

In the House of Representatives of the United States,

January 18, 1819.

The House being in committee of the whole, on the state of the Union, and having under consideration the resolution subjoined to the report of the committee on Military Affairs of the 12th instant, on the subject of the Seminole war, and the trial and execution of Arbuthnott and Armbrister, in the following words, viz:

Resolved, That the House of Representatives of the United States, disapproves the proceeding in the trial and execution of Alexander Arbuthnott and Robert C. Armbrister.

Mr. Cobb moved to arrange and amend the same, to read as follows:

Resolved, That the committee on Military Affairs, be instructed to prepare and report a bill to this House prohibiting, in time of peace, or in time of war, with any Indian tribe or tribes only, the execution of any captive, taken by the army of the United States, without the approbation of such execution, by the President.

Resolved, That this House disapproves of the seizures of the ports of St. Marks and Pensacola, and the fortress of Barrancas, contrary to orders, and in violation of the constitution.

Resolved, That the same committee be also instructed to prepare and report a bill prohibiting the march of the army of the United States, or any corps thereof, into any foreign territory without the previous authorization of Congress, except it be in the case of fresh pursuit of a defeated enemy of the United States taking refuge within such foreign territory.

Resolved, That the House of Representatives of the United States, disapproves the proceedings in the trial and execution of Alexander Arbuthnott and Robert C. Armbrister.

THE HISTORY OF THE UNITED STATES
OF AMERICA

The history of the United States of America is a story of the growth of a nation from a collection of small, separate colonies to a great, unified country. It is a story of the struggles of the people to establish a government that would protect their rights and promote their welfare. It is a story of the triumphs of the American spirit and the sacrifices of the American people.

The first step in the history of the United States was the discovery of the continent by Christopher Columbus in 1492. This event opened the way for European settlement and the eventual formation of the United States. The early years of the colonies were marked by a struggle for independence from British rule. The American Revolution was a turning point in the history of the United States, as it led to the establishment of a new government based on the principles of liberty and justice for all.

The United States has since grown into a great nation, with a rich and diverse culture. It has made significant contributions to the world in many fields, including science, art, and literature. The American dream of a better life for all has inspired people around the world. The history of the United States is a story of hope and achievement, and it is a story that continues to inspire and motivate people today.

REPORT

Of the Committee on Military Affairs, to whom was referred so much of the President's Message, of 17th November last, as relates to the proceeding of the Court Martial, in the trial of Arbuthnott and Armbrister, and the conduct of the Seminole war.

JANUARY 12, 1819.

Read, and committed to a Committee of the whole House on the State of the Union.

The Committee on Military Affairs, to whom was referred that part of the President's Message of the 17th November, 1818, which relates to the proceedings of the court-martial, in the trial of Arbuthnott and Armbrister, and to the conduct of the war against the Seminole Indians

REPORT:

That after a perusal of the various documents submitted to Congress on the subject of the Seminole war, they find much difficulty in separating the responsibility of the commanding officer, to his government; from the obligations of the United States to Spain: but as the occupation and capture of Pensacola and St. Marks, are subjects of negotiation and correspondence at this time between the two governments; and as the Committee on Foreign relations, will probably find this part of the President's Message, more immediately connected with their branch of the subject, your committee will confine themselves in this report, to the trial and execution of Alexander Arbuthnott and Robert C. Armbrister. On the 26th April, 1818, a general order was issued at head quarters, fort St. Marks, by major general Jackson, signed by colonel Robert Butler, adjutant general, detailing "a special court martial, to meet at 12 o'clock A. M. for the purpose of investigating charges exhibited against A. Arbuthnott, Robert C. Armbrister, and such others, who are similarly situated, as may be brought before it."

Your committee do not deem it necessary to attach to their report, the proceedings of that court, as every member of the House

has been furnishd with several copies, to which reference can be made.

Your committee can find no law of the United States, authorizing a trial before a military court, for offences, such as are alleged against Arbuthnott and Armbrister, (except so much of the second charge, as charges Arbuthnott with "acting as a spy," of which part of the charge the court found him "not guilty,") nor in the opinion of your committee, does any usage authorize, or exigency appear from the documents accompanying the report of the trial, which can justify the assumption and exercise of power by the court martial, and the commanding general on this occasion. It is admitted, as a maxim of the law of nations, that, "where the war is with a savage nation, which observes no rules, and never gives quarter, we may punish them in the persons of any of their people whom we may take, (these belonging to the number of the guilty,) and endeavor, by this rigorous proceeding, to force them to respect the laws of humanity. But wherever severity is not *absolutely* necessary, clemency becomes a duty."

In vain has your committee sought among the documents, on the subject of the Seminole war, for a shadow of *necessity*, for the death of the persons arraigned before the court. The war was at an end, to all intents and purposes!!! The enemy's strong holds had been destroyed; many of them killed or taken prisoners, and the remainder, a feeble band, dispersed and scattered in every direction. The Spanish post of St. Marks, which it was supposed had (and no doubt justly) protected them, was also in our possession, and so entirely was the war considered to be terminated, that the Georgia militia, under general Glasscock, had returned to their homes. Then, where was the *absolute necessity*, which alone could warrant a departure from the exercise of that clemency, of which the United States has heretofore so justly boasted?

Your committee find in the general order of the 29th April, in which general Jackson orders the execution of Arbuthnott and Armbrister, this remarkable reason, intended as a justification of the executions, principally of Armbrister, but appplying to both Arbuthnott, and Armbrister: "It is an established principle of the law of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." It may be asked, by what system of interpretation, the offences charged, could be considered as piracies, which imply, in common acceptation, offences upon the high seas, of which the court could not assume cognizance, and it is equally difficult to understand the propriety of the application of the term "outlaw," to the offenders, a term which applies only to the relations of individuals with *their own* governments? It will not be pretended that La Fayette, who volunteered his services in the cause of America, in the war which established our independence, forfeited his

allegiance, became an outlaw, and subjected himself to an ignominious death, had he fallen into the hands of the English!

Or can it be believed, that one voice would be heard in justification of Spain, if she were to execute such of our countrymen as she may make prisoners, while fighting in the armies of the South American patriots? And if these cases should not be considered of such a nature as to warrant a resort to so severe a measure, while they occurred with a people in a state of revolution, and considered by the parent countries to be in a state of rebellion; much less could these men (Arbuthnott and Armbrister) be considered liable to it, who were acting with a power, acknowledged and treated as sovereign and independents by us.

Your committee beg leave to call your attention particularly to the case of R. C. Armbrister, who, after having been subjected to a trial before a court which had no cognizance or jurisdiction over the offences charged against him, was shot by order of the commanding general, contrary to the forms and usages of the army, and without regard to the finding of that court, which had been instituted as a guide for himself. Your committee must here, in justice to their own feelings, express their extreme regret, that it has become their duty to disapprove the conduct of one who has, on a former occasion, so eminently contributed to the honor and defence of the nation, as has major general Jackson; but the more elevated the station, the more exalted the character of the individual, the more necessary is it, by a reasonable, yet temperate expression of public opinion, through the constitutional organ, to prevent the recurrence of incidents at variance with the principles of our government and laws.

Nor can your committee forbear including in their strictures, the court martial who sat on the trial of Arbuthnott and Armbrister. A court martial is a tribunal erected with limited jurisdiction, having for its guidance the same rules of evidence which govern courts of law; and yet Arbuthnott is refused by the court martial before whom he was on trial for his life, the benefit of the testimony of Armbrister, who had not been put upon his trial at that time, and whose evidence would have been received by any court of law, as legal, if not credible. Many other exceptions might be made to the evidence recorded in these proceedings; particularly to the question put to the witness Hambly, viz. "Do you *believe* the Seminoles would have commenced the business of murder and depredation on the white settlements, had it not been at the instigation of the prisoner, (Arbuthnott) and a promise on his part of British protection?" Answer, "I do not *believe* they would, without they had been assured of British protection." A leading question is expressly forbidden to be used by a court martial, by Macomb, on martial law, and of which the court must have been apprised, as it is a work common in the army, and usually referred to by every court martial when in session; and the question was calculated to elicit an expression of *opinion* and *belief*, from the wit-

ness rather than a statement of facts, upon which alone could the court act. Hearsay evidence, in a case of life and death, your committee will venture to assert, was never before received against the accused in any court of this country; and yet, on the face of the record of the proceedings of the court martial, hearsay testimony is admitted, which had been received from an Indian, who, if present, would not have been allowed to give evidence himself.

After mature deliberation, your committee beg leave to submit the following resolution:

Resolved, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnott, and Robert C. Armbrister.