PITTSBURGH'S CIVIL WAR FORTIFICATION CLAIMS¹

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This tale begins in the darkest days of the Civil War, and ends on the eve of World War I.

The Battle of Chancellorsville is the prelude to our drama. That bloody conflict took place May 1 to 3, 1863, a few miles away from Fredericksburg, Virginia, where the Union general, Burnside, had been ignominiously defeated in the preceding December. In the interim "Fighting Joe" Hooker had been placed in command of the Army of the Potomac. By the thirtieth of April, 1863, he had "brilliantly conceived and executed" the transfer of his army across the Rappahannock. Then he was completely outgeneraled by Lee. Next day, at the first substantial resistance on the enemy's part, Hooker lost his nerve and ordered his men to fall back.² He was outflanked and beaten. But the Southern success was relatively more costly to them than defeat was to the North. Out of

¹ Read at a meeting of the Historical Society of Western Pennsylvania on October 26, 1943.—Ed.
² James F. Rhodes, History of the United States, 4:258 ff. (New York, 1899). Rhodes says that the report gained currency that Hooker's mental collapse was due to intoxication, but that Pleasanton and Couch both gainsay this statement. Rhodes adds that Hooker drank large amounts of whiskey daily without effect on his mentality, but that when he started on this campaign, or at least when he reached Chancellorsville, "from motives which do him honor he stopped drinking entirely." The motives may have been honorable, but the effect was disastrous. Cut off the usual supply of stimulants and the nerves are apt to give way. In all probability that is what happened to "Fighting Joe" when he ordered a retreat on May 1. Did not President Harding totally collapse after he quit drinking in the summer of 1923?
sixty thousand men engaged on their side twelve thousand or twenty per cent were reported killed, wounded, or missing. No wonder that Hooker’s retreat across the river was unmolested and that Lee did not elect to attack the Federals lying behind their winter entrenchments. For a month Lee’s army lay licking its wounds, while its commander was begging for supplies. “If Lee wants rations, let him look for them in Pennsylvania,” said the Richmond Commissariat.

Chancellorsville is about half way between Washington and Richmond and nearly sixty miles east of the Blue Ridge which masks the famous Shenandoah Valley. From Fredericksburg, Virginia, to Pittsburgh is 263 miles; to Harrisburg, 198 miles. Via the Shenandoah Valley route only that one range of mountains had to be traversed to reach Harrisburg and York; while the way to Pittsburgh was lined with “endless mountains” as the Indians termed them.

One month after the Battle of Chancellorsville, Lee began to put his army in motion. The Federal Secret Service presumably kept the War Department informed by wire of the direction of Lee’s movement. At any rate five days after the movement began Halleck, General-in-Chief, ordered Brigadier General Bernard of the Corps of Engineers to Pittsburgh, there to advise Captain Comstock of the same Corps as to the best method of defending that place. Halleck added that he anticipated merely a raid, and that the works were to be only earth batteries and rifle pits, as there was no Congressional appropriation for fortifying Pittsburgh.

The next day, June 9, the cavalry battle at Brandy Station was fought. It proved that Lee’s infantry had even then reached the mountain gaps of the Blue Ridge leading to the Shenandoah Valley. Hooker, schooled in the military lore of Europe, believed that a general’s object was to capture some city or other, which at the Peace his government might retain under the familiar doctrine of treaty-makers, uti possidetis—you keep what you have gotten. So Hooker wanted to capture Richmond, leaving Lee free to devastate the North. But Lincoln with greater military insight forbade—“Lee’s army and not Richmond is your sure objective.”

Hence Hooker was constrained to follow Lee’s northward

3 Rhodes, History of the United States, 4:256 ff.; Joel E. Cooke, Life of Robert E. Lee, Pt. 6, Ch. 9 (New York, 1871).
4 United States, Court of Claims Record, No. 11812, Congressional, 3-4.
5 Rhodes, History of the United States, 4:271.
course. The second corps of Lee’s command had marched seventy miles in three days, arriving at Winchester on June 13. The Federal Army got in motion on that day keeping to the east of the Blue Ridge, while the Confederates advanced on the west, their van crossing the Potomac at Williamsport, twenty miles above Harper’s Ferry, on June 15.

The question here naturally arises—why should Washington have then feared that Pittsburgh was Lee’s objective? Our city was the chief munitions producer of the North and the site of one of the largest Federal arsenals; moreover, it was the center of the main line of communications between the Middle West and the Capitol. The Pittsburgh, Fort Wayne & Chicago Railroad there connected with the western terminal of the Pennsylvania Railroad. The capture of Pittsburgh would have been a very severe blow to the Federal government. But to achieve that result would, in retrospect, seem to have been wholly beyond Lee’s power. If rations were what Lee was in immediate need of there can be no doubt that his thrust should be to the northeast, not the northwest; first because the distance was nearly a hundred miles shorter to Harrisburg than to Pittsburgh; second, because the Tuscarora, Wray’s, Tussey, Evitts, Wills, and particularly the broad-topped Allegheny Mountains, Laurel Hill, and the Chestnut Ridge did not have to be traversed on an eastern invasion. The hundred-mile stretch of road from Chambersburg to Ligonier is as difficult for horse-drawn vehicles as any in the northeastern part of this country. And, of course, even cavalry raiders would have had to transport their ammunition, at least, in wagons over those rugged trails, so that Nature’s mountain barrier was the first and greatest defense against a projected invasion by Lee.

On the other hand, the section lying between Gettysburg and the environs of Philadelphia must have seemed “fair as a garden of the Lord to the eyes of the famished Rebel horde,” as Whittier put it. Undoubtedly that area included as fine agricultural land as any in the New World. It was abundantly supplied with horses, cattle, and food stuff. For rations it was the true goal of the invader.

But in war the unexpected is often the best strategy. So the Washington authorities very wisely contemplated the possibility, even the probability of a raid to the northwest.

6 Cooke, *Life of Robert E. Lee*, Pt. 6, Ch. 9.
The South had in two years of active warfare developed some brilliant cavalry raiders—Stuart, Morgan and Imboden. The last named had in the preceding April raided West Virginia. With an initial force of 3,300 men he had gotten as far as Weston, one hundred and fifty miles south of Pittsburgh, encountering only scattered opposition. Imboden was after horses and cattle, like the Old World moss-trooper. When he had stripped the district clean he turned back, slowly driving his plunder over the steep mountain roads till he reached Lee’s headquarters on May 14.

Some free lances and stragglers from his command formed themselves into guerrilla bands and harried the new state off and on till the end of the war, even approaching Morgantown, seventy-five miles by road south of Pittsburgh. Their numbers never justified any real anticipation of invasion, but their presence gave rise to rumors of such a project.7

John Morgan was another famous raider whose exploits were more romantic than novelists’ tales. He was ordered to relieve the Federal pressure on Bragg’s army then retiring farther south. Heavy rains delayed his departure from Tennessee and he reached Kentucky only on July 2, 1863. Six days later he crossed the Ohio River well below Louisville and raided north of Cincinnati, riding his two thousand men ninety miles in thirty-five hours. He was surrounded and captured on July 26 near West Point, Ohio, about fifty miles northwest of Pittsburgh. He had earlier expressed the hope of joining Lee in Pennsylvania.8

These western cavalry commands were minor features in estimating the possibility of any projected attempt on Pittsburgh. It was much more to be feared that Lee would detach part of his own ten thousand cavalry for such an undertaking. Indeed Lee actually permitted J. E. B. Stuart to undertake a raid with four thousand of these mounts. Stuart raided east, not west, passing around the rear of the northbound Federal Army, while most of the remaining six thousand men of the Southerners’ cavalry guarded Lee’s communications against Federal attacks. Stuart’s force did not rejoin Lee until Gettysburg had been lost, and Lee in later days complained that Stuart had deprived him of the “eyes of his army,” so that he did not know until too late of Meade’s ability to concentrate as large a force as he had at Gettysburg.


What would have happened had Stuart's four thousand horse gone west over the mountains at the time they actually went east is difficult to guess. Probably they could not have rejoined Lee's beaten army until long after Meade's force had gathered itself together to pursue Lee. Our War Department was not gifted with second sight, so when the cavalry battle of June 9 demonstrated the trend of Lee's movement northward our great Secretary of War, Edwin McMasters Stanton, like General Carnot in France, the "organizer of victory," went into action at once.

Who was Stanton? Unquestionably one of the greatest men, if not the very greatest, who ever lived in Pittsburgh. Born in Ohio, he was admitted to the Allegheny County Bar in 1847 and lived here until 1856, making his home at the Monongahela House and at the St. Charles Hotel. He formed a partnership with ex-judge Charles Shaler, and later, Theobald Umbstaeetter was admitted to the firm. In 1856 on the eve of his departure for Washington, Theodore Lyman, Rector of Trinity Church, performed the ceremony uniting Stanton in marriage with Ellen, daughter of James Hutchison, a prominent merchant of this city.

Stanton's earliest clients here were the "Cotton Kings" of the community. Among them was my grandfather, Josiah King of King and Pennock, owners of the Eagle Cotton Mill, one of the factories then lining the north bank of the Allegheny River, where the B. & O. Stores are now located. The "Cotton Kings" were bitterly opposed to the Ten-hours Labor Act of 1848. They asserted that such reduced laboring time, applied to themselves and other Pennsylvania mills, would put them out of business in favor of the owners of cotton mills elsewhere, whose labor, slave or free, worked invariably twelve hours a day. Strikes, riots, and that sort of trouble developed with some court proceedings in which Stanton probably figured. But a compromise was reached by which the operatives accepted a sixteen per cent cut in their wages and the ten-hour day was enforced.

Stanton's most famous suit while at our Bar was the Wheeling Bridge Case. That structure had a clearance of forty-seven feet only above the


10 John Bach McMaster, History of the People of the United States, 8:102 (New York, 1913).
Ohio River. Our local river men regarded it as a serious obstruction to navigation on the upper Ohio—they asserted that the Wheeling interests had so designed it to cripple Pittsburgh's competition with them. Stanton, in the name of the Commonwealth of Pennsylvania, filed a Bill in Equity in the Federal Supreme Court to abate the nuisance. His procedure was Barnum-esque. He took a steamboat, the "Hibernia No. 2," whose stacks rose eighty feet above the river and ran her full tilt against the bridge. Naturally the upper part of the packet as well as her smoke stacks was entirely demolished by the impact. But Stanton convinced the court of the soundness of his view of the law by this outward and visible sign.

Off the record, it is a tradition at our Bar, going back at least to the days of George W. Guthrie, that Stanton invented the short term sci. fa. (scire facias) clause, now universally inserted in mortgages: before that clause came into vogue default continued for a year and a day in payment of principal or interest was necessary before foreclosure was permitted. Such dilatory provisions were a great deterrent to lending money on mortgages. The short term sci. fa. clause aided the borrowers by enlarging the field of money lenders and thus helped in the building up of cities and towns.

Stanton became Secretary of War in January, 1862. By his genius he rescued that department from the chaos into which Simon Cameron had plunged it. He made an army out of an armed mob. One of his principal achievements was the organization of the Military Telegraph, then a novel adjunct in warfare. Stanton centered the whole telegraphic machinery in a room next to his own office and put himself in immediate communication with every military post of the government; all operators were made responsible to him alone; and the several field commanders were thus brought into effective subordination to the central authority.  

The very day of the Brandy Station battle Stanton created the Department of the Monongahela, and appointed Major General William T. H. Brooks to command it with headquarters at Pittsburgh. On the

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11 Frank Abial Flower, Edwin McMasters Stanton, the Autocrat of Rebellion, Emancipation, and Reconstruction, 53 ff. (Akron, O. and New York, 1905); George C. Gorham, Life and Public Services of Edwin M. Stanton, 1:33 ff. (Boston, 1899); Clarence E. Macartney, Lincoln and His Cabinet, 301, 322 (New York, 1931).

12 W. H. Powell, comp., Officers of the Army of the United States, 1779 to 1900 (New York, 1900). Brooks was a West Pointer, class of 1841. He had been severely wounded at Antietam in September, 1862. After remaining at Pittsburgh until April, 1864, he was ap-
same day Stanton ordered a corps of volunteers designated as the Army of the Monongahela to be organized for the defense of public property in that Department. Next day he wired Brooks: "Pittsburg will certainly be the point aimed at by Stuart's raid, which may be daily expected. You should frankly inform the people of Pittsburg that they must be at work." On the same day Stanton telegraphed to the Assistant Adjutant General of Pennsylvania, Thomas M. Howe, advising that "all the field artillery on hand at Watertown has been sent by express to Pittsburgh. Whatever aid can be given here, you shall have." On the fourteenth General Halleck wired General Brooks: "Lee's army is in motion towards the Shenandoah Valley. Pittsburgh and Wheeling should be put in defensible condition as rapidly as possible."

The army engineers seem to have fixed the locations of the defensive works about this time. Thirty-one forts, redoubts, and batteries (artillery emplacements) are shown on the contemporaneous sketch of Captain Craighill (Corps of Engineers). The chain of defenses may be for convenience described as beginning with a battery near the site of the West Penn Hospital; then there were batteries along Stanton Heights; across the Allegheny River there were redoubts near Millvale, and others flanking the present East Street; there was Fort McKeever on Marshall Avenue, and Fort McKee near Sedgwick Street, with redoubts further west. On the South Side, Coal Hill (now Mt. Washington) fairly bristled with works from its western extremity near Saw Mill Run to its eastern, near Beck's Run. Fort Mechanic, near the head of the Castle Shannon Incline, was the biggest of them. In Grand View Park (where the late George T. Robinson formerly lived) there was another battery. Across the Monongahela River, Gazzam's Hill was studded with batteries—one close to where the transmitter of Radio Station WWSW stood until recently. Herron Hill had a fort and there were redoubts north of the Pennsylvania Railroad tracks toward Lawrenceville.

pointed to command the 10th Corps of Meade's Army and so continued until July 14, 1864, when he resigned on account of illness resulting from his wounds. He died in 1870. Perhaps in June, 1863, he was still handicapped by his Antietam wounds.

13 Court of Claims Record, No. 11812, p. 5.
14 Court of Claims Records, No. 16767, pp. 15-16. These printed records, together with No. 11812 cited above, are on file at the Historical Society of Western Pennsylvania. Those numbered 16767, though separately paged, have been bound together and given the single pagination used here.
Outside this network, Fort Black, the most extensive fortification, was erected at the high point near the corner of Winterburn and Bigelow Streets in the present 15th Ward, Squirrel Hill. It was close to Calvary Cemetery, and was so located that even its smooth bore cannon could command Junction Hollow to the west.\(^\text{15}\)

Acting under Stanton’s and Halleck’s orders Brooks called a meeting of the principal employers of labor to convene at the Monongahela House on Sunday evening, June 14. Thomas Bakewell acted as chairman of the meeting, George H. Thurston, as secretary. It is from the lips of the latter that we learn the nature of the proceedings. Brooks told the citizens that his orders were peremptory—the enemy was about to strike at Pittsburgh, five thousand men must be supplied at once to dig entrenchments, and all places of business must be closed. The general added that he had no men under his command to do the work, and no money with which to hire laborers. Then a lengthy discussion ensued. The manufacturers said that they had essential munition orders on hand and that the army needed their output forthwith. Moreover, they stated that they were paying many of their employees $5.00 a day, the highest wage then known; that digging entrenchments would take an indefinite time; that Pittsburgh was the arsenal of the North and that the government should send troops to protect its own property here.

Near midnight a compromise agreement was effected: the manufacturers were to close their mills, pay their employees their regular wages but to put them at work on the fortifications; and on the government’s part General Brooks agreed that he would pledge the United States to refund the wages thus paid, but only to the extent of $1.25 per day per man.\(^\text{16}\) Brooks further stipulated that he would personally sign vouchers for such repayment, the time thereof, however, being indefinite.

This was the only practical solution of the difficulty. The suddenness of the peril prevented moving troops who might have dug the entrenchments—just as General Grant’s soldiers were then doing around Vicksburg—without a Congressional appropriation. In Pittsburgh there was a sufficiency of manpower that temporarily could be diverted from other

\(^{15}\) Western Pennsylvania Historical Survey, *Guidebook to Historic Places in Western Pennsylvania*, 6-8 (University of Pittsburgh Press, 1938). For much of the above data the writer is indebted to A. Dudley Devlin, Esq., Superintendent of Calvary Cemetery, who courteously identified for him the existing remains of Fort Black.

\(^{16}\) Court of Claims Records, No. 16767, p. 66 ff.
tasks—but no public war chest to pay the daily laborers. Many puddlers and other highly paid workmen had been attracted hither since the war began. To expect a $5.00 a day puddler just over from the British Isles to turn out for fortification work at $1.25 a day was entirely out of the question. The manufacturers were donating the greater portion of the wage bill with no assurance when the meager stipend would be refunded. Their claims on the $1.25 a day basis were therefore highly meritorious and should have been settled promptly.

A complete list of the persons who advanced money for this government work and later filed claims for refunds will be found below. The list reads like a roster of the principal manufacturers and business men of Civil War Pittsburgh. Iron makers included Jones & Laughlin; Brown & Co. (Wayne Iron Works); Bollman & Garrison (foundry); Graff, Bennett & Co.; Hailman, Rahm & Co.; Hussey, Wells & Co.; Mackintosh, Hemphill & Co.; Park Bros. & Co.; Shoenberger & Co.; Singer, Nimick & Co.; Spang, Chalfant & Co.; James Wood & Co.; Zug & Painter; Lyon, Shorb & Co.; Robinson, Minis & Miller; Henry W. Oliver; W. B. Scaife; Smith, Park & Co.; and many others. Among the glass makers were the names familiar now to collectors of so-called “antique” glass: Bakewell, Pears & Co.; A. & D. H. Chambers; Fahnestock, Albree & Co.; C. Ihmsen & Sons; and others. Among the miscellaneous group are: Pittsburgh, Fort Wayne & Chicago Railroad Co.; Washington McClintock; King, Pennock & Co.; Lewis, Dalzell & Co.; Lippincott & Co.; and James Millingar.

In the eighty years that have passed since these fortifications were made, it is inevitable that most of the formerly conspicuous firms then active in the city’s life should have disappeared from the arena of business. But the casual observer notes with interest that the names of Jones & Laughlin, Spang, Chalfant & Co., Mackintosh, Hemphill & Co., as well as concerns perpetuating the names of H. W. Oliver and W. B. Scaife still continue among the business leaders of the community.

As soon as the Brooks agreement was made, the general directed his adjutant, T. Brent Swearingen, to issue a requisition (June 14, 1863) on the quartermaster to furnish the requisite transportation to the "working parties employed on the fortification in this vicinity," and to haul guns from the Allegheny Arsenal to the forts as they may be designated; also
whatever dirt carts that may be required in the construction of the defensive works around this city.”

The quartermaster in charge, Lt. Col. Cross, was an old-time soldier, graduated from West Point in 1825. He had been in charge of the Arsenal here since the previous February. Cross was undoubtedly thoroughly familiar with all the accountancy requirements of the War Department; he was known, of course, to the Washington officials as the customary medium for disbursement of government money. In this case he honored the requisition of General Brooks’ adjutant for transportation charges arising out of the fortification work. How, practically, would laborers have gotten to the top of Squirrel Hill in those days without horse vehicles to carry them? How could the cannon have been moved to Herron Hill without horse power? In June and July, 1863, Cross employed teamsters for these purposes and paid them from government funds $1,970.50. Cross attached to each teamster’s itemized bill his certificate of its correctness. Thomas Wood on August 10, 1863, receipted for $682.50 for carts, etc., used on these fortifications matters.

These certificates were at once forwarded to Washington and the money due on them was sent back with remarkable celerity considering the war conditions then prevailing. The Cross accounts clearly stamp the fortification enterprise as a government affair. Government money went to pay for the necessary transportation of laborers doing the work, tools and supplies used in that connection; and government cannon were placed in these structures.

Came mid June with Lee’s vanguard astride the Potomac, and with thousands of willing workers congregating on the Monongahela Wharf in Pittsburgh. Rhodes, the historian, says that there were fourteen thousand at work. Thurston says that General Barnard, the army engineer in charge of construction, could not himself supervise all the workers on hand and requested Thurston to take charge of part of the fortification works; which Thurston obligingly did, having direction of some six thousand men including those working on Herron Hill where a little fort mounted six cannon.

On June 20 Stanton wired Brooks authority to distribute arms and

17 Court of Claims Record, No. 11812, p. 6 (italics supplied).
18 Powell, Officers of the Army of the United States.
19 Rhodes, History of the United States, 4:274.
20 Court of Claims Records, No. 16767, p. 67 ff.
ammunition to the citizen soldiery and added: "It is obviously impossible to apply the ordinary rules and regulations in the present condition of things, and . . . you are authorized to exercise as large a discretionary power as you may deem necessary for the service."\(^{21}\)

Here, then, we have the chief executive of the war effort, setting aside all army red tape, because of the perilous situation created by the enemy's main army being interposed between the capital and the "arsenal of the North." In consequence the army's local commandant is given a free hand to provide defenses—he has complete discretionary power from June 20 onward even if power had been lacking before that date. That discretionary power General Brooks exercised, when pay-day came around. Brooks in effect renewed after June 20 his previous promise to issue vouchers binding the government to reimburse, at $1.25 per man a day, the employers for their payments to their men for work done on the fortifications.

That work kept pace with Lee's advance northward into Pennsylvania. Each day the workers went at it with pick and shovel except that on Sunday, June 21, fear of invasion did not prevent the pious observance of the Holy Sabbath and not a spadeful of earth was turned on that day.\(^{22}\) On the third of July work on Fort Mechanic was completed and the men were paid off. About this same date General Brooks reported: "Rifle pits have been made by miles, and batteries and forts constructed sufficient to mount guns by the hundred."\(^{23}\)

Meade's immortal victory at Gettysburg on July 3 put a quietus on Lee's invasion, and, of course, came as an anticlimax to the local furore for fort building. The United States, however, had taken formal possession of the forts. The Fort Wayne Railroad's bill for 2,959.1 man-days' work from July 1 to 19, 1863, was allowed by Commissioner B. M. Potter in 1893, and Thomas Wood's bill for hauling stores to various camps outside the city limits from August 5 to 28, 1863, was paid by Quartermaster Cross on August 31, 1863.\(^{24}\) On October 10, 1865, the Assistant Adjutant General ordered that the "United States occupation [of these fortifications] be discontinued without delay."\(^{25}\)

\(^{21}\) Court of Claims Record, No. 11812, p. 9.
\(^{22}\) John P. Cowan, "Fortifying Pittsburgh in 1863," ante, 2:59 (January, 1919).
\(^{23}\) Court of Claims Record, No. 11812, p. 10.
\(^{24}\) Court of Claims Records, No. 16767, pp. 30, 59.
\(^{25}\) Court of Claims Record, No. 11812, pp. 10-11.
Of course had there been no government “occupation” of the premises that “occupation” could not have been “discontinued” in October, 1865.

To Thurston fell the job of securing reimbursement from the government. He got Brooks to dictate a form of voucher which certified to the fact that the general believed the annexed account was correct and just; that the labor was furnished in pursuance to his appeal and “was necessary for the public service.” Timekeepers had called the roll of workers twice or thrice daily and each employer made oath to his itemized statement. Each of the 159 claims was thus avouched over Brooks’ signature and was put in Thurston’s hands for collection. He filed the claims with Stanton in March, 1866. Stanton said: “Well, yes, I know those people; and I will refer them to the proper party! Good morning.” That was a fair sample of Stanton’s brusqueness—curtness—“promptitude in the dispatch of business” he might have called it. “Ingratitude” others would have termed it.

“The proper party” to refer these claims to, it appeared, was the “Claims Commission.” That august body reported on October 17, 1866, that it appeared that “in May, 1863, the citizens of Pittsburg, being alarmed for the safety of the place, the rebel army under General Lee having invaded the State of Pennsylvania, and the rebel generals Morgan and Imboden in southern Ohio and West Virginia, appointed a committee of this number [sic] to wait on the Secretary of War and Maj. Gen. Halleck, and requested that skillful engineer officers might be detailed to superintend the works around their city. This request was acceded to, and Gen. John G. Barnard and Captain Craighill were assigned to that duty. Nothing was asked or said in regard to the supply of materials or the employment of laborers, it being understood that the movement by the citizens of Pittsburg was intended for their own personal protection and that of their property, and formed no part of the plan adopted by the General Government for the defense of the State.” The Commission was of the opinion that the whole affair was a private enterprise on the part of the citizens of Pittsburgh, and the claims, amounting to $73,872, were rejected.28

26 Court of Claims Record, No. 11812, p. 13 (italics supplied).
27 Court of Claims Records, No. 16767, pp. 26, 66 ff., 71.
28 Court of Claims Records, No. 16767, p. 86 ff.
There may be more venomous reports on file in Washington than the foregoing, but it is difficult to conceive of any more complete distortion of the truth and a more unjust conclusion than this, which, to his everlasting shame, Secretary Stanton approved on October 25, 1866. Let us detail a few of those distortions of the truth which should have been quite apparent to Stanton:

In May, 1863, Lee was licking his wounds near Chancellorsville, Virginia—not invading Pennsylvania—that did not take place until the last week in June—Morgan in May was commandeering mounts for his men in Tennessee—he did not enter Ohio until July 8th. Imboden in May was driving his looted cattle over the mountain roads toward Lee's army. The importance of these dates is relative—because the Claims Commission fixes May as the date when the Pittsburgh committee visited Washington. Verification of that statement centers around its alleged date. On September 14, 1883, Edwards & Wells, Thurston's Washington attorneys, wrote him that they had just completed a thorough search of the "archives" of the War Department and could find no memorandum of any agreement made by Stanton, Halleck or anyone else about the defense of Pittsburgh. Thurston's papers are voluminous and contain many letters, receipts, and memorandums. But among them all there is no vestige or trace of any account of a citizen's committee visiting Washington. Among those papers (evidencing the extent of the collection) is a letter signed by P. H. Winston fixing a meeting for Stanton with Judge Wilkins and his friends. But that was in January, 1862. Some of the claimants signed a letter introducing Thurston to Stanton. But that was in 1864. The resolution naming a committee (June 14, 1863) to urge President Lincoln to have martial law proclaimed here, does not say anything about that committee undertaking the then hazardous trip to Washington—even on the fifteenth of June, Lee may have made such a trip impossible. That experienced soldier, General Brooks, seems to have tabooed the martial law project at once—it was wholly improper and unnecessary.

It may be stated with certainty that the Claims Commission, in founding its conclusion on any citizens' agreement with Stanton, was entirely in error. The agreement was a figment of their imagination.

*9 In the possession of Albert B. Graver, Esq.
Let us summarize the government’s actions in this so-called private-enterprise matter of fortifying Pittsburgh—always remembering that it was the duty of the Federal Government “to provide for the common defense.” The Federal Government:

Sent its engineer-officers to lay out the defense works.
Created a new separate Army Department of the Monongahela and appointed a major general to take charge of it.
Directed that general to put this city in a defensible condition as rapidly as possible.
Requisitioned its local quartermaster to supply transportation to working parties employed on the local fortifications, to supply dirt carts for that purpose—and shortly thereafter paid the teamsters for this service.
Sent all field artillery from Watertown to Pittsburgh by express.
Directed its local commander to distribute arms and ammunition to the companies organized by the citizens.
Vested its local commander with as large discretionary power as he might deem necessary for the service.
And the commander exercised that discretionary power by signing vouchers obligating the Federal Government to reimburse the manufacturers for a small part of their outlay in paying men for digging the entrenchments.

After the war the army relinquished its “occupation” of the fortifications, implying its prior possession.

And this was a private enterprise! If it was a private enterprise, then Stanton, Brooks, Quartermaster Cross and the department paymasters should have been indicted for malversation of public funds.

What was private about the whole thing? Why should Bakewell, Pears & Co., Washington McClintock, and a hundred others be amerced for the common or public benefit of more than 100,000 citizens? Everything about the undertaking was public—“It was obviously impossible to apply the ordinary rules and regulations,” as Stanton said when Lee’s army was marching forward between Washington and Pittsburgh. Discretionary power had to be vested somewhere, and the head of the war power vested that discretion in Brooks, who bound the general government to pay for work done for the good of all.

The Claims Commission Report was the rock on which many efforts to recover these just debts foundered during the ensuing generation. The private enterprise pronunciamento seems to have stunned the claimants
into quietude for some years. Then in 1873 Thurston got a little book resembling the present bank book of depositors; at the top of each double page in it he wrote out in identical words a short four-line agreement giving him a fifty per cent contingent fee for collecting the claims; about a dozen firms signed each double page in the book, until nearly all the claimants were gathered into the fold.

Thurston then employed a firm of Washington attorneys, Vedantus B. Edwards and Lewis S. Wells, to prosecute the claims—apparently on a contingent fee basis. (Parenthetically it would seem from internal evidence that the Washington printers who put in type the claimants' petition, testimony, and other exhibits must have operated on a contingent fee basis also; for nobody would have paid cash for printed matter containing so many errors and omissions as these type butchers perpetrated.)

Then began a weary odyssey through the labyrinth of departmental Washington. In 1875 an auditor allowed the claims—but Thurston's joy was short-lived, for in 1876 the controller reversed the auditor. In 1889 additional evidence was presented to the third auditor, but his approval was negatived by the second controller—primarily because of the private enterprise conclusion of Stanton's scullions. In 1890 the controller certified to Secretary Windom that there were disputed questions of law and of fact involved in these claims. The War Department had previously consigned all the papers in the case to the Treasury, and so Secretary Windom with relief now threw these disputed matters into the Court of Claims. There they rested for two years, apparently to gain renewed vigor.

Then the claimants filed their petition for relief: this instrument was too informal for the pundits of the capital, and so an amended petition was presented in 1893. Then a commissioner was appointed to take testimony. On what points? First of all to determine how many of the men who had advanced money in 1863 and had filed claims in 1866 were alive and solvent in 1893. For it is a rule of law, universal in its application, that a dead man (physically or financially) cannot do any legal act; particularly he cannot be made to pay costs, which at common law is a vital matter. So the commissioner culled out the live ones from the dead, and reinterred the latter. Then Thurston testified for them all—alive or dead. He did not understate their case, or belittle his own importance.
Some of his testimony seems a trifle biased. For instance, he moves up Morgan- 
town, West Virginia, till he makes it only forty miles from Pitts-
burgh; and he has Confederate troops “massed on the other side of the 
Cheat River,” just as the six thousand men he was bossing in Pittsburgh 
were putting the finishing touches on the Herron Hill Fort with six can-
non in it to blow these invaders into smithereens.\footnote{\textit{Court of Claims 
Records, No. 16767, p. 70.}} When he got through, 
the government attorney put in the plea that more than six years had 
elapsed from the filing of the private enterprise report in 1866 before the 
claimants had presented their petition in court; and hence the analogy of 
the good old statute of limitations applied to prevent recovery. But the 
Court of Claims itself was even more technical and rigid in its obedience 
to the precise wording of the statute under which it acted: the dispute had 
arisen in the War Department not in the Treasury; therefore the Sec-
retary of the Treasury, Mr. Windom, had no right to dump the mess 
into the court’s lap. Windom was acting \textit{ultra vires}—therefore, their 
honors declared, they had no jurisdiction in the premises: should they de-
part from the exact terms of the statute, “many an error by the same 
example would rush into the State.” And so in the current phrase, the 
poor claimants were given the gate.

The manifest justness of their contentions, however, kept the fires of 
activity alive. If the executive and judicial branches of the government 
could not, or would not, do anything for them, there still remained the 
legislative branch. In 1895 the 54th Congress was appealed to: bills 
were introduced by Senator Quay in the Senate and by Representative 
Dalzell in the House for the relief of the claimants. Some doubt exists as 
to where Congressman Stone stood in the matter. But the 54th Congress 
failed to appropriate: then the 55th, the 56th, and the 57th Congresses 
were besought to act, Senator Penrose championing the cause, but all in 
vain. In 1896 George H. Thurston, wheelhorse of the cause, was gath-
ered to his fathers at the ripe age of seventy-six. But Frank W. Smith, 
Assignee in Bankruptcy of William M. Smith, surviving partner of 
Smith, Park & Co., Claimants, now took over as a Joshua to lead the 
 wanderers into the Promised Land and to secure something for the heirs 
of Thurston who had spent freely of his time and money to secure redress.

And now a new character appears on the scene. F. H. Mackey, a 
Washington claim agent, arrived in Pittsburgh in 1902 with a list of the
claimants: he called on them, represented that their attorney-in-fact was dead and that their interests were not being looked after, and secured for himself new fifty per cent contingent fee agreements from many of the claimants. Who Mackey was does not further appear from the files—or what influence he was able to bring to bear on the Congressional mind. At any rate Frank Smith on March 7, 1905, wrote the Thurston heirs that Mackey did get these claims into the Omnibus Bill, then passed by Congress. Possibly the effort of so doing was too much for Mackey, for he expired before Christmas, 1904, and the Omnibus Bill became law only on February 24, 1905. That Pork Bill is seventy-seven pages in length and gives money to possibly fifteen hundred people residing everywhere from Alabama to Wisconsin.

Wells & Edwards then prepared new powers of attorney for the surviving claimants and Frank Smith in Pittsburgh saw to their execution. Now a new conflict loomed up, when the money was actually paid out; how should the fifty per cent contingent fee be divided? The Thurston heirs regarded it as rightfully an asset of their father's estate. Mackey's executors could see only his success as against Thurston's failure. Harsh words were exchanged, bitter letters written, suits threatened. But finally common decency and an innate sense of fairness prevailed, and all these intermediaries—attorney-in-fact and at-law, their executors and administrators—signed an amicable compact for the division of the reward. The Thurston heirs receipted for at least $2,000, probably more. In the interim Frank Smith had died and the ultimate settlement of the age-long claims devolved on his able associate, Albert B. Graver, Esq. The last entry in his files is dated 1913, just half a century after the claims arose.

MORAL

It is better to forget all about a disputed claim against the government; it will save you many a headache.

Take the case of Brown & Company (Wayne Iron Works). Their claim for $2,727.90 wages, etc., paid out in June and July, 1863, represented possibly at $1.25 per day one quarter of the amount they had to pay their puddlers (otherwise many of the men would have drifted off to Cleveland, Youngstown, or elsewhere). Assume that they paid most of their men $5.00 a day and billed the charge to the government
at only $1.25. Their total outlay for work from which they received no direct return was approximately $10,000. That was in 1863. At six per cent compound interest money doubles itself in less than fourteen years, and between 1863 and 1905 the average interest rate on money was certainly six per cent or more. So in 1905 this account stood Brown & Company $80,000. The Act of Congress awarded them the face of their claim only, $2,727.90. Out of that award the payment of the fifty per cent contingent collection fee reduced their net recovery to $1,363.95, or a little less than one and three quarters per cent of their total loss.

Is it worth while?

THE CLAIMANTS

Charles H. Armstrong
Henry Anshutz
Edward Allen
Frederick Bausman
John J. Beckitt
Isabella Bell
Oliver Blackburn
S. Baker & Co.
John B. Bell
S. R. Bennett
George Beynon
D. & W. Bennett
Brown & Co.
Bailiff & Brown
Bissell & Co.
Bryce, Richards & Co.
William Barnhill
Bakewell, Pears & Co.
Bollman, Garrison & Co.
Jared M. Brush
James Brown
Joseph C. Buffum
A. & D. H. Chambers
Robert Coward

Carroll & Snyder
Chess, Smyth & Co.
Colville & Anderson
Patrick Connors
Clark & Sumner
Neil Dorris
E. D. Dithridge
William Dick
R. C. Devlin
Everson, Preston & Co.
T. A. Evans & Co.
J. Heron Foster
J. & G. Frazier
Jas. P. Foster & Co.
Fahnestock, Albree & Co.
Fleming Bros.
Graff, Bennett & Co.
Graff & Co.
Gamble, Slacker & Co.
Graham & Fisher
Gregg, Alexander & Co.
Joseph P. Haigh & Co.
R. Hall & Co.
Joseph Havens

11 From a list (here amended in the cases of obviously misspelled names) in Court of Claims Records, No. 16767, pp. 3-8.
<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>H. Hartman &amp; Co.</td>
<td>Richard Mitchell</td>
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<tr>
<td>S. &amp; A. Hays</td>
<td>James Millingar Planing Mill</td>
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<td>H. Harrison &amp; Bros.</td>
<td>James Millingar</td>
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<td>Hartley &amp; Marshall</td>
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<td>C. G. Hussey &amp; Co.</td>
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<td>Marshall &amp; Cooper</td>
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<td>Alexander Hilands</td>
<td>Mason &amp; Snowden</td>
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<td>Hussey, Wells &amp; Co.</td>
<td>W. McCully &amp; Co.</td>
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<td>C. Ihmsen &amp; Sons</td>
<td>W. McClintock &amp; Co.</td>
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<td>Jas. N. Jenks</td>
<td>W. McClintock</td>
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<td>Henry Jackson</td>
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<td>Pittsburgh, Fort Wayne &amp; Chicago R. R. Co.</td>
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<td>Shoenberger &amp; Co.</td>
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<td>Smith &amp; Bungey</td>
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