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Andrew Rembert.

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H.R. Rep. No. 966, 25th Cong., 2nd Sess. (1838)

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ANDREW REMBERT.

[To accompany bill H. R. No. 838.]

JUNE 9, 1838.

Mr. STUART, from the Committee of Claims, submitted the following

REPORT:

The Committee of Claims, to whom was referred the memorial of Andrew Rembert, praying for pay as a quartermaster in the company of mounted volunteers commanded by John H. Brodnax, during the last Creek war, have had the same under consideration, and report:

The account presented by the petitioner is as follows:

1837.	<i>The United States to A. Rembert,</i>	DR.
For acting as quartermaster to John H. Brodnax's company of mounted Alabama volunteers, in the service of the United States, from the 15th of April to the 17th of June, 1837, making 65 days, at \$1 per day	- - - - -	<u>\$65 00</u>

The committee have corresponded with the acting Quartermaster General in reference to this claim, and have ascertained that the appointment of quartermaster to a company is not recognised in the service; that where, from peculiar circumstances, in the absence of the regimental quartermaster and assistant commissaries of subsistence, the services of such an officer are required for a company, the duty is usually assigned to some officer of the company, who receives no additional compensation therefor. It further appears from the letter of the assistant quartermaster, herein referred to and made a part of this report, that the petitioner was paid as first sergeant of Captain Brodnax's company of mounted volunteers, from the 6th of January to the 26th of April, 1837, including forty cents per day for his horse.

It is proved by the certificate of Captain Brodnax that the petitioner was duly appointed quartermaster by him, and did serve the above number of days, and for the price mentioned; and that said service was actually necessary in operating against the Creek Indians in the State of Alabama. Colonel Wellborn, the commander of the regiment to which Captain Brodnax's company was attached, also certifies that the appointment was necessary.

It would seem from the statement of Captain Broadnax and that of the petitioner himself, that a contract was entered into between them that the petitioner should serve as quartermaster at a stipulated price, viz: \$1 per day. The committee cannot recognise any authority in the parties to

make this contract, so as to be binding in any way upon the United States. If such an officer exists as a company quartermaster, he has a certain amount of pay attached to his office, which cannot be varied by contract. If no such office is known, as stated by the acting Quartermaster General, Captain Brodnax could not by contract create it, and at the same time fix the compensation of the officer.

If it became necessary that the duties appertaining to the quartermaster's department should be performed in reference to Captain Brodnax's company, he had the power to detail one of his subaltern or non-commissioned officers to perform them, but not the power to increase his pay at the same time.

The committee are clearly of opinion that the petitioner is not entitled to anything as quartermaster, or under his contract with Captain Brodnax. But, as it seems that he remained in the service from the 26th of April until the 17th of June, 1837, without having received his pay, &c., as first sergeant, the committee think him justly entitled to receive what he would have been entitled to during that interval had he remained in the exclusive discharge of the duties of first sergeant.

To this extent the committee report a bill for his relief.