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CORPORATION OF MOBILE.

[To accompany Senate bill No. 115.]

MARCH 1, 1837.

Mr. E. WHITTLESEY, from the Committee of Claims, to which was referred the bill from the Senate (No. 115) for the relief of the corporate authorities of the city of Mobile, made the following

REPORT:

The Committee of Claims, to which was referred a bill from the Senate for the relief of the corporate authorities of the city of Mobile, report:

That the bill provides "that the Secretary of War be, and he is hereby, directed to cause to be audited the accounts of the corporate authorities of the city of Mobile, for advances of money and expenses incurred in equipping, mounting, and sending to the place of rendezvous, two full companies of mounted men, under a call from the Governor of Alabama, at the beginning of the hostilities of the Creek Indians, in the summer of 1836; and the amount or balance found due is hereby directed to be paid out of any moneys in the treasury not otherwise appropriated, as soon as the Secretary of War shall approve the same."

The bill was unaccompanied with a report. The following papers were before the Senate, to wit: the petition of the mayor of Mobile; a copy of a resolution passed by the board of the mayor and aldermen of the city of Mobile, on the 15th of December last, authorizing the mayor to memorialize Congress on the subject of this claim; a letter from C. C. Clay, Governor of Alabama, dated August 20, 1836, informing the mayor of Mobile he had no money at his disposal to refund the advances made by the corporate authorities of Mobile; and a letter from Benjamin B. Morrell, dated August 20, 1836, addressed to the mayor and aldermen of Mobile, informing them he had seventy-eight horses of theirs, waiting for instructions from them.

It appears, from the memorial signed by G. W. Owen, mayor of the city of Mobile, that, at the commencement of hostilities with the Creek Indians, the Governor of Alabama called on the county and city of Mobile for two companies of mounted men. The men volunteered, but they were not mounted, nor had they the means of transportation. The danger is represented to be imminent, and, to avert it, the city authorities voted, as they say, forty-five thousand dollars, which they put into the hands of disbursing officers; and nearly the whole amount, they say, was expended.

They say the horses of one company were received by Captain Harding, an officer of the United States; and those of the other company were re-

ceived by an officer of the United States at Montgomery, and the company sent as a guard to the emigrating Indians as far as Mobile; that the horses received by Captain Harding were sold at public vendue, as was supposed, on account of the United States; that those received at Montgomery were put at the disposal of the city authorities, and were sold at great sacrifice, and much expense for keeping them.

The expense of the war having been assumed by the General Government, the memorial prays a remuneration of the money expended.

The committee addressed a letter to the Secretary of War for information, and they desired him to state:

1st. How many men were in each company mentioned.

2d. How long said companies were in the service.

3d. Whether, in paying the men for their services, they were allowed a per diem compensation of forty cents a day for the use of their horses.

4th. Have any of the horses been sold; if so, how many, and at what gross price, and by whose authority; and has the money for which they were sold been accounted for.

5th. Have the corporate authorities of Mobile exhibited any statement showing the manner in which the money advanced by them has been disbursed.

Papers marked A, B, C, and D, and a report from Major Cross, acting quartermaster general, and a report from Gen. Towson, paymaster general, in answer to the inquiries of the committee, are received.

A is a letter from Captain Harding to Major Hunt, dated August 3, 1836, then acting quartermaster general, informing him that the corporate authorities of Mobile had asked remuneration for advances made, and that they had turned the horses over to the United States; seventy of them were in his possession, and he asked for advice as to selling them. B is an answer from T. Cross, then acting quartermaster general, dated August 17, to Captain Harding, disapproving of his having received the horses; and, after calling his attention to the acts of March 19 and May 23, 1836, Major Cross directed him, if he had not disposed of the horses, to return them to the corporation. C is a letter from Captain Harding to Major Cross, dated September 15, 1836, informing him that he had sold the horses on his own responsibility, before the receipt of Major Cross's letter of August 17; and that he would turn over the money to the city authorities. D is a letter from Lieutenant Grayson to the mayor of Mobile, dated August 17, informing him that he had delivered the horses that belonged to Captain Milton's company to Mr. Morrell, subject to the order of said mayor.

The report of Major Cross refers to the above documents, and says, "the corporate authorities of Mobile have not exhibited to this office any statement showing the application of the money advanced by that city.

General Towson, in answer to the first three inquiries, reports as follows: As to Captain John Milton's company, supposed to be one of the two companies, to wit:

"1st. There are eighty-six men on the roll, officers included.

"2d. The company was in service from the 28th of May to the 27th of July, 1836.

"3d. In paying the men for their services, they were paid a per diem of forty cents for the use of their horses."

And as to the 4th and 5th inquiries, he says, his office furnishes no information.

The committee do not doubt the good intention of the city authorities in advancing the money mentioned, nor the patriotic spirit that prompted the citizens to volunteer their services in defence of the country.

If an agent asks his principal to refund money he has advanced, he renders his account, and shows how he has invested it. An adherence to that rule is necessary to protect the rights of the United States in conducting military operations, when the States or corporations voluntarily advance money, and put it into the hands of their own officers to disburse.

It is said the money was advanced by the city of Mobile to fit out two companies, to defend the inhabitants in that section of the country against the hostile Creek Indians, and that it was so expended. There is no evidence before the committee to prove how the money has been disbursed. If the money had been paid into the hands of a disbursing officer of the United States, authorized to receive it, the city authorities would not be holden to account for its disbursement; but it is different where *they* appoint an officer to disburse it.

So far as horses were purchased, their own citizens have had the benefit of the purchase. The law of the United States pays a stipulated price to mounted volunteers, where they furnish their own horses. In this case, forty cents per day has been paid to the volunteers from Mobile, for the use of horses they received from the city authorities; and, after such payment, the United States are asked to refund to the same authorities the money they expended in purchasing horses, for the daily use of which their citizens have been paid. If the city authorities intended to look to the United States to refund the money advanced, they should have reported their proceedings to the War Department. If the horses were the property of the United States, and the parties had so considered, the volunteers would only have been paid for their own services; but now, they have been paid forty cents for the use of each horse daily; and, when the United States did not furnish forage in kind, a further allowance of twenty-five cents per day has been made, making a daily allowance of sixty-five cents to each volunteer when he did not draw for forage.

How the residue of the money was expended, is not known. The committee do not say the money should not be refunded, but they express the opinion that the memorialists should show how the money was disbursed, before the United States make any provision for settling the claim. Until then, the committee think no relief should be granted, and they recommend the said bill do not pass.