the president of the Bank, in the correspondence alluded to, is of similar import, and leads to the same conclusion, and is much the same as that which is employed by all the strong advocates of the institution.

It is worthy of remark, and of especial consideration, that this doctrine is boldly advanced, and strenuously contended for at the very time when an application is before Congress for a renewal of the charter of the Bank. Such is the immense and uncontrolled power which it is alleged is possessed by the Bank, at the very time when an application is made to Congress to renew the charter, to give, for fifteen years more, the same immense and uncontrolled power. Let any man ask himself the question, and answer it if he can, in a manner satisfactory to his own mind, "If such things be done in the green tree, what will be done in the dry?"

The subject is one which demands the most deliberate reflection, and the most calm consideration. It should be placed immediately before the people, that they may be enabled to decide upon it for themselves, before the extensive power and influence which is now possessed by the Bank be renewed by a new charter. This has not yet been done. The men now in Congress have not been chosen with a view to this question, except so far as the influence of the Bank has been exercised for the purpose of securing the election of its friends, without regard to the opinions or wishes of the people generally upon the subject. There is, therefore, abundant reason for postponing the decision of the question, until the popular will in regard to it may be known, by placing the matter before the people for the expression of their sentiments upon the subject at the elections to be made. There is no immediate necessity for deciding the question at present, and reason and justice loudly demand a little delay.

If the views which are expressed by the advocates of the Bank are to be regarded as correct, we should say decidedly that the chartering of a new Bank, which could perform all the useful purposes for which it was created, would be far preferable to renewing the charter of the old one, which would enable it, by the accumulation of power and influence, in addition to what its friends now allege that it possesses, to put all law and authority at defiance, and to control the elections and overrule the government agreeably to its own will. At all events, the bill should not, and we hope will not pass into a law at the present session of Congress.

LETTER FROM THE SECRETARY OF WAR, &c.

In relation to the execution of the "Act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution."

JUNE 25, 1832.

Laid on the table, and ordered that one thousand additional copies be printed for the use of the Senate.

WAR DEPARTMENT,

June 15, 1832.

SIR.—In answer to your letter of this date, I have the honor to observe, that the act of Congress of March 18, 1818, entitled "An act to provide for persons engaged in the land and naval service of the United States in the revolutionary war," made provision for placing upon the pension roll all commissioned officers, non-commissioned officers, musicians, and private soldiers, and all officers in the hospital and medical staff, who served in the war of the revolution. The construction given to this clause by this department was, that the specific enumeration of officers of the hospital and medical staff, excluded from the benefit of the act all other officers of the staff not holding command in the line of the army. Because, if the words "all commissioned officers," &c. extend to the whole staff of the army, there was no necessity to insert a particular provision for any branch of the staff. And such a provision, when inserted, would embrace only the particular class described. Officers of the line only, were, therefore, supposed to be included in the first description. It is, however, clear to me, that had the law contained no particular enumerating clause, the general provision, "all commissioned officers,"

would have included all the officers of the line and staff of the revolutionary army. I allude to this subject here, that the reasons of the differences in the construction put by this department upon the act of 1818, and that which it appears to me, should be put upon the act of the present session of Congress, entitled "An act supplementary to an act for the relief of certain surviving officers and soldiers of the revolution," may be apparent. The benefit of the latter act is extended to each of the surviving officers, &c. who shall have served in the continental line or State troops, volunteers or militia, &c. without any clause necessarily, or by construction, limiting its operations. It is, therefore my opinion, that all the officers, whether of the line or staff, of every description, are embraced in this provision.

With respect to the evidence which should be required of the applicants, there is a manifest difference between the regular troops and the militia. Of the former, there are rolls in this office, more or less perfect, and where a person's name is found upon them, no other testimony is or should be required. When the name is not thus found, the presumption is, that the applicant did not render the service stated, and the defect must be supplied by other testimony. The certificate of a commissioned officer, if one can be obtained, is required. But if it cannot, then the corroborating statements of two credible witnesses must be produced.—Not that these witnesses should both certify from their personal knowledge to the actual service of the applicant, but that they should, by direct or indirect circumstantial evidence, confirm the account given by himself. These principles have regulated the department heretofore, and they appear to me to be founded in reason and justice. When, however, the rolls are known to be imperfect, considerable relaxation should be allowed; and, under these circumstances, and as the difficulty of procuring testimony gradually increases, the regulations have recently been relaxed, particularly with respect to the nature of the circumstances required to be shown.

The case of militia service is, however, different. There are no rolls of the militia in this department, except those of the State of New Hampshire. There can, therefore, arise no presumption against the applicant, to be met by stronger evidence than, under other circumstances would be required; and time has so reduced the number of those veterans, and of the witnesses of their services and their sufferings, that to demand of them positive proof independently of their own statements, would be to deprive many of them of the benefit of the act. My impression is, that the applicant should produce the best evidence in his power. If he has no living nor documentary evidence of his services, he should transmit as detailed a statement, under oath, as he can prepare, showing the time, place, and manner of his employment, the corps to which he belonged, and such other circumstances connected with the subject, as he may be able to recollect, and as will serve to guide an examining officer in his investigation of the justice of his claim. To this should be added the certificate, under oath, of at least two respectable persons, whose characters can be established at the department, stating the general impressions of the neighbourhood where the applicant resides, or has resided, that he was engaged in the revolutionary war. I imagine there are few or none of the survivors whose claims to this character are not recognized in the vicinity where they live. This traditional evidence, in the absence of other proof, will corroborate the statement of the honest applicant, and check the attempts of those who are dishonest; and it appears to me to be as far as it will be safe to go.

These are my impressions, hastily written, in answer to your letter. I have the more confidence in them, as they are fortified by the opinion of Mr. Edwards, in whose experience and judgment I place great reliance. And I think the committee will agree, that they pursue a just medium between a latitudinous construction, which would throw the doors of the Treasury open to all who are willing to fabricate documents which would insure them the benefit of this act, and such a rigid administration as would render nugatory the beneficent provisions of the law. I have the honour to be, sir,

Very respectfully, your ob't serv't,
LEWIS CASS.

HON. SAMUEL A. FOOT,
Chairman of the Committee on Pensions
in the Senate

DEPARTMENT OF WAR,
Pension Office, June 27, 1832.

The following regulations have been adopted by the Secretary of War for carrying into effect the act of Congress passed June 7, 1832, entitled "An act supplementary to 'An act for the relief of the surviving officers and soldiers of the revolution.'

This law has been construed to extend as well to the line as to every branch of the staff of the army, and to include under the terms "continental line," "State troops," "militia," and "volunteers" all persons enlisted, drafted, or volunteered, and who were bound to military service, but not those who were occasionally employed with the army upon civil contracts, such as clerks to commissaries and to store-keepers, &c. teamsters, boatmen, &c.

Four general classes of cases are embraced in this law:

1. The regular troops.
2. The State troops, militia, and volunteers.
3. Persons employed in the naval service.
4. Indian spies.

As rolls of the regular troops in the revolutionary war exist in this department, all persons claiming the benefit of this law as officers, non-commissioned officers, musicians, or privates, will, in the first instance, make application by transmitting the following declaration, which will be made before a court of record of the county where such applicant resides.—

Declaration, in order to obtain the benefit of the act of Congress of the 7th of June, 1832.

State, Territory, or District of , ss.

County of , ss.

On this day of , personally appeared in open court, before the court of , now

sitting, A B, a resident of , in the county of , and State, Territory, or District of , aged years,

, A B, a resident of in the county of , and State, Territory, or District of , aged years, who being first duly sworn, according to law, doth, on his oath, make the following declaration, in order to obtain the benefit of the act of Congress passed June 7, 1832.

That he entered the service of the United States under the following named officers, and served as herein stated.

[Here set forth the names and rank of the field and company officers; the day (if possible,) and the month and year when the claimant entered the service, and the time when he left the same; (and, if under more than one engagement, he must specify the particular period, and the rank and names of his officers;) the town, county, and State in which he resided when he entered the service; the battles, if any, in which he was engaged, and the country through which he marched.]

He hereby relinquishes every claim whatever to a pension or an annuity, except the present, and he declares that his name is not on the pension roll of any agency in any State, or (if any,) only on that of the agency in the State of

Sworn to, and subscribed, the day and year aforesaid. A B.

And then will follow the certificate of the court:

And the said court do hereby declare their opinion that the abovenamed applicant was a revolutionary soldier, and served as he states.

I, of the court of , do hereby certify that the foregoing contains the original proceedings of the said court in the matter of the application of for a pension.

In testimony whereof, I have hereunto set my hand and seal of office, this day of &c.

If, on examination of the proper record, the names of applicants, making such declaration cannot be found, they will receive detailed instructions respecting the nature and form of the testimony they must produce to secure their being placed on the pension roll. As the presumption will, in such cases, be against the applicants, in consequence of the omission of their names in the muster rolls, they will be required to furnish, as near as may be, the same evidence as has been heretofore required by the regulations and practice adopted for carrying into effect the act of Congress of March 18, 1818, and the acts supplementary thereto; with such relaxations as have been, from time to time, sanctioned by the department, on account of the rapid decrease of the survivors of the revolutionary army, and the consequent difficulty of procuring direct positive testimony in every case.

Wherever an officer or non-commissioned officer is now in the receipt of a pension, he should make application, if entitled to the benefits of this act, by letter merely, setting forth his rank, and the regiment, corps or vessel, in which he served, and his present place of residence.—His pension certificate must accompany his letter.

In those cases where the applicants have once been on the pension roll, under the act of March, 18, 1818, and have been dropped therefrom on account of property, or for any other reason, or where application has been made under the act of May 15th, 1828, and the evidence of service is in the departments; or, having made application and proof of service, and having been rejected, instead of the above declaration, they will make a statement, setting forth, under oath, their having been previously on the pension roll, and their having been struck from the same, shewing their rank, the regiment, corps, or vessel in which they served, their present place of residence, and their place of residence when the first application was made, or of their application under the act of 15th May, 1828.

In a case where a claimant may make personal application at this department, and can produce satisfactory proof of service, and of his identity also, at the seat of Government, he may make his declaration before a justice of the peace.

2. The case of the State troops, volunteers and militia, is different. There are in the department no rolls of the State troops, except those of Virginia; and no rolls of the militia, except those of New Hampshire.

Applicants, who served in the State troops of Virginia, and applicants, who served in the militia of New Hampshire,

will be required to produce the same proof as is prescribed for those who served upon the continental establishment. But, with respect to the other State troops and militia, there is no record to advert to, and no presumption to be rebutted.—The nature of the case, therefore, demands a different rule of proceeding.

Every applicant who claims a pension by virtue of service in the State troops, volunteers, or militia, except as is above provided, will make and subscribe the following declaration:

Declaration, in order to obtain the benefit of the act of Congress, passed June 7, 1832.

State, Territory, or District of , ss.

County of , ss.

On this day of , personally appeared in open court, before the court of , now

sitting, A B, a resident of , in the county of , and State, Territory, or District of , aged years,

, A B, a resident of in the county of , and State, Territory, or District of , aged years, who being first duly sworn, according to law, doth, on his oath, make the following declaration, in order to obtain the benefit of the act of Congress passed June 7, 1832.

That he entered the service of the United States under the following named officers, and served as herein stated.

[Here set forth the names and rank of the field and company officers; the day (if possible,) and the month and year when the claimant entered the service; whether he was drafted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country thru' which he marched; the continental regiments or companies with which he served; and the names of some of the regular officers whom he knew, together with such further particulars as may be useful in the investigation of his claim; and, also, if the facts be so, that he has no documentary evidence, and that he knows of no person, whose testimony he can procure, who can testify to his service.]

He hereby relinquishes every claim whatever to a pension or annuity except the present, and declares that his name is not on the pension roll of any agency in any State, or (if any,) only on that of the agency of the State of

Sworn to, and subscribed, the day and year aforesaid. C D.

And then will be annexed the following certificate:

We, A B, a clergyman, residing in the town, country, or State in which he resided, when he entered the service; whether he was drafted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country thru' which he marched; the continental regiments or companies with which he served; and the names of some of the regular officers whom he knew, together with such further particulars as may be useful in the investigation of his claim; and, also, if the facts be so, that he has no documentary evidence, and that he knows of no person, whose testimony he can procure, who can testify to his service.]

He hereby relinquishes every claim whatever to a pension or annuity except the present, and declares that his name is not on the pension roll of any agency in any State, or (if any,) only on that of the agency of the State of

Sworn to, and subscribed, the day and year aforesaid.

And then will follow the certificate of the court:

And the said court do hereby declare their opinion that the abovenamed applicant was a revolutionary soldier, and served as he states.

And the court further certifies, that it appears to them that A B, who has signed the preceding certificate, is a clergyman, residing in the , and is a credible person, and that their statement is entitled to credit.

I, , clerk of the court of , do hereby certify that the foregoing contains the original proceedings of the said court in the matter of the application of for a pension.

In testimony whereof, I have hereunto set my hand and seal of office, this day of , &c.

The form of the proceedings, and of the certificates, will be so varied as to meet the case, when the declaration is made out of court, before a judge, as hereafter provided for.

Every applicant will produce the best proof in his power. This is the original discharge or commission; but if neither of these can be obtained, the party will so state under oath, and will then procure, if possible, the testimony of at least one credible witness, stating, in detail, his personal knowledge of the services of the applicant, and such circumstances connected therewith as may have a tendency to throw light upon the transaction.

If such surviving witness cannot be found, the applicant will so state in his declaration, and he will also, whether he produce such evidence or not, proceed to relate all the material facts which can be used in the investigation of his claim, and in the comparison of his narrative with the events of the period of his alleged service, as they are known at the department. A very full account of the services of each person will be indispensable to a favorable action upon his case. The facts stated will afford one of the principal means of corroborating the declaration of the applicant, if true, or of detecting the imposition, if one be attempted; and unless, therefore, these are amply and clearly set forth, no favorable decision can be expected. All applicants will appear before some court of record in the county in which they reside, and there subscribe and be sworn to, one of the declarations above provided, according to the nature of his case.

3. Persons serving in the marine forces.

Each of these two latter classes of cases will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require.

No payments can be made on account of the services of any person who may have died before the taking effect of the act of June 7, 1832; and in case of death subsequent thereto, and before the declaration herein required is made, the parties interested will transmit such evidence as they can procure, taken and authenticated before a court of record, showing the services of the deceased, the period of his death, the opinion of the neighbourhood respecting such services, the title of the claimant, and the opinion of the court upon the whole matter.