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### Claims of the State of Florida against the United States

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H.R. Rep. No. 1230, 46th Cong., 2nd Sess. (1880)

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## CLAIMS OF THE STATE OF FLORIDA AGAINST THE UNITED STATES.

APRIL 24, 1880.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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Mr. O'CONNOR, from the Committee on Claims, submitted the following

### REPORT:

[To accompany H. Res. 292.]

*The Committee on Claims, to whom was referred House resolution 216, have had the same under consideration, and submit the following report:*

The claims of the State of Florida, for which this resolution seeks to make provision, grew out of the Seminole war of 1855, '56, and '57. It appears that in December, 1855, the Indians of that tribe in Florida, who had for some time been in a turbulent and threatening state, commenced actual hostilities by attacking a detachment of United States troops commanded by Lieutenant Hartsuff. This outbreak occasioned great excitement along the extended exposed frontier, and urgent demands were made upon the State authorities by the people for their protection. So urgent seemed the necessity that the citizens of several of the counties hastened to effect voluntary organizations in advance of the action of the State executive. These companies were promptly recognized by the governor and rendered efficient service. In the emergency the governor appealed to the War Department to accept the services of the troops thus raised and organized, but the Secretary consented to receive only five companies.

These forces, with the United States troops then on duty in that section, were inadequate to the protection of the people, and the governor felt constrained to retain in the service, besides those received by the general government, several companies aggregating about four hundred men. These were added to from time to time as the exigency seemed to require. These forces were regularly organized and mustered into the service of the State for a period of six months unless sooner discharged. They co-operated with the United States troops and rendered efficient service.

All the facts in the case and the voluminous correspondence submitted—correspondence between the State executive and officers of State troops and citizens living in the exposed localities, and between the executive and the military authorities at Washington and the officers of the United States Army in service in Florida—satisfy the committee that the necessity which prompted the action of the governor in organizing and maintaining State troops in the field was imperative. He could not well have done less than he appears to have done without culpable neglect of duty.

This service, of course, was a serious burden to the State financially. The troops in the field had to be equipped, supplied, and paid. The funds at the command of the executive were insufficient for the purpose, and he was forced to negotiate burdensome loans in anticipation of the action of the legislature. This is a mere outline of the facts upon which the committee base their recommendation, as they do not deem it necessary to their present purpose to treat the subject in minute detail.

On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective co-operation with the United States troops; and to emphasize the necessity of the course he pursued, he alluded to the circumstance that when Brigadier-General Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, "being," as the governor remarks, "a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter." The governor concluded his letter by asking the Secretary of War, in behalf of the United States, "to approve and adopt the service."

Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that "an officer be sent as soon as possible to muster them in and out of the service of the United States," which recommendation was approved by the Secretary of War, who notified the governor as follows:

WAR DEPARTMENT,  
*Washington, D. C., May 21, 1857.*

His Excellency JAMES E. BROOME,  
*Governor of Florida, Washington:*

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,

JOHN B. FLOYD,  
*Secretary of War.*

The official order mentioned in the foregoing letter is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,  
*Washington, D. C., May 21, 1857.*

SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever

Congress shall make the necessary appropriation for the purpose. A supply of blank muster-rolls will at once be sent to your address.

I am, sir, very respectfully, your obedient servant,

S. COOPER,  
*Adjutant-General,*

COMMANDING OFFICER,  
*Department of Florida, Tampa, Fla.*

On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly-certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

Under the circumstances the only course left for the department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question.

The committee are of the opinion that the facts set forth as to the urgent necessity for the services of these troops for the defense of the State and the protection of the people against the hostilities of the Indians create an equitable obligation on the part of the general government to reimburse the cost of such necessary service. This obligation is so clearly enforced by a long series of precedents that the action of the President and the Secretary of War in this particular case only strengthens it by evidencing the opinion they entertained at the time, with a full knowledge of all the facts and circumstances, of the judicious and necessary action of the governor in summoning the troops to the field. In a report recently submitted to the Senate by this committee, and also submitted in the last Congress, relative to military expenditures by the State of Kansas, the question of the obligation on the part of the United States to reimburse the States for expenditures of this character is fully presented in the light of numerous cited precedents. The committee would not deem it necessary to traverse this field again, even if the liability of the government were less generally conceded than it is. We hold, therefore, that the State of Florida has a proper and legitimate claim against the United States for expenses properly incurred by her in the manner indicated.

While the committee are satisfied of the justice of this claim of the State of Florida, they are not prepared to recommend the passage of the specific bill referred to them. They think it would be wiser to authorize and direct the Secretary of War to cause this claim to be thoroughly investigated, and to report the result to Congress for further consideration. It is probable that the data on file in the War Department will greatly facilitate the proposed investigation, so that no great delay is likely to result if the recommendation of the committee shall be adopted by the Senate and be followed by a law to the same effect. A similar course has been pursued in the case of the State of Kansas, to which reference has been made, and we therefore submit a substitute for the joint resolution, and recommend its passage.