

# A Nineteenth-Century Archival Search: The History of the French Spoliation Claims Papers

By HENRY BARTHOLOMEW COX

*National Historical  
Publications Commission*

THE DOCUMENTATION that explains the story of the longest continuing claim entertained by the Congress of the United States has had a fascinating history as it passed through the hands of public officials, claims agents, descendants of agents and claimants, and autograph dealers, finally, being substantially returned to public repositories. Although the circumstances that gave rise to the political and diplomatic history of the French spoliation claims are treated elsewhere,<sup>1</sup> the peregrinations of the documents themselves may be of some interest to archivists and historians of the period.

Some background is surely in order. The French spoliation claims arose against France as a result of attacks and captures of American vessels and cargoes by French privateers and other ships of war after 1793. A general accord was reached at Mortefontaine between France and the United States in 1800, but the spoliation claims were not settled at the time the agreement to cease warlike activities was made. Three American commissioners sent to negotiate the accord intended to include some kind of settlement for the shipping outrages, and the second article in the convention was drafted to recognize the French spoliations as a valid setoff for French grievances against the United States. The U.S. Senate, however, expunged the article when it ratified the convention in 1801, and in so doing, stood in the place of France as the guarantor of the claims to its own citizens.

United States citizens also had other claims against France known as debt claims, which were for detention of vessels, supplies, and for unfulfilled contracts. Although the Convention of 1800 specified that the debt claims should be paid, the majority of them had not been settled by 1803 when Louisiana became an issue. Instead of paying \$15 million in cash for the Louisiana territory, the United States agreed in 1803 to pay the French debt claims up to the limit of \$3.75 million, and

The author received for this paper the 1969 Gondos Memorial Award for the best unpublished essay submitted on "any aspect of the history or administration of archives." Dr. Cox is an assistant to the Executive Director of the National Historical Publications Commission and a director of the Manuscript Society.

<sup>1</sup> G. A. King, "The French Spoliation Claims," reprinted from the *American Journal of International Law*, 1912 (62d Cong., 3d sess., S. Doc. 964) is a good summary of the legislative handling of the claims through the Court of Claims Act of 1885.

the balance in cash or other securities. American and French Boards of Liquidation were established to administer payment of the debt claims, and operated for 10 months from 1803 to 1804. Owing to severe disagreements between the American Commissioners and Robert R. Livingston, the U.S. Minister Plenipotentiary, the full allowance was never made, and payments were suspended. Thus it was that debt claims (part of the purchase price for Louisiana) and spoliation claims (the captures and conversions that Congress expunged in the interest of commercial harmony) both became obligations of the United States Government.

Recordmaking began almost as soon as the captures took place. Fulwar Skipwith, the amanuensis of James Monroe, accompanied Monroe to Paris in 1794<sup>2</sup> and became consul general of the United States at Paris in 1795. Skipwith's report of claims settled under his jurisdiction as claims agent in 1795, and his letters and account books (1795–1799 and 1801–1808) form the backbone of the extensive documentation at the Library of Congress on this subject.<sup>3</sup> Skipwith was also one of the American Commissioners appointed to settle debt claims under Article III of the Convention of 1803; and the journal book of the Commissioners, although not required to be kept under the terms of the convention, gives insight into the problems of judgment and payment that faced those in authority.

The journal book of the Commissioners<sup>4</sup> was a public record and went into the files of the Department of State until it was needed as evidence when French spoliation cases were brought before the Court of Claims in 1885. Skipwith, however, retained his correspondence and record books as consul general and commercial agent until they passed into the hands of the leading French spoliation claims agent, James H. Causten. After 1823, most of the individual claimants also turned their business over to Causten.

James H. Causten was born in Baltimore in 1787.<sup>5</sup> He was the son of Isaac Causten, a leading Baltimore merchant, who instructed him in the mercantile arts. By 1812, Causten was a shipping merchant in his own right. During the War of 1812 one of his ships along with 23 others was seized and sunk in the defense of Baltimore. Causten received an

<sup>2</sup> In 1794, Skipwith, who was Monroe's aide as well as Secretary of the American Legation, prepared a list of outrages and claims for indemnity that Monroe presented to the French Committee of Public Safety. *American State Papers: Foreign Relations*, 1:749–750.

<sup>3</sup> Skipwith's papers are boxes 5–14 of the Causten-Pickett collection, Library of Congress. Hereafter materials in the Library of Congress are indicated by the symbol LC.

<sup>4</sup> American Commissioners' Journal Book, Record Group 205, Records of the Court of Claims Section (Justice), National Archives Building. Hereafter records in the National Archives Building are indicated by the symbol NAB.

<sup>5</sup> Manuscript account, box 4, Causten-Pickett papers, LC; hereafter cited as the *Causten Journal*. Little biographical material is available on Causten, and the only full treatment known at this writing is this 151-page manuscript account in Causten's hand. The contents of this document are only sparsely autobiographical.

indemnity, however, only after a hundred personal visits to Washington and the passage of 30 years.<sup>6</sup>

In 1821, James discovered that Isaac Causten as a private underwriter had claims on account of French spoliations in the amount of \$30,000. What were these claims? The younger Causten had never heard of them, and took a stagecoach to Washington in order to inquire about them. Once in the capital, he found the first published report on the claims (1802) as well as several later ones. After studying the printed documents, Causten became convinced of the essential validity of the claims. It was Causten's feeling that if the claims were presented piecemeal to Congress, they would not have the same forcefulness as if they were massed together in a group. As Congress did not seem willing to meet the demands of individual claimants, rejection appeared inevitable. To furnish himself with an important array of sentiments from those still living who knew at first hand of the claims, he wrote to John Adams, Timothy Pickering, James Monroe, and James Madison. Specifically, he hoped to find out their legal views of the Senate's expunging Article II of the 1800 convention. Did this act place fundamental liability against the United States Government to pay the French spoliation claims? The replies were guarded and rather unsatisfactory, since almost all of Causten's impressive list of correspondents asked to be relieved of the onerous task of replying in full, owing to advancing age and failing memory.<sup>7</sup> On another hunch that perhaps the full accounting was in the archives of the Department of State, he approached Daniel Brent, Chief Clerk of the Department, to see if it might be possible for him to use the secret files. Causten held in his hand as a kind of passport the elder Adams' reply to his letter of inquiry about the claims. Secretary of State John Quincy Adams read his father's letter and questioned Causten intensively on several points in connection with his need of the records.<sup>8</sup> Satisfied with the answers he received, he permitted Causten to use a room in which the desired manuscripts were placed. The papers themselves were in a wholly disarranged mass and covered with dust. There had been no attempt made to preserve them even though their contents were regarded as secret. Causten discovered the restricted nature of the documents when, after he made notes furiously for a week, Adams refused to allow him to carry the copies out with him. All was not lost, however, for Causten went to his hotel room and

<sup>6</sup> *Ibid.*, p. 8.

<sup>7</sup> *Ibid.* Full texts of these letters are available in the Causten Journal. Madison forwarded documents Causten had sent him to Monroe who was in London, and declined to comment on the status of the claims in his polite reply of January 9, 1827, vol. 77, p. 12, Madison papers, LC.

<sup>8</sup> John Quincy Adams had long been interested in organizing and copying the early records of the Department of State. In 1818 he hired Thomas B. Wait of Boston to publish the Journals of the Constitutional Convention, the Secret Journals of Congress, and correspondence relating to U.S. foreign relations before 1783. Carl L. Lokke, "The Continental Congress Papers: Their History, 1789-1952," in *National Archives Accessions* No. 51, p. 5 (June 1954).

reproduced as much as possible from memory. He then sent the result to his father.

Isaac Causten showed the papers to Sen. Samuel Smith, an old friend of Jefferson and a man through whom Causten later addressed a letter of inquiry to the aged Virginian.<sup>9</sup> The letter was in the same form as those he had addressed earlier to Monroe, Madison, and John Adams. Jefferson replied through Senator Smith that owing to his age he was "dead to business of all kinds, from absolute inability to attend to it," and that therefore, he would be unable to answer Causten.<sup>10</sup>

In a subsequent session at the Department of State in 1825, Causten was warmly received by Daniel Brent. This time, he was given for his research a table with a roaring fire nearby. Apparently because John Quincy Adams and others felt that Causten was doing the Department a favor in researching, copying, and generally straightening out their earlier files, wide latitude was permitted him in copying. Access to the records was virtually unhindered. And as the *pièce de résistance*, Causten was permitted to climb to the attic storage room of the Department with Brent and select the records he wanted.

The abysmal condition of vital Federal archives dumbfounded Causten.<sup>11</sup> As his eyes grew accustomed to the dim light, in which he barely made out the dusty forms of heaps of papers and boxes of records in a pellmell assortment all over the room, he realized he was standing on something. Picking it up, Causten was astonished to find the fully engrossed United States' copy of the Louisiana Treaty of 1803. Just before he left the storage room, Causten spied an old trunk virtually buried under cobwebs and debris. It contained precisely what he was searching for—definitive original material concerning negotiation of the debt settlement in 1803. He was allowed to bring in copyists and reported that at one time eight persons worked with him to duplicate these records. Causten, Josias W. King, a clerk in the Department, and others apparently arranged the records to Jared Sparks' full satisfaction, for when the renowned Bostonian visited the Department of State in 1827, he found in "perfect" order<sup>12</sup> the documents he needed for his projected notion of publishing early American diplomatic correspondence. The fruit of Causten's searches was his documentary history of the Convention of 1800, entitled *A Sketch of the Claims of Sundry American Citizens* (Baltimore 1826), which ran through no less than four editions during his lifetime. Undoubtedly, this material also gave Causten the basis for the publication of his analysis of the 1803 Convention, under the title *A View of the Claims of American Citizens* (Baltimore, 1829).

<sup>9</sup> Causten Journal, p. 8. Smith had a larger claim through a mercantile firm he owned in Baltimore.

<sup>10</sup> Extract in Causten's hand of an undated letter from Thomas Jefferson "to General Smith—in answer to Causten's letter to Mr. Jefferson." In possession of the writer.

<sup>11</sup> Causten Journal, p. 8, 10 ff.

<sup>12</sup> Carl L. Lokke, "Continental Congress Papers," p. 5, 6 n.

The benefits of Causten's intensive study of this issue owing to his search in Department of State archives were twofold. First, he was able to assist Congressmen to understand the issues involved. Second, he engendered sufficient interest in the records themselves to cause the Department of State to recommend that Congress publish the most significant part of them.

Causten's understanding was so all inclusive that Sen. Martin Van Buren delayed acting on a petition from New York claimants until he had conversed thoroughly with Causten.<sup>13</sup> Peter Chardon Brooks, powerful, wealthy claims-owner and influential Boston insurance underwriter, was the father-in-law of Congressman Edward Everett. Everett, therefore, corresponded with Causten, as he wanted to know all of the background on the French spoliation claims so that he could bring the matter before succeeding sessions of Congress.<sup>14</sup> Daniel Webster also represented many claimants, and throughout the 1830's and 1840's worked closely with Causten,<sup>15</sup> who thus supplied information and advice to no less than several hundred members of Congress during the 50-year period of his agency.

As John Quincy Adams handed over to Henry Clay the mantle of the Secretaryship of State, he requested that the collection and publication of documents regarding the French spoliation claims be continued. From Causten's initial poking and prying came an important result on May 20, 1826—formal transmission to Congress of a message from President Adams accompanying an 840—page quarto volume comprehensive publication of the documents relating to French spoliations of American vessels. Known as *Document 102*, this publication was the source material for later claimants' memorials and Congressmen's remarks.<sup>16</sup> Much of *Document 102* was reprinted verbatim by Gales and Seaton in 1859 as a major part of volume 6 of *American State Papers: Foreign Relations*.

Secretary Clay and Daniel Brent offered Causten a salary for his services in copying and arranging these archives of the Department of State, even though they knew that Causten had arranged and used the records for private purposes, with the expectation of eventually instituting litigation against the United States in the interest of his clients. The offer put Causten in a dilemma whether he should accept a stipend from the very entity he might subsequently be attacking, and he resisted the proffered sum until finally it was agreed that he would accept from the Government only a small per diem allowance to cover his lodging and certain travel expenses.<sup>17</sup>

During the 1820's, Causten succeeded in obtaining a favorable report from the Senate committee in charge of the claims, but he could not

<sup>13</sup> Cadwallader Colden to James H. Causten, January 25, 1824. In possession of the writer.

<sup>14</sup> Edward Everett to James H. Causten, October 15, 1825. In possession of the writer.

<sup>15</sup> Causten Journal, p. 115, ff.

<sup>16</sup> John Quincy Adams, "Message," in 19th Cong., 1st sess., *S. Doc.* 102.

<sup>17</sup> Causten Journal, p. 11, ff.

conjure up a passed spoliation bill. Undaunted, he continued to circularize both claimants and Congressmen, advising the claimants in particular to retain all documentary evidence that bore on their situation. A hint of Causten's thoroughness appears from the extent of his preparation of the cause for the printers. Causten was known to two of the best known Washington printing establishments, Gales and Seaton and Buell and Blanchard; and he used their services extensively for the publication of "handsomely gotten up" statements, as Sen. Jefferson Davis called them.<sup>18</sup>

By 1837, 956 individual petitions or memorials had been laid before Congress.<sup>19</sup> As might be expected, the largest concentration of them came from the major port cities of the Northeastern United States. Massachusetts led with 262 memorials, whereas there were more than a hundred each from New York, Pennsylvania, and Maryland. Causten earnestly attempted during this period to whip up a frenzy of enthusiasm among the claimants. He told them regularly of his unflagging zeal on their behalf by circulating the issue and keeping it constantly in front of the Legislature. "Your agent," he said, "has not slumbered nor faltered in the performance of his duty." Still, he believed they were not writing enough to Congress, and he urged them to communicate more. This appeal for further memorialization brought scant results, since by 1840 there were only 55 more memorials than had existed 4 years earlier.<sup>20</sup> Moreover, as much as Causten detested the idea, the claims were becoming a political football—much less likely to be paid or even favored during the tenure of an administration whose philosophical stock-in-trade was opposition to privilege. With every passing year, a little more of the "unjust" aspect of the depredations wore off in the minds of those opponents of the spoliation bill who viewed disdainfully the accruing interest, saw no luster in the 1800 bargain, and little merit in encouraging what they considered the rotten fruits of mercantilism, which their hardy Democratic-Republican forebears had labored to prevent.

Imbued with a desire to present the claims in the best possible manner, in addition to his personal and mail contacts of leading politicians, Causten attempted to have all existing records preserved. This included foreign documents of some potential value. Causten "reported" the loss of more important manuscripts in a letter drafted but never sent to the President.<sup>21</sup> The argument Causten made regarding the validity of the claims fell on deaf ears as far as President Polk was

<sup>18</sup> *Speech of the Hon. Jefferson Davis of Mississippi on the French Spoliation Bill, Delivered in the Senate of the United States, January 6th and 10th, 1859*, p. 9 (Baltimore, John Murphy & Co., 1859).

<sup>19</sup> Peter Chardon Brooks forwarded this information to Causten as it appeared in a clipping from the *Boston Traveller*, April 11, 1837, file box 4, Causten-Pickett papers, LC.

<sup>20</sup> Caleb Cushing, *Report No. 343* (26th Cong., 1st sess.), April 4, 1840.

<sup>21</sup> The notation, "I believe not sent—JHC," is to be found on the draft of an undated letter addressed to "The President," file box 3, Causten-Pickett papers, LC.



concerned because it was he who vetoed the spoliation allowance passed by both Houses in 1846. The draft was more significant in its recording of Causten's belief in sound archival practices, which included the dictum of preservation of records until their ultimate usefulness had been determined. What or who was to determine ultimate usefulness? Was not utility in this case the discovery, retention, and preservation of all records concerning payment of the claims until actual indemnification had been achieved? Causten wrote:

. . . The French offices are swept every few years of the accumulation of useless and antiquated documents which are no longer considered of value in the settlement of accounts or as historical monuments, and they fall into the hands of grocers, cheesemongers & as waste paper. This is a fact of which I pledge myself to the truth, from having myself purchased a quantity of official letters from a cheesemonger in Paris in 1845 which had been sold from the War Dept. and the quantity in his shop would have filled a cart. Such may already have been the fate of the proofs submitted by our Government to the French Republic . . . if such has not already been their fate, their liability to it is every day sure and more probable . . . they are of no value to France, and hence would not probably be preserved.<sup>22</sup>

Hoping to avoid further destruction of records, Causten asked Secretary of State Marcy in 1855 to have foreign records pertaining to the claims copied, just as he had asked Secretary Louis McLane and Chief Clerk David Brent years before.<sup>23</sup> Part of the necessary materials was obtained by Edward Livingston while he was resident Minister in Paris, but these documents did not include the vast colonial records which were at that point just in the process of arriving in Paris from the colonial ports. Although Marcy forwarded the proceedings of the American Commissioners under the 1803 Convention to the Senate Committee on Claims for its examination and return, he was still not fully able to supply the records Causten needed. Further unfortunate complications resulted when the wrong papers were returned to the Department of State from Paris—documents that did not concern pre-1800 claims at all.<sup>24</sup> It would remain for the next generation of Congresses to send Somerville P. Tuck as their emissary to France and its island possessions to get the required documentation.

The late 1840's and early 1850's were a time for rest and retrenchment as far as the claims' adversaries were concerned. Congress was aggressively engaged in an ambitious program for the expansion of the land area of the United States. Western railroads were being eagerly planned. There were important diplomatic accords with Britain, leading to understandings regarding the northwest boundary of the United States. Significantly, in Central America, the United States promised to

<sup>22</sup> *Ibid.*

<sup>23</sup> Causten to W. L. Marcy, May 29, 1855. In possession of the writer.

<sup>24</sup> *Report of the Secretary of State, 1 July 1856, 34th Cong., 1st sess., Ex. Doc. 87 (1856);* draft, Causten to W. L. Marcy, January 26, 1856, Causten-Pickett papers, LC.

limit its territorial ambitions to a jointly constructed canal. Perhaps the impressive list of American accomplishments during this time was one reason for the spoliation claims' relative strength. Not much time could be spared from essential legislation to quash them definitively, and when a few moments did become available, members grumbled about not being able to find adverse opinions in the legislative record—or, at best, only an accumulation of bits and pieces of the original documentation reported in uncritically favorable style. Alpheus Felch of Michigan raised a “standard of hopeless” for the rest of his Senate colleagues:

A few days since, the honorable Senator from Iowa, Mr. [Augustus Caesar] Dodge, in expressing his strong yet ineffectual opposition to another measure, declared it was as useless to resist its passage as to oppose the claims for the French spoliations.<sup>25</sup>

Felch alluded to the time and great difficulty involved in analyzing *Document 102* and the other “voluminous public documents relating to the subject.” Referring to the claims' lengthy history, the Senator from Michigan stated that cries for indemnity had grown more, not less, vigorous with the passage of time and the demise of original claimants.

Partly the official aversion to the tedious recital of private claimants' difficulties, plus the very real factor of Congressmen's individual inexperience in dealing with claims of such complexity as the French spoliations, by 1855 led to the suggestion and implementation of the idea of a Court of Claims—a juridical entity whose sole function would be familiarity with every known type of private claim against the United States and, with the facilities available to it, ascertaining legitimate claims appearing before its tribunals. Former Vice President George M. Dallas discussed with Causten the idea of the spoliation claims being handled by a general court of claims. Causten opposed the notion of such a court, believing that the spoliations would be submerged among thousands of unrelated claims. Causten favored reeducating perhaps as many as 50 new Congressmen every 2 years about the ancient virtues of the claims rather than fearing their ultimate loss in the “vast aggregation.”<sup>26</sup> Causten had proposed the idea of a Board of Commissioners to examine French spoliation claims to Secretary of State John M. Clayton on April 26, 1855, but the commission concept was not acceptable.<sup>27</sup> The Court of Claims finally became the court of last resort for the French spoliations after Congress delegated consideration of the French claims to it in 1885.

Causten continued as the principal claims agent until he died at the age of 87. Only shortly before his death in 1874, he brought out a new edition of *A Sketch of the Claims*, first published nearly a half-century

<sup>25</sup> *Congressional Globe Appendix*, 32d Cong., 1st sess., p. 564, 565, April 12 and 14, 1852.

<sup>26</sup> Dallas to Causten, May 5, 1855; Causten to Dallas, May 8, 1855. In the writer's possession.

<sup>27</sup> *Ibid.*



before. Reaction was typified by this article from a Portland, Maine, newspaper:

Mr. Causten, that indefatigable, undiscouraged Octogenarian (at least) has just issued a pamphlet of thirty-two pages, containing a list of the vessels captured and confiscated by the French prior to 1801, and fairly paid for at last with the names of the owners and captains and ports to which they belonged.

This list supplies a want which our people had begun to feel most keenly . . . . Fire had burned up all our records, correspondence, and other documents, and our only hope was that in our Washington archives, or in the Causten archives (Mr. C. being our general agent) we should find when wanted what we wanted . . . And now, let us lift up our hearts once more in thanksgiving and supplication . . . .<sup>28</sup>

Most of Causten's books and personal effects were sold at the auction house of Thomas Dowling, 515 7th St. N.W., in Washington, D.C. His French spoliation papers, the correspondence of Fulwar Skipwith, and related books were carted to New York Ave. between 13th and 14th Sts. and to Georgetown, D.C., by H. B. Wisner on December 10, 1875.<sup>29</sup> These records were the genesis of the manuscript collection known as the Causten-Pickett papers, presently located in the Manuscript Division of the Library of Congress.

The decade that followed James H. Causten's death was not an inactive period as far as the claims agents were concerned. The successors of Causten were, on the whole, reasonably efficient; but they seemed to lack the dynamic capacities of their predecessor. Nevertheless, if Causten was not personally present, his enduring record before Congress remained as lively as the memories of Congressmen who had known him well.

Indeed, if anything, it was only the personal energy of prosecution that was missing. Causten's records were surely some of the most formidable files to be found in a private office of the 19th century; and these documents were really the key to later success. After the Civil War, with little to trouble the United States Treasury but a burgeoning economy and a rapidly fattening purse, the time was right for intensive examination of current records as well as the accumulation of every scrap of paper created at the time of the seizures and having the remotest bearing upon the subject.

Causten's immediate successor, Col. John T. Pickett, was a man whose colorful personality fittingly belonged to the postwar decades.<sup>30</sup> Pickett

<sup>28</sup> Clipping from an unidentifiable Portland, Maine newspaper, May 4, 1874, file box 4, Causten-Pickett papers, LC.

<sup>29</sup> Last Will and Testament of James H. Causten With Supporting Papers, will no. 7457-0.5, U.S. District Court for the District of Columbia, Record Group 21, Records of District Courts of the United States, NAB.

<sup>30</sup> Clipping from the Washington *Evening Star* for May 17, 1888, file box 100, Causten-Pickett papers, contains biographical notes of Pickett's career.

was a supporter of Louis Kossuth's Hungary in 1852 and Jefferson Davis' Confederacy in 1861. He was an emissary of the Confederate States to Mexico in 1862, and then he served the remainder of the war as General Breckinridge's aide. Although Causten had prepared the way, it was under Pickett's agency that Congress was finally persuaded to pass the Court of Claims Act of 1885. Pickett formed a partnership with Luther H. Pike of Washington and John David Stewart of Baltimore. Stewart was responsible for the Baltimore claims; and, as John Pickett averred, "we are very liberal in giving them all cases that arose in Baltimore but it is well as it rids us of all the trouble of looking up the claimants and getting powers of attorney &c." William Earle of Washington, D.C., became another partner on August 21, 1883.<sup>31</sup> The research of these attorneys added significantly to the body of information already collected.

By the time Senators Frye and Hoar and interested members of the House combined their strength to obtain passage of a bill giving the Court of Claims jurisdiction of the French spoliation cases, it was necessary for the United States to obtain copious documentation for its own defense. The third section of the Act of January 20, 1885 (23 Stat. 283), provided that the Court of Claims should receive appropriate history of and documentary evidence regarding the claims within its jurisdiction; and, for this purpose, two highly competent researchers, Missouri Congressman James Overton Broadhead and Somerville P. Tuck, a long time employee of the United States Government, were selected to serve and were dispatched with instructions to secure such information. Since the rules of the Court of Claims precluded oral testimony, these Government attorneys traveled to many sections of the United States and several foreign countries for the purpose of taking depositions. Tuck and Broadhead were originally scheduled to be employed no more than 4 months with pay,<sup>32</sup> but Tuck made two more trips after an initial fact-gathering expedition in May 1885. Broadhead reported to President Cleveland concerning the extreme difficulty and great labor involved in their search, as most of these records had been considered virtually worthless in the places where they were found.<sup>33</sup> The process of securing authenticated copies was made all the more difficult because most of the registers consulted had no page numbers or indexes.<sup>34</sup> Congress, however, wanted to know who the present owners of the claims were and whether the owners were heirs or assignees. This was part of the reason for the thorough and painstaking search. Moreover, the terms of an act of 1885 specified that the decisions of the Court

<sup>31</sup> Note of J. T. Pickett, n.p., n.d., file box 100, Causten-Pickett papers, LC.

<sup>32</sup> 49th Cong., 1st sess., *Ex. Doc.* 30 (1886), p. 2.

<sup>33</sup> Somerville P. Tuck, *French Spoliations: Report* (New York, 1888), *passim*.

<sup>34</sup> 49th Cong., 1st sess., *Ex. Doc.* 30 (1886), p. 51.

of Claims were to be advisory opinions only.<sup>35</sup> Congress thus retained the right of final payment after it received the recommendations of the court.

As the pattern developed over the next 20 years, Congress would receive the advice of the Court in several individual cases and then would allow the payment in an omnibus bill embracing as many claims as were currently ready for settlement. Between December 6, 1886, and December 7, 1887, the court rendered nearly 30 opinions. Many of them involved procedural matters, but several established basic principles in spoliation claims practice, such as the rule that insurers had a right to be repaid in full for their losses but to nothing more.<sup>36</sup>

The general findings for or against claimants continued in the Court of Claims from 1885 to 1916.<sup>37</sup> Careful research and reconstruction of every case according to the best evidence possible was a hallmark of the decisions in the "Old French Claims" cases. Of the claims presented 82 percent were denied, and a large number were dismissed for insufficient proofs. In the aggregate, the Court of Claims entered judgment allowing awards amounting to \$7,141,067.79.<sup>38</sup> The issue thus had scrupulous examination, and the awards were as devoid of fraud as possible.

Roughly 50 percent of the claims awarded in this 30-year period were actually paid. Numerous appropriation bills passed one or the other of the Houses of Congress, but only four became law.<sup>39</sup> This figure of 50 percent compares quite closely with the percentage of losses paid to Loyalists by the British in consequence of the former's adherence to the Crown during the American Revolution.<sup>40</sup> The last act making appropriations for French spoliations since the referral of the subject to the Court of Claims was approved on February 24, 1905. Consideration of the issue went on in an intermittent fashion for 50 years beyond the 1905 appropriation, and such recent Congressional leaders as Emmanuel

<sup>35</sup> In the early 1880's numerous claims were still pending in Congress because under the strict rules of the law petitioners could not be afforded relief. The Bowman Act, approved March 3, 1883 (22 Stat. 485), provided that such claims be sent to the Court of Claims for findings of facts, which would be submitted to Congress for determination of final action. The Tucker Act, approved on March 3, 1887 (24 Stat. 505), gathered together the provisions of earlier acts that outlined the court's jurisdiction and enlarged the court's jurisdiction to include all claims founded upon the Constitution of the United States. This act also provided that district courts should have concurrent jurisdiction with the Court of Claims in certain cases.

<sup>36</sup> 49th Cong., 2d sess., *H. Misc. Doc. No. 6* (1886), p. 47.

<sup>37</sup> Even though all petitions for consideration under the act of 1885 had to be filed within 2 years, the claims so filed still took more than 30 years to reach final judgment in the Court of Claims.

<sup>38</sup> This figure omitted interest charges. For further discussion, see *Holbrook v. United States* (21 C. Cl. 434); *Case of Manny and Hope* (46 C. Cl. 214); *Cushing v. United States* (22 C. Cl. 7); the *Mansur Report*, 51st Cong., 1st sess., *H. Rept.* 558; and the *Bunn Report*, 53d Cong., 2d sess., *H. Rept.* 1051.

<sup>39</sup> The four were March 3, 1891 (26 Stat. 897), \$1,304,095.37; March 3, 1899 (30 Stat. 1191), \$1,055,473.04; May 27, 1902 (32 Stat. 217), \$798,631.27; and February 24, 1905 (33 Stat. 780), \$752,660.93. The total through 1905 was \$3,910,860.61.

<sup>40</sup> Statute of 23 George III, ch. 80 (1783), cited in John Bassett Moore, ed., *International Adjudications, Modern Series*, 3:439.

Celler, Edward R. Burke, and Alexander Wiley have made remarks on the claims' validity, but no more claims have been paid. Active Congressional consideration of the unpaid balance of the claims finally ceased in 1955.

Most of the documentation, therefore, was assembled before 1916. The evidentiary materials assembled by Tuck and Broadhead today form a series of the French spoliation case records among records of the Court of Claims Section of the Department of Justice in the National Archives Building. More than 400 linear feet of records of the United States Court of Claims in the same repository consist of 5,574 case files of petitions, supplementary documents, and evidentiary materials submitted in proof of loss by the descendants of the original claimants.

The family of Theodore John Pickett, the son of John T. Pickett, retained most of the Causten-Pickett office files intact. Most of the office files and correspondence were then given to the Manuscript Division of the Library of Congress on August 5, 1954, by Beverley Humphrey Harris of Alexandria, Va., Hetty Vauwter Tebbs, and Edwin Vauwter Harris. Later gifts of additional Pickett family papers were made by Beverley H. Harris on June 2, 1955.<sup>41</sup> Most of the autographically significant letters or documents belonging to the collection, however, were sold at approximately the same time to a dealer. These manuscripts consisted of approximately 250 letters to and from Daniel Webster, Reverdy Johnson, Caleb Cushing, John Armstrong, Timothy Pickering, Edward Livingston, Louis McLane, and other Congressmen and Cabinet members of the 19th century, in addition to the single replies Causten had received from John Adams, James Madison, and James Monroe in response to his 1823 inquiry into the validity of the claims. Parts of the collection then circulated among several dealers who purchased the items that interested them, thus breaking down the small group still further. Before this breakdown occurred, however, the entire collection as it was sold out of the hands of the Pickett descendants was microfilmed, and both negative and positive prints of the collection were circulated among dealers' shops along with the original documents, all in a large black clamshell box.

In the winter of 1961, the writer first encountered the French spoliation claims as an aspect of the experience of Fulwar Skipwith, whose biography was published in 1964 under the title *The Parisian American*. Skipwith's career was inextricably involved with the claims since they were a major element of his responsibility as consul general of the United States and U.S. commercial agent in Paris. The claims were complex—so much so in fact, that a year's reading and reconstruction of

<sup>41</sup> A press release on the Causten-Pickett papers was issued by the Library of Congress, October 24, 1955, and a news story appeared in the *Alexandria [Va.] Journal-Tribune* on January 5, 1956. An acquisition note was printed in the *Library's Information Bulletin*, vol. 14, no. 42:2-3 (October 17, 1955); and the material was described in the *Library of Congress Quarterly Journal of Current Acquisitions*, vol. 13, no. 3:163 (May 1956).

the principal events and negotiations through the labyrinth of boards, claims commissions, and tribunals in existence at the turn of the 19th century did not fully explain how these claims became enmeshed with the Louisiana Treaty or why responsibility for payment of them was transferred from France to the Government of the United States. Subsequent investigation into the manuscripts that the Pickett descendants had donated to the Library of Congress gave insight primarily into the custodial and procedural aspects of Causten's tenure as the principal agent for French spoliation claimants. Something vital seemed missing.

In the early 1960's several documents and letters relating to the history of the claims settlement began to appear on the book and autograph market. Inquiry as to their origin produced the reply that a significant collection of private papers existed and that the documents being offered were only a fraction of the whole. Most of the material being offered seemed to come from the Boston area. One by one, dealers were questioned; and the list was narrowed. Then, on August 28, 1963, a mention of Fulwar Skipwith led to the discovery of the cache of Causten manuscripts that had been separated from the principal collection. Through these documents Causten's experiences finally assumed the three-dimensionality that had been impossible without them. This collection is now in the process of being joined with the main body of the Causten-Pickett papers, and a microfilm of the smaller group as discovered is now available for research in the Manuscript Division of the Library of Congress.

The extensiveness of the manuscript collections relating to French spoliations now located in the National Archives and the Library of Congress was due to the carefulness as well as the momentum of an extraordinarily durable lobbying effort. Not only did James H. Causten perform a service for the United States Government by helping to arrange the early records of the major Department, but also his ingenuity and care in editing and publishing a great part of them ranks him as one of the earliest American editors of documentary publications. Causten was possibly the first major American lobbyist whose aim was to collect and reconstruct the documentation relating to a specific issue in the then recent history of the United States, to utilize the Federal, local, and foreign records available to him that bore upon his subject, and to publish this information in a synthesis that was available to legislators and citizens alike. Thus the fact that his efforts were financially successful only posthumously does not detract from the importance of his work in collecting, preserving, and publishing the archives of the French spoliation claims.