Attorney General's Office,
1 May 1861

Hon. Wm. H. Seward
Secretary of State

Sir,

The following opinion was prepared upon the request by the President to the Attorney General, of the papers in the case of Edward Strubs and Wm. S. Strubs. As any proceeding that may be commenced against them will properly be at your instance, you are hereby notified to send your direction of the Attorney General.
Opinion and Without
Knowling The President
There with

Very Respectfully,
Yours Obediently,

[Signature]

Attorney General
I have examined the papers submitted to me by you relative to the claim of the Government against Edward Stobbs and Wm. E. Stobbs, the disbursing clerk in the State Department, and I am clearly of opinion that they should be brought against them for the money returned as an entrance on the indemnity fund of Edward Stobbs was appointed a clerk to discharge the among the other—the very duty of keeping and disbursing the sums paid by foreign governments on behalf of citizens of the United States, which were not required by law to be paid into the Treasury, and the ordinances upon which this percentage is charged were of this character. For these duties he received from the year 1833 until June 1855 a salary of fourteen hundred dollars. By the Act of 3 March 1855 Sec. 4 (Repealed by 136) one of the Clerks in the State Department of Class 1 (which Clerks by the Act of 3 March 1853 Sec. 3 were entitled to receive an annual salary of $1800) was required to give bonds as required by the Independent Treasury Act and make the disbursements for the
Department and supervised the North-East Executive Building, for which he was to receive $275.00 per annum in addition to his salary as Clerk of class Jone. Edward Shepley filed the clerkship and from January 1865 received accordingly $200.00 per annum salary. This salary therefore was paid him for performing the duties of watching charge.

By the Convention with Great Bri
tain of 8 Feb. 1858 194, 4195 (1858) art. 1. 790 it was agreed that all monies awarded by the
Commissioner, on account of any claim, should be paid by the one government to the other, and by the 6th Article the sums awarded were to be for the payment of the expenses of the commissioners to an amount not exceeding five per cent. The State of
Commissioner of the United States had unequivocally notified the commissioner of this provision, and the monies paid by the British Government to claimants who were citizens of the United States was properly paid to the Secretary of State whose
It was to have the same paid to the

Mississippi could fail more appropriately

the Board of a public officer than.
The charge and disbursement of these
services were appropriate as by transac
duty could attach to the disbursing
clerk of the State department more
than the charge and disbursement of the
money. I was one of the
services
for which he gave bond and for which
he received his salary. It was no more
an extra service than were the ordinary
disbursements of the department, and as
well might the U.S. Treasury attempt
to charge commissions on the money with
he is by law required to receive, keep and
disburse, and of the commissions claimed
by Edward Stoddard be allowed, as was one
322 where the practice will end to
be just, in the principle of taxing
any principal in perfecting and
enforcing the principle which would
not justify every officer of the Government
who has charge of any part of the public funds
in claiming a like commission.

And even if these services were "extra"
to the duties of the disbursing clerk of the
State department, the pay allowance of the
commission is expressly forbidden by the 12 Sec.
of the Act of 26 Aug. 1842 (5 Stat. at L. 525) which
provides that no allowance or compensation
shall be made for any extra services whatever
which any clerk or other officer may be required
to perform. Now this commission can be and
allowed in the face of the law. I cannot understand
The government ought not to be subjected to this loss for by the 1st Art of the Convention it is agreed to by the claimants not expecting five per cent on the sums found due them to pay the expenses of the commission of which the sum is obviously no part and the claimant having already been paid to no more provision shown that are is the government meant to create the same of ascertaining or redeeming these claims but simply to punish a remedy to the claimants. But there is no power to gather this loss on the claimants so that Mr. Smith be allowed to retain this commission he does of the amount thereof must be made good to the claimant by one of the National Revenue

Converse v. United States 21 How. 463, which has been relied on to sustain this claim, is an authority directly against it, even admitting these services to have been extra for it is there distinctly said down that a compensation for extra services where no certain compensation is fixed by law cannot be allowed by the head of a department to any officer of the government who has by law a fixed or certain compensation for his services in his office the Co. But in that case the services for which a compensation was claimed were clearly extra to the duties of the claimant. He was collector of customs of Boston and had been arrested by the Revenue Department as agent to purchase supplies for the lighthouse service
Throughout the United States and make the disbursement and the company for the
same and it was held that he was entitled to the compensation fixed by law for the
service, so far as it was outside of his district and beyond the limits to which his duties as an
officer extended. In the case of Strzbe, the
commission claimed is not authorized by law,
and is for services which were done from being extra,
directly within the line of duty of the dis-
charging clerk of the State Department.
The commission claimed by Mr. E. Stubbis
is even more flagrantly wrong than his father's
for it is for services rendered when he was
subordinate to the District Clerk, and in addition
to those claimed by his father.
I am of opinion that the Secretary of
State should transmit the papers to the
Attorney for the District where these facts are to be found, with directions to bring suit
for this money.

Very respectfully,
Your obedient servant

To the President

Attorney General