34TH CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 133.

CAPT. WM. BLACK'S COMPANY, FLORIDA VOLUNTEERS.

JANUARY 24, 1857.—Ordered to be printed.

Mr. B. CLARKE, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred the memorial of Captain William Black's company of Florida volunteers, praying compensation for military services rendered during the Seminole war, respectfully report:

The memorial of Captain Black is as follows:

"*To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:*

"The memorial of Captain Wm. Black, in behalf of himself and men who were duly organized as a company of mounted volunteers, and called into the service of the Territory of Florida by legal authority during the Seminole war, respectfully represents:

"That by order, dated 2d of March, 1838, emanating from Col. John Warren, commander of the second regiment of Florida militia, your memorialist was empowered to raise a company of mounted Florida volunteers for the protection of the Mandarin settlement; that the issuing of said order was at the instance of the citizens of Florida, who, by a memorial, in view of their helpless and unprotected condition, and exposure to a merciless Indian foe, addressed to Colonel Warren, the commanding officer of the militia, invoked the exercise of the power given to him by law in regard to the military defence of the Territory. That pursuant to said appeal from the citizens aforesaid, among whom were to be found men of high position, not only from public confidence, but from private worth, the said Colonel Warren did issue the order as above stated; and in obedience to which your memorialist and his company did take the field and for six months were under arms.

"Your memorialist, looking to the active services rendered by his men, will not attempt, before your honorable body, to combat by argument the *military abstractions* arrayed by men who never heard the crack of an Indian rifle, and who, remote from the swamp and hammock whence the Indian prowls, and to which he returns after the tomahawk and torch have done their work, smiles with incredulity upon the *military services* of the *frontier settler*. Nor need your memorialist talk to the honorable the members of the west of the

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destruction that marks the trail of the wily Indian in a country where log cabins are few and far between. Sufficient for your memorialist is it to know that he obeyed the call of his countrymen, made known through the commanding officer of his district; entered upon the duties assigned him; posted his men; scoured the country; and by their *armed presence* kept off from the settlements the Indian foe.

"As to the necessity of the service, that was not a matter for your memorialist to decide. Being subject to military order, it was his duty to obey, and not his province to question the exigencies which led to the order. That question, therefore, has no bearing on the merits of the claim of your memorialist. All that he has to do, is to show that the service has been rendered; and in proof of which, and of the necessity of the call, he respectfully refers to the testimony submitted.

"So far as military service was performed, the question as to the *quantum* of service, it is respectfully suggested, cannot be raised or graduated by service in the field; as it is evident that the effect of a body of troops concentrated at a post may be as serviceable as when concentrated in the field. Your memorialist, therefore, cannot see the force of an argument which exacts continuous field duties as the only basis of compensation, as it would deprive garrison troops of all pay, and especially a larger portion of the regular troops that served in Florida.

"As to the *opinions formed* by the board of officers of the War Department relative to the services of your memorialist and the men under his command, it may be said that great allowance should be made for a *statement in reference to events years after their occurrence.*

"A calm review of past transactions in times of trouble and peril may enable the reviewer to come to conclusions entirely adverse in every particular to those drawn by the active participants in the scenes reviewed. Men become wise after events; but in the hour of alarm, with the glare of a neighbor's cabin and the whoop of a savage foe breaking upon the senses, the philosophy of man is not so cool, nor is his conduct generally the wisest.

"To measure the *rights* of citizen-soldiery, who from a public sense of duty combine and organize to protect a defenceless settlement, by a system of rules intended to prescribe the action of the *soldier by profession*, where system is everything, and pay the moving principle of patriotism, would be contrary to the dictates of common sense and to the genius of our institutions. This must be obvious to all who reflect upon and appreciate the promptings of patriotism. Burdens imposed by extraordinary exigencies should be borne equally by all, and it is by consolidating the general feeling into one that the energy of a nation is displayed and its greatness developed. Therefore, it would appear to your memorialist to be extremely unjust to fetter his rights by *such rules*—rules superinduced by the watchful jealousy of civil polity, to guard against the ambitious encroachments of those *whose profession is arms.*

"The troubles of 1838 are too fresh in the memory of the inhabitants of Florida. The precipitate flight of seven hundred Indians from Fort Brook, in May, 1837, in violation of the capitulation at Camp Dade the preceding March, spread alarm throughout the settlements

of Florida, and caused the greatest terror. Nor was this state of apprehension mitigated by the reflection that all the troops had been disbanded under the impression of restored peace, in consequence of the said capitulation. Your memorialist, however, does not deem it necessary to further amplify on this subject, with a view to show the necessity for the services of the companies called out by Col. Warren. The inhabitants of the counties of Duval, Alachua, and Columbia realized the dangers; the militia were ordered out, took the field, and, by their *armed presence*, rendered the country secure.

"In conclusion, your memorialist would briefly advert to the character of the war. It was a conflict with Indians whose mode of warfare is entirely different from that practised by civilized nations. It is seldom that they are to be met in open field; the conflict is by surprise, and brief; they have no locality; they are everywhere, and seldom to be found. Their country is almost inaccessible. To hunt them up requires supplies and transportation, both of which are frequently not to be had; consequently you must adapt the warfare to the peculiarities of the foe. From the topography of the country it was deemed best to concentrate troops by having a cordon of posts, so as to form a line of defence across the peninsula, and by scouting confine them to a particular region of country. This was the only practicable mode within the means of the settlers, and was adopted by them.

"This mode of protecting the settlements manifestly involved arduous duties, as from the distance travelled when scouting, without the means of transportation, and from the exhausted condition of their horses, the men would be compelled to return to the post.

"Thus the several parties would alternate, and when not scouting would be on guard for the protection of the settlement. Your memorialist avers, that from the services thus rendered over a widely extended country, the settlers were enabled in safety to cultivate their farms; and it is for such services faithfully rendered that compensation is claimed. It is sought of your honorable body from a conviction of right. It is asked for as a matter of justice in the spirit and language of freemen. The period of service for which pay is claimed commences on the 10th of March, and terminates on the 10th of September, 1838.

"And your memorialist will ever pray, &c.

"WILLIAM BLACK,
By GEORGE MACKAY,
Attorney in fact."

Resting the case upon the merits of the *ex parte* statement of the memorialist, the committee see nothing in it which, admitting it all to be true, shows that Captain Black's company was employed by any competent authority, or that there is anything in the case made out by him which gives him a claim against the general government for the services of himself and his company. Nor is there anything in the abundant evidence which he has laid before Congress to justify said claim. All the proof goes to show that the memorialist was a brave and gallant man; that his command was composed of the

most heroic and valorous material. But the committee beg leave to suggest that no matter how brave, gallant, heroic, or valorous a company of volunteer soldiers may be, or what services they may have performed under the pretext of protecting their own property and firesides or those of their neighbors from destruction, and themselves and their families from murder, such services irregularly performed (at a time when there was an ample United States force in Florida, when there was a regular way of enlisting the services of militia) under the mere order of a militia colonel, gives the company no foundation for a claim against the United States. The memorialist bases the claim of himself and command for pay from the general government, upon the mere fact that Colonel Warren, a militia colonel of the Territory of Florida, authorized him to enlist the services of a company, and take the field for the protection of the Mandarin settlement. Is a militia colonel the proper source from whence an order should emanate to justify the general government in paying such a claim as that set up by the memorialist? If so, then every militia colonel in the United States, upon the mere pretext of an exigency, can call volunteers in the field, and thereby give them a good and substantial claim against the United States for pay for their services. To what an unlimited field of expenditure will the correctness of such a principle, if admitted, lead the government. The vast extent of our treasury resources would fast be contracted under the practical results of such a principle.

It appears that at one time this Colonel Warren, who, it is alleged, ordered Captain Black's company into service, was in the United States service, but had been discharged previous to the time that it is alleged he called the memorialist and his command into the field. If Colonel Warren had authority as a colonel of militia to call a company of militia into service, Captain Black's company was a company of volunteers not subject to his orders. It appears, however, from the evidence, that Colonel Warren himself considered the militia of Florida as broken up and disregarded after the commencement of the war. The conclusion then is inevitable, that if Colonel Warren did call this company into service, he did so without the shadow of official station, leaving out all question as to authority to give him the least claim to be regarded in the matter. He was not in the service of the United States, having been discharged previous to the alleged call by him of this company into the service. If he had been in service, he would have had no authority to make the call, Colonel Twiggs being in command of the sub-district embracing the location of the alleged services of this company. If he made the call as a colonel of militia, he considered the militia as *functus officio*, and therefore, according to his own showing, could vest no authority to make the call upon such a basis. If the militia was in existence, he had no authority to make the call. Thus it will be seen that nowhere can there be found a shadow of pretext for the call of this company into the service, nor the least particle of reason which would justify your committee in reporting a bill for the relief of the memorialist and his command.

The committee are unwilling to establish a precedent which would

open the doors of the treasury to every company of men who might, under a mistaken apprehension of danger, take up arms, and, failing to have their services enlisted regularly, consider themselves as doing military duty and as entitled to pay from the United States. The committee, therefore, ask to be discharged from the further consideration of the memorial.