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City of Augusta, Georgia.

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CITY OF AUGUSTA, GEORGIA.

JULY 7, 1838.

Read, and the resolution concurred in by the House.

Mr. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred the claim of the city of Augusta, Georgia, report :

That this claim was presented at the 2d session of the 24th Congress, and the Committee of Claims reported thereon on the 3d of March, 1837, which is in the 2d vol. Reps. of Committees, No. 319, to which this committee refers. It will be seen by that report, the claim was not rejected because it was of a character not to be allowed ; but the committee moved to be discharged, because it was supposed it might be settled at the Treasury under the act of May 28, 1836 ; or, if it could not be, then it was desired that information be given as to the purchases made with the money advanced by the corporation of Augusta, in order that it might be ascertained whether the articles were such as the United States should allow to other troops.

Captain F. M. Robinson, who commanded one of the companies from Augusta, as mentioned in the former report, and now acts as agent for the said corporation, has filed an affidavit setting forth the circumstances under which the companies from Augusta volunteered, and the occasion for advancing the money mentioned in the accounts.

General Scott commends the gallant and prompt conduct of the Augusta volunteers, and says they were in advance of all the other troops, and saved the depot at Picolata ; saved forts Drane and King, and continued to display high discipline, gallantry, and efficiency under their excellent commander, Captain Robinson, to the end of their service.

Captain Robinson, in his deposition, after relating the circumstances attending the disasters in Florida, and the necessity that troops should march promptly, says, " These circumstances are sufficient to show the importance of the step taken by the city council of Augusta. As the men were destitute of blankets and clothing suitable for a winter campaign, and as it was important that the expedition should depart without delay, the city council advanced, through the commander of each company, thirty dollars to each man, which was actually expended for this specific purpose." One company marched on the 23d of January, 1836 ; and the other company in February. The first information of Dade's massacre reached Augusta on the 18th of January.

As soon as information reached Augusta, Charleston, Savannah, and Mobile, that the Indians were triumphing over the inhabitants and the

troops, they took measures to send forces into Florida to stay the hand of vengeance and barbarity. The theatre being far from the seat of the General Government, extraordinary responsibilities were taken by these corporations, and extraordinary expenses were incurred.

The authorities of Charleston, Savannah, Augusta, and Mobile, with the Executives of South Carolina, Georgia, Alabama, and Florida, having addressed letters to the Secretary of War on the subject of the expenses incurred, extracts from such communications were sent to the House of Representatives at the first session of the twenty-fourth Congress, April 24, 1836, and the document is in the Executive Documents of that session, vol. 6, No. 231. It accompanied House bill No. 590, which afterwards was passed into an act, which was approved May 28, 1836.

The first section of that act is as follows: "That the Secretary of War be, and he is hereby, directed to cause to be paid the expenses that have been incurred, and the supplies that have been furnished, in the States of South Carolina, Georgia, Alabama, Louisiana, and the Territory of Florida, on account of the militia or volunteers received into the service of the United States for the defence of Florida: *Provided*, That the accounts for these claims shall be examined and audited at the Treasury, as in other cases."

A claim for the money thus advanced, as mentioned in the former report, and in the deposition of Captain Robinson, has been presented to the Secretary of War for settlement, and rejected.

The committee learn the grounds on which these claims were rejected, from a report made to the Secretary of War by the Third Auditor, dated May 18, 1838, on a call on the Secretary of War by this committee for information.

The Second Comptroller decided against these claims on the 1st of December, 1836, and gave the following reasons for such decision: "The Secretary of War having decided on the 8th of June, 1836, that the act of May, 1836, authorized payment to be made for all expenses actually incurred, and for all supplies actually furnished, on account of militia or volunteers received into the service of the United States, which were specially enumerated in the abstract submitted on the 26th of March, 1836, by the Secretary of War to the House of Representatives, or which, though not specially mentioned in that abstract, are of the like nature with those mentioned therein; and it appearing that the articles mentioned in the account of said Philbreck & Co. were furnished for the Richmond Blues, a company of volunteers received into the service of the United States, and that said articles were specially enumerated in said abstract, or of the like nature with those therein mentioned, the charge therefor is deemed admissible.

"But the Secretary of War having further decided, on the 8th of November, 1836, that the first section of the act of May 28, 1836, does not extend to the pay and other allowances to be made to the militia or volunteers, which are placed on the same footing with those of militia and volunteers ordered into service by orders from the War Department; if the money advanced by the corporation of the city of Augusta was thus advanced for the purpose of making other allowances to the Richmond volunteers than such as are authorized by law to be made to militia ordered into service, the charges for such advances cannot be admitted. But, if the advances were made to purchase articles enumerated in the abstract

above mentioned, or to make such payments and allowances to the volunteers as they would have been entitled to had they been militia ordered into service, then the charge for cash advanced would have been admissible."

The account of Mr. Philbrick was composed of the following articles : "Scoops, thread, twine, fawcets, tin pans, coffee-pots, frying-pans, pickers, brushes, fish-hooks, needles, fish-lines, saddles, paper, iron pots, lead, savage fawcets, tap-borer, hatchets, buckles, candlesticks, pepper, corn, meal, powder, tarpaulin, smoked beef, hams, canvass, axes and handles, lantern, buckshot, whiskey, brandy, sheep skins, brogans, brass kettles, sweet oil, tin case, boxes, cask and barrel, drayage on stores to steamboat, wharfage, and wood." The value of these articles was \$759 94. This account was allowed and paid by the Secretary of War, under the powers delegated to him by the act of May 28, 1836; but the account for money expended by the corporation of Augusta, for blankets and clothing to enable the volunteers to take the field in the months of January and February, has been rejected. The fish-hooks and lines were paid for, because they were enumerated in the abstract; and blankets and clothing are rejected, because they were not contained in the abstract. If the articles of blankets and clothing were not specifically mentioned, the Mayor of Augusta, in a communication, which the Secretary of War sent to Congress, and was with the other documents when the act of May 28 was under consideration, said : "You will be informed, through the papers, of the military spirit which pervades our community. In addition to the 106 men which left this on Saturday last, the joint committee of the citizens and city council have this day consented to incur the expense of 60 additional volunteers, to leave this on Saturday next. The whole expense incurred by the city council to furnish these troops, including the charter of a steamboat for their transportation, will be near \$7,000. It is expected that the General Government will refund our city this expense." If an abstract of items was not then made out by the city of Augusta, a notice was given that a sum of money had been advanced for the benefit of the service, and that it was expected the General Government would refund it. The committee do not perceive why more reliance has been placed on the abstract, than on the general notice that money had been expended, which, according to the laws and regulations, could not be allowed.

The Secretary of War supposed that it was the intention of Congress to allow the expenditures contained in the abstracts; but the committee infer from the proviso to the first section, that the abstracts were generally considered as inadmissible, because they were articles not used in the military service; and hence, the necessity of the proviso, that the claims be examined and audited at the Treasury, as in other cases. It was known that money and articles had been dealt out to the troops by corporations, which was not authorized by law or by the regulations, but that the articles were such as were used in the military service; and that the money had been expended for similar articles, or that it had been expended for the benefit of the service. The law regulates the component parts of a ration, and the clothing to be furnished; but, on the breaking out of a war, great irregularity necessarily exists—regular officers may not be at hand—the defence of the country may be left to State authorities. It was under these circumstances that the city of Augusta advanced the money men-

tioned. It should show that the money was expended for the benefit of the service ; that prudence was used ; that good faith was observed. But, if regular vouchers are required ; if the articles recognised by law, and those alone, are to be paid for, and of the quantity and quality prescribed in the law and regulations, there was no necessity for passing any special act.

The Secretary of War decided that pay for blankets and clothing could not be allowed ; because the soldiers who received these articles were afterwards paid in full by the United States, and a payment to the city of Augusta would allow more to the volunteers from that city than was paid to other companies. That would be the necessary result ; and those to whom the articles contained in Mr. ———'s account were delivered have received more than the law allows ; and if that is a sufficient reason for not allowing an account for blankets and clothing, it should have excluded fish-hooks, fish-lines, &c.

The decision mentioned was made by Mr. Cass, when he was Secretary of War. Understanding it is a rule with the heads of the Departments not to reverse the decision of a predecessor, the committee have not thought it proper to refer the subject to the present Secretary of War for his decision, under the act of May 28, 1836 ; but they will move again to be discharged from the further consideration of the claim, with the hope that the present Secretary of War will take the opinion of the Attorney General, when the claim shall be presented to him, on the point, whether the claim of the city of Augusta does not come within the purview of the act of May 28, 1836.

The following resolution is submitted :

Resolved, That the Committee of Claims be discharged from the further consideration of the claim of the city of Augusta for money advanced to furnish supplies for volunteers in the winter of 1836, to enable the claimants to present the same for settlement to the Secretary of War, under the act of May 28, 1836 ; and to take the opinion of the Attorney General on the point, whether the claim of Georgia is within the purview of the act of May 28, 1836.