

*To the Senate and House of Representatives of the State of Texas:*

The memorial of **JACOB WILLCOX**, formerly of New Orleans, but now a citizen of New York, respectfully showeth,

That in the year 1843, your memorialist was engaged as a merchant in commercial pursuits, in the city of New Orleans; and at that dark period in the history of the Republic of Texas, when in her brave and arduous struggle for freedom, her resources had become so exhausted, and her credit so impaired, that it was almost impossible for her constituted agents in the United States to obtain funds to meet their pressing exigences; your memorialist, with no expectation of reward, but impelled by those natural feelings of sympathy governing the actions of men of the same race, blood and kindred, and by an ardent desire to assist in his humble way, a brave and patriotic people, in their contest for political and personal liberty, advanced from his own private means, certain sums of money, as hereinafter stated, for the use of the Texas Navy.

At that time, from December, 1842, to April, 1843, the two vessels of war, the *AUSTIN* and *WHARTON*, under the command of *COMMODORE E. W. MOORE*, were in the Port of New Orleans, detained there for want of means to pay their disbursements, and equip them for sea. The services of these armed vessels were, at that critical juncture in the contest, urgently needed to protect from invasion the *Coast of Texas*; but their gallant commander had his hands tied from the sheer exhaustion of the public resources and credit, and, after repeated trials in all quarters, was unable to raise the necessary funds to equip his vessels for sea, and render them available. It was at this eventful period in the history of the infant Republic, that your memorialist advanced to *Commodore Moore*, upon the faith and credit of his Government, the sum of *seven thousand four hundred and thirteen dollars and forty-two cents*, by which assistance, and substantial aid alone, the Navy of Texas was rendered effective for sea service. The State of Texas has shown in part, her appreciation of the services rendered by your memorialist in the premises, by paying him the above amount, which was done in 1852, after a lapse of nine years. This was tardy and partial justice, inasmuch as the State refused to pay any thing, for the use of the money furnished by your memorialist in 1843. This refusal to pay interest on this acknowledged loan was predicated by the Comptroller upon the terms of the resolution, directing the account to be audited, which made no provision for interest.

It is for the payment of the interest, due in accordance with the terms of a specific covenant and agreement made with the accredited agent of Texas, acting under the special authority of the then *Executive of the Republic*, that your memorialist approaches the Legislature of Texas and for the reasonableness and justice of his claim, he presents succinctly the following grounds:

The above amount of \$7,413 42 was either in the form of cash advanced to meet the pressing demands of *Commodore Moore* and his officers, or in payment of sundry bills, for sea stores, ammunition, clothing, etc., neither of which articles entered into the business of your memorialist, from the sale of which he derived no profit, and for the purchase of which, as well as the cash advanced, he charged no commissions. On \$5,000 of the above advance, *Commodore Moore*, in his official capacity, gave to your memorialist as security, a *Bottomry Bond* on the *Ship Austin* and *Brig Wharton*, with all their armament, etc; Conditioned, that the amount should be repaid, together with maritime interest, at the rate of five per cent. per month, within six months from the date of said Bond; and for all remaining accruing interest, the rate agreed upon with *Commodore Moore* was ten per cent. per annum, the conventional interest of the State of Louisiana.

The rate of interest stipulated will neither be regarded as usurious or immoderate, when the precarious character of the security is taken into consideration. The vessels that were the subject of the *Bottomry Bond*, were not insurable; and from the hazardous nature of the service in which they were employed, furnished no security adequate to the risk incurred. The rate of interest moreover, was in accordance with maritime usage, and in proportion to the character of the risk. The ten per cent. interest claimed, was the estimated and customary value of money at the time in Louisiana, and sanctioned by law.

If it is contended that the payment of interest upon claims against the State, is at variance with any rule or principle heretofore adopted, your memorialist respectfully represents, that his case should form an exception to any such abstract rule or principle. From the character and terms of the *Contract*, the interest constituted as much a part of it as the principal. There being no concurrent profit accruing to your memorialist at the time of the negotiation, no commissions charged, no remuneration given in advance as a *bonus*, the interest was the consideration proposed and accepted for advancing the principal, and upon every principle of right, justice, and legal construction, the *Contract* should be taken in its entirety, and the interest be regarded as essential an element of it as the principal. The case of your memorialist differs from all others in which the State has refused the payment of interest. In those cases the interest was merely an incident of the contract, and the principal carried interest from the maturity of the debt, either by implication, commercial usage, or construction of law, whereas in the present case the interest is a part and parcel of the original contract, by special agreement at its very inception.

When your honorable body takes into consideration the time and circumstances under which this debt was incurred; the fact that the money advanced was not as a venture in a spirit of speculation, and with a view of taking advantage of the necessities of the Republic, for if such was his motive, he would have purchased the certificates, bills, and other credits of Texas, at an immense discount, by which we could at this time, with the money advanced, have realised three times the amount of his present claim. When these circumstances are duly considered, your memorialist feels confident, that the Legislature of Texas will freely concede the justice and equity of the claim he now respectfully presents to it. And your memorialist will ever pray, etc.

JACOB WILLCOX.