

2-12-1849

## Report : Mr. Bright

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### Recommended Citation

S. Rep. 298, 30th Cong., 2nd Sess. (1849)

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IN SENATE OF THE UNITED STATES.

FEBRUARY 12, 1849.

Submitted, and ordered to be printed.

Mr. BRIGHT made the following

REPORT:

[To accompany bill S. No. 459.]

*The Committee on Territories, to whom was referred the petition of John P. Duval, of Florida, report:*

The claim is for the following amount:

United States, to John P. Duval,	Dr.
To pay as acting governor of Florida, from 28th May to 29th June, 1838.....	\$83 33 $\frac{1}{2}$
To pay from 19th August to 21st December, 4 months, at \$83 33 $\frac{1}{2}$ .....	333 33 $\frac{1}{2}$
To pay from May 8, 1839, to June 10th, say one month	83 33 $\frac{1}{2}$
	<hr/>
	\$500 00
To expenses in travelling to and from the Apalachicola river, steamboat trips on the river and to St. Joseph's, to remove the Indians, between 1st September and 22d October, 1838, four trips, at \$50 each.....	200 00
	<hr/>
	\$700 00

Personally appeared before me, John P. Duval, late secretary and acting governor of the territory of Florida, and made oath that, from the best of his recollection, aided by the records of the office of the secretary of Florida and official letters, that the above account is just and true.

JOS. B. LANCASTER,  
*Judge southern circuit,  
State of Florida.*

January 11, 1849.

It seems the claimant was secretary of Florida territory, and while the governor was absent performed the duties of governor. Some years previously the duty of superintendent of Indian affairs devolved on the governor; but a letter from the War Department to

the committee states that, in 1834, by law, (see "act to provide further organization of the Department of Indian Affairs," passed June 30, 1834, p. 735, ch. clxii. vol. 4, Statutes at Large,) it was taken away from the governor of Florida. Claimant states that the removal of the Apalachicola Indians, in 1838, was chiefly accomplished by his exertions. The papers filed (forty-one in number) show that during the period he was acting governor, in 1838-'9, he performed various duties as such for the territory, and among these duties issued several military orders to militia officers of the territory, and had considerable correspondence with them respecting the detail of volunteers to cooperate with the regulars in the removal of the Indians, if there should be difficulty. The removal of the Indians was entrusted by the government to an Indian agent, a Mr. Boyd, despatched from this city, and the regular troops were ordered to aid him. Mr. Duval alleges he left Tallahassee and visited the Apalachicola towns to aid in effecting the object, and at four different times. He does not state that he was requested or instructed to do so by the War Department, or by any of the army officers employed, or by the agent. The particular dates of his visit are not stated, nor the character of the services he rendered at the towns, or the necessity of his visits shown.

It does appear, however, from the papers filed, that for his cooperation he received the acknowledgments of General Z. Taylor, then commanding in Florida, and the thanks of the War Department in letters addressed to him. It is presumed, therefore, that he rendered some service to the public. Nevertheless, his claim for a monthly allowance of \$83 33 $\frac{1}{3}$  cents per month for six months cannot be acceded to, inasmuch as it does not appear that such time was devoted to said visits, as he had not been requested by the government or any of its officers to make such visits, and that all the other assistance he did render was not extraordinary duty, but in the discharge of the legal functions of an executive office, for which he received a salary fixed by law. If he chose to visit the Apalachicola Indians, and incurred hazard thereby—unless required so to do by proper authority, or unless it is made to appear the exigency for his personal presence was so pressing as to demand him to do so, without waiting for such authority to do it at public expense—he must be content with his regular legal salary, and that reward for meritorious and patriotic conduct which all good citizens have in their self-consciousness of acting right, and in the commendation of their country for so doing. It lays no foundation for a claim for pecuniary reward. The actual necessary expenses he incurred may be regarded somewhat differently. These, in liberality, should be refunded. But the claim filed is *general*; no vouchers are rendered, nor any data as to the character or amount of such expenses given. They are included at \$50 each trip—in all \$200.

The committee have, on the whole, deemed it best to report a bill directing the accounting officers to audit and pay such amount of the claim for expenses (not exceeding \$200) as claimant may prove to be just and reasonable; and in so doing the committee

deem it proper to say, that the delay allowed to arise in presenting this claim (about ten years) would alone have justified its rejection, as no excuse was given therefor, and such delay should, in all cases before Congress and before the accounting officers, occasion the requirement of the strictest proof of the claim itself. Delay alone is an argument against such claims—they should be regarded as stale and not favored.

*List of papers filed January 18, 1849, with the Committee on Territories, for John P. Duval, of Florida, in support of his claim for extra services.*

1. His sworn account for \$700.
2. Letter of General Duval to J. D. Westcott, January 10, 1849.
3. Letter of General Call, 22d May, 1838, to General Duval, advising him of his intended absence.
4. Letter of Governor Call to ditto, of 19th August, 1838.
5. Letter of Governor Call to ditto, of 8th May, 1839.
6. W. L. Marcy, governor of New York, 27th September, 1838, showing by contents that General Duval was then acting governor of Florida.
7. War Department to General Duval, April 30, 1838, respecting troops, in answer to General Duval's letter, of 12th April, 1838.
8. General Z. Taylor to General Duval, 16th September, 1838, respecting Indians, troops, &c., in reply to letter of *General Duval*, of 8th September, 1838.
9. Colonel Green, United States army, to General Duval, September 24, 1838, respecting removal of Apalachicola Indians.
10. Secretary of War to General Duval, October 22, 1838, tendering thanks of War Department for his services.
11. General Duval to Colonel Dupont, September 17, 1838, respecting Indians, dated Chattahoochee.
12. General Duval to Colonel Green, September 19, 1838, dated Blountstown, informing him of Indian talk.
13. Mr. Copeland, executive secretary to General Duval, September 24, 1838, acknowledges receipt of order for troops.
14. Order of General Duval on Colonel Pitman for troops, September 24, 1838.
15. General Duval to T. Baltzell, respecting Indians, October 15, 1838.
16. Order of General Duval on executive of New York, for the surrender of Lewis, a fugitive.
17. General Duval to E. C. Cabell, October 5, 1833, respecting taking militia into service.
18. General Duval to Judge White, October 5, 1838, respecting Indians.
19. General Duval to Mr. Poinsett, October 5, 1838, respecting removal of Indians.

20. Acceptance of resignation of Major De Witt, 7th regiment of militia.

21. General Duval to Governor Nelson, of Georgia, stating he could not accept his volunteers.

22. Mr. Copeland to General Duval, November 24, 1838, directed to St. Josephs.

23. Letter of ditto, November 2, 1838, directed to Apalachicola.

24. J. Hudson to J. Black, dated Iola, November 30, 1838, giving an account of the murder of Clark.

25. General Duval to constitutional convention of Florida, relative to election and census returns, dated December 2, St. Josephs.

26. Proclamation by General Duval, for apprehension of L. A. Miller, for murder, December 7, 1838.

27. Resolution of convention, requesting of General Duval abstract of census returns, December 8, 1838.

28. Proclamation of General Duval of the election of senators and members of the legislative council, December 6, 1838.

29. General Duval to president of convention, transmits abstracts of census returns, December 10, 1838.

30. General Duval to Captain Turner, respecting the continuance of his company in service, May 28, 1838.

31. General Duval to Major L. Taylor, quartermaster, about continuation in service of Captain Turner's company, and provisions for the same, May 28, 1838.

32. General Duval to Captain Withers, asking for seventy-five men, September 4, 1838, dated Tallahassee.

33. General Duval to Colonel Dupont, asking for 150 men to be held in readiness for service, dated September, 1838, Tallahassee.

34. General Duval to Colonel Green, United States army, respecting the tender of troops by Governor Nelson, of Georgia, dated September 4, 1838, Tallahassee.

35. General Duval to J. R. Poinsett, informs him of the shipment of the Indians, dated November 6, 1838, Tallahassee.

36. General Duval to General Z. Taylor, respecting removal of the Indians, September 8, 1838.

37. General Duval to Colonel Pittman, respecting removal of the Indians, September 9, 1838.

38. Colonel Davenport, United States army, to General Duval, relative to the raising of two companies of soldiers, to occupy positions on the Apalachicola, May 16, 1839.

39. J. D. Westcott to committee, January 18, 1849.

40. W. L. Marcy, January 6, 1849, to committee, respecting claim, in answer to letter of committee, enclosing—

41. W. Medill, January 5, 1849, to Secretary of War, respecting claim.