

GEORGIA MILITIA CLAIMS—SERVICES AGAINST THE IN-
DIANS IN 1836.

[To accompany Senate bill No. 17.]

MAY 16, 1842.

Mr. COGGIN, from the Committee on Military Affairs, made the following

REPORT:

The Committee on Military Affairs, to which was referred Senate bill No. 17, to provide for the payment of the claim of the State of Georgia, for money advanced by that State on account of expenses incurred by calling out militia, in cases of emergency, to aid in the repression of Indian hostilities in Florida and Alabama, and to protect the citizens of Georgia from sudden incursions and ravages of the Creek and Seminole Indians, report:

That they have examined the bill, with such papers as they have been enabled to collect together, and find there is such a want of certainty in regard to the items which make up the large amount appropriated by it, (to wit: two hundred and eight thousand six hundred and eighteen dollars,) that they cannot recommend the passage of said bill in its present shape.

There is no time specified in the act *when* the services were rendered for which this claim is now preferred against the Government of the United States. This is, therefore, another objection to the bill sent from the Senate, particularly as the claims are so very complicated. Acts have been passed, from time to time, for the settlement of claims of the State of Georgia for services of her troops, or for the payment of particular companies of her militia, called out to suppress Indian hostilities. Some of these acts were passed, too, and others have been reported, since the services were rendered supposed to be embraced by the present bill. In making an appropriation of the magnitude of the one proposed by the Senate's bill, as well as in all other acts of a similar character, the committee think it proper that as little latitude as possible should be allowed for implication, or mere construction of the meaning and the intention of the particular law; and they therefore will, as briefly as possible, recapitulate what seem to them some of the most prominent facts in this case. The committee, however, deem it proper to say that there is such a want of satisfactory proof in regard to many of the circumstances connected with the various military expeditions referred to by the papers, that they may have been mistaken in the views they have thought proper to present, while the claim may be well founded, even to the extent of the amount named in the bill.

It appears to the committee that Governor Gilmer, on the 16th June,

1838, transmitted to the War Department the accounts of the State of Georgia against the United States, for payments made to the volunteers and militia employed in the *Creek, Seminole, and Cherokee* campaigns, during the years 1836 and 1837; which were by him considered properly chargeable to the United States.

That thirty thousand one hundred and eighty-six dollars and ninety-one cents of these accounts have been paid by Governor Schley, out of the sum of thirty-five thousand dollars received by him *as the agent of the United States*. This, however, is altogether unexplained by any thing that appears in the bill or the general account. It is, however, deemed to have been a payment of so much, *by the United States*, for the services of the Georgia troops, in the years 1836 and 1837, called out in the campaigns aforesaid. The committee discover, also, that \$4,813 04 of the sum so received on the 16th of June, 1838, remained on deposit in the Central Bank of Georgia; from which it would appear that there was a larger amount at the disposal of the State of Georgia than the services then rendered actually required.

It seems that the line of the State of Georgia bordering on the State of Alabama and Florida, during the year 1836, was subject to continual inroads of the *Creek* Indians; and its defence rested on the militia of the country, who were often without any systematic organization; that supplies were obtained very irregularly; that the country was sparsely settled, and, of course, provisions at a high rate; but whether this state of things existed to the same extent in the *Seminole* and *Cherokee* campaigns does not appear from the letter of Governor Gilmer referred to.

The Legislature of the State of Georgia, as appears from a copy of the bill filed in the papers, passed an act on the 26th December, 1836, providing for the payment of volunteers during the then late *Creek* and *Seminole* campaigns; and the Senators were instructed, and the members of Congress from said State were requested, to obtain the passage of a special act for the payment of the accounts growing out of the said campaigns, that were not chargeable under the existing laws of the United States. It does not appear, however, that any action was had of a final character at all, in reference to the subject, in pursuance of said request and instructions.

Mr. Poinsett, on the 31st of January, 1839, called the attention of the Committee on Military Affairs to the subject of the *Georgia claims*, and asked that an appropriation might be made to pay them. He spoke of them as originating from the irruptions of Indians in June, 1838, supposed to be fugitive Seminoles or Creeks from Florida, who took refuge in the Okefenokee swamp, in the counties of Ware and Camden, in said State, and against whom the militia were called out, but *not regularly mustered, without the authority of the President, and without being received into the service by a general officer of the army*. The case, therefore, not coming within the provisions of existing laws, it was necessary, it was thought, to pass a special act to embrace the same. Mr. Poinsett, it seems, had promised the Governor of Georgia to send in an estimate of the amount necessary to cover the claim; but, in submitting the general estimates to the Committee of Ways and Means, it was *omitted* to be attended to.

In calling the attention of the Committee on Military Affairs to the subject at that time, he estimated the amount necessary (from the "vague information he had") to be appropriated, for the defence of the inhabitants in the neighborhood of the Okefenokee swamp, at \$85,223; but it does not

seem that the committee reported any bill, or item of any bill, for the payment of the claims aforesaid; from which it may be fairly inferred that the said committee did not believe the claim to be such as to authorize an appropriation, as asked for.

Again, on the 10th February, 1841, Mr. Poinsett addressed a letter to the chairman of the Committee of *Ways and Means*, calling his attention to a letter from the Governor of Georgia of the 27th January, 1841, relative to the claims of that State upon the General Government for the expenses of several expeditions against the Creek and Seminole Indians, complaining of the long delay of payment, amounting to the sum of \$208,618 30. This sum Mr. Poinsett suggested as proper to be appropriated; but it does not seem that the committee adopted his suggestions; and accordingly no appropriation was advised or reported, and none was passed by Congress.

These repeated refusals to report favorably on these claims has caused the present committee to hesitate as to the propriety of adopting the bill of the Senate, without examination, unaccompanied as it is by any explanatory statement, though it appropriates a specific sum; a portion of which, too, is claimed to have been due some six years past.

The committee find, also, that a bill was reported on the 10th of July, 1840, from the Committee of Claims, by the Hon. William C. Dawson, one of the Representatives from the State of Georgia, which was read twice and committed to a Committee of the Whole House, "to provide for the settlement of the claim of the State of Georgia for the services of her militia, in the years eighteen hundred and *thirty-five* and eighteen hundred and *thirty-six*," during the Seminole, Cherokee, and Creek campaigns. The bill did not appropriate any particular sum, however, for these objects, but left the claims to be adjusted by the accounting officers of the Treasury, with a proviso, "that the number of volunteers and militia were not in undue proportion to the then existing exigency." This bill was never acted on finally, however; but an amendment was made in the House (it would seem hastily) to a bill from the Senate, at the last session of the 26th Congress, for paying certain claims of the State of Maine, which amendment is in the very language of the bill now under consideration, and from which it was no doubt copied. That amendment appropriated, as does the bill, \$208,618 for the purposes mentioned; but the original bill to which it was attached, though it passed both Houses of Congress, did not become a law—failing from some cause, on the last night of the session, to receive the signature of the President, probably for want of time.

The committee believe that in the bill reported by the Committee of Claims, to which they have alluded, the first mention is made of services rendered in 1835, while nothing is said about any services performed in the years 1837 and 1838, to which it is very evident other papers mentioned by your committee have direct reference, as do the letters of Governor Gilmer of the 16th of June, 1838, to Mr. Poinsett, and that of Mr. Poinsett to the Hon. J. J. McKay, chairman of the Committee on Military Affairs, of January 31, 1839, besides others.

It will be observed, that though the bill reported by the Committee of Claims was specific as to dates, omitting to name any specific sum, the amendment proposed to it, and the present bill also, while fixing a sum certain, are entirely uncertain as to the time when the services were rendered for which payment is asked. This bill seems, in fact, intended to

cover any and all claims of the State of Georgia for money paid by that State on account of expenses incurred by calling out militia, in cases of emergency, to aid in the repression of Indian hostilities in *Florida and Alabama*, and to protect the citizens of Georgia from sudden incursions and ravages of the *Creek and Seminole* Indians. The *Cherokee* service seems to have been omitted; while, for the first time, hostilities in *Florida and Alabama* are embraced by the terms of the bill. While the attention of the committee is directed to a specific claim, the task of an investigation is not so laborious; but when the times are so often varied, when the scene of hostilities is so frequently changed, as is the case here, (doubtless, however, without any improper design,) it is attended with difficulties which the committee cannot explain, even to their own satisfaction.

Document No. 202, 26th Cong., 1st sess., Ho. of Reps., shows that, by a resolution of the 9th of March, 1840, the Secretary of War was required to lay before the House the claims of Georgia on account of the *Seminole, Cherokee, and Creek* campaigns, in 1835 and 1836, with his views, &c.

It appears, from the same document, that *these claims were presented in July, 1838*, though no claim of 1837 or 1838 was then brought forward. They were referred to the Second and Third Auditors, for investigation, who reported in part upon them, deciding, however, that, under existing laws, they could not be paid, *because the troops were not received into the service of the United States*; and that this objection, as was stated, applied to the *whole* of the claim. In the abstracts made of the expenditures, &c., the services are invariably stated to have been rendered in 1836 and 1837.

According to the accounts current and schedules presented by the State of Georgia, her claims are as follows, or were on the 4th of February, 1839:

Amount paid for services and subsistence of troops in the late Seminole and <i>Creek</i> campaigns	-	-	-	\$66,328 97
Amount paid for property lost	-	-	-	15,061 09
Amount, per schedule D, referred to by Third Auditor	-	-	-	64,959 79
Amount of schedule E, by same	-	-	-	30,186 96
Making in the whole	-	-	-	<u>176,536 81</u>

From this amount, however, must be deducted \$35,000 advanced, as appears, (and as before alluded to,) by the United States to Governor Schley; which will leave a balance, on one view of the case, only of \$141,536 81, instead of the amount (\$208,618) claimed to be due by the bill.

A letter of Governor McDonald to Mr. Poinsett, dated the 27th of January, 1841, estimates the claim of Georgia at \$208,618 30—the amount of the bill, except 30 cents—which is made up, according to his statement, of the first three items in the foregoing statement of the Auditor, forwarded, as the Governor says, by his predecessor, to the Secretary of War in 1838, paid by the State anterior to that time, amounting to

-	\$146,394 75
The further sum paid in 1839, audited by Colonel King	- 49,480 16
Audited by Rockwell and Hansell, &c.	- 1,890 24
Paid to Captains Simmons and Knight, under the act of 1840	9,920 88
Paid to individuals, under special appropriations	- 932 27

Making, altogether	-	-	-	<u>208,618 30</u>
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This last balance is, of course, subject to be reduced, by deducting the amount received by Governor Schley, before mentioned; so that there would remain due, even upon the most favorable statement of the Governor of Georgia, but \$173,618 30.

The committee, however, are not satisfied that this entire sum is due, by any means. The three large items in the general account stated are, *in part*, made up of such articles as are not authorized by law for militia or volunteers; and, in many instances, there are no receipts from the proper officers, showing the delivery of the articles by the *sellers* of them, and no returns showing the *ultimate disposition* of them. In some cases, also, there is no evidence that the State of Georgia ever paid the individual claims that are presented against the United States; in others, there are no receipts at all; and, in some cases of charges for services, no *rate* of charges seems to be specified. In some instances, particular persons are specially authorized to receive the amounts claimed, when they are paid to others. In others, more is paid to militia officers than is allowed to officers of the army of the same grade. In some, charges are made for pay *as officers*, where there is no proof that they acted as such. No returns, in many cases, are made of guns, though the Government is charged with them; in others, evidence is wanting, from the officer in command, that the individual served during the time charged. There are claims, also, for pay for *cavalry* service, in which the men are entitled, by law, to 40 cents a day for the use and risk of a horse, when the same shall be furnished by himself; and in some of these there is no evidence that the officers and men were mounted at all. The act of Congress of 19th March, 1836, entitled "An act to provide for the payment of volunteers and militia corps in the service of the United States," states that "the officers, non-commissioned officers, musicians, artificers, and privates, of volunteer and militia corps, who have been in the service of the United States at any time since the 1st of November, in the year of our Lord one thousand eight hundred and thirty-five, or may hereafter be in the service of the United States, shall be entitled to and receive the same monthly pay and rations, clothing, or money in lieu thereof, and forage, and be furnished with the same camp equipage, including knapsacks, as are or may be provided by law for the officers, musicians, artificers, and privates, of the *infantry* of the army of the United States." "That the officers of all mounted companies who have been in or may be hereafter in the service of the United States, each shall be entitled to receive forage, or money in lieu thereof, for two horses, when they actually keep *private servants*, and for one horse when without private servants; and that forty cents per day be allowed for the use and risk of each horse, except horses killed in battle, or dying of wounds received in battle." "That each non-commissioned officer, musician, private, and artificer, of all mounted companies, shall be entitled to receive forage in kind for one horse, with forty cents per day for the use and risk thereof, except horses killed in battle, or dying of wounds received in battle, and twenty-five cents per day in lieu of forage and subsistence, when the same shall be *furnished by himself*, or twelve and a half cents per day for either, as the case may be."

The committee are aware that the rigor of existing rules and general laws would, in many cases, operate with great injustice, as would that now under consideration, when the companies have been raised, and have gone into service on the emergency of the moment, when both

officers and men are entirely unacquainted with the army regulations or the laws which are to govern them. Strictness must necessarily be, in some degree, relaxed, under such circumstances; but still all should not be yielded, or otherwise the whole of the existing laws had better be repealed, leaving Congress to legislate for each case as it may arise. A total disregard of the laws which are to regulate the calling out of the militia, if not now openly acted upon, ultimately will be the result. A belief will be engendered throughout the States, that, however flagrant the neglect, Congress has power to apply a remedy. Hence, the sessions will be prolonged; the business of legislation will be increased; a swarm of office holders must be kept in pay, to audit and settle the accounts of officers and their men. The duties of valuable clerks and others will be neglected, necessarily, and the expense of the Legislative and Executive departments of the National Government greatly augmented, while that of the States will be constantly presented in the attitude of asking justice to itself and to its citizen soldiers.

These evils demand a reform; and, to show the extent to which they prevail, it is only necessary to appeal to the numerous cases of this character that have been presented to Congress within the last few years. It has often happened that many more troops went into the service than the emergency required; instances of which are given in the report of Y. P. King, Esq., who was appointed to audit certain claims for militia services, by the Governor of Georgia; and some of which he very properly rejected, "on the ground that there was no necessity for troops in the field" in particular portions of the country. He says, also, in another part of his report, "a number of troops entered the service of the State; in fact, many more than were necessary to its protection;" also, that "the rejected claims were not presented in such a shape, nor were the services performed under such a sudden emergency, as, in [his] opinion, to fall within the letter or spirit of the law."

As the committee have already remarked, there seems to be great uncertainty as to the time when a portion of the services were rendered; the years 1835, 1836, 1837, and 1838, all appearing to be embraced by some of the papers connected with the case, while, from others, only a portion of these periods seems to be included. If it is intended to claim for services rendered in the year 1835, or the early part of the year 1836, it is important to ascertain how much money, if any, on account of these services, was paid by the United States, under the act of the 28th of May, 1836, entitled "An act to provide for the payment of expenses incurred and supplies furnished on account of the militia or volunteers received into the service for the defence of *Florida*," which in express terms refers to the militia of the State of Georgia. And it will be observed, too, that the Senate's bill, now under consideration, proposes to appropriate, in part, money for expenses incurred by Georgia in calling out her militia to aid in the repression of Indian hostilities in *Florida*. So it appears the act of 1836 and the present Senate bill both refer in part to the same service. To what extent payments were made under this act of 1836, the committee have no means of ascertaining.

It is proper to remark, perhaps, that though Mr. Poinsett recommended that the whole of the claim, as stated in Governor McDonald's letter, amounting to \$208,618 30, should be appropriated for, yet it appears that in the Department of War, from which his recommendation emanated, *there is no evidence at all* respecting three items of it, forming together the

sum of \$12,743 39. It is not, of course, proper for the committee to advise their payment, but, on the contrary, if there is *no evidence* to sustain them, they should be rejected; and it seems there is none. If this last sum be deducted from the balance and the first statement above, there will remain but \$128,793 42; and if deducted from the second balance, (based on the statement of Governor McDonald,) there will remain \$160,864 91 due (if due at all) from the United States to the State of Georgia; instead of \$208,618, as claimed by the bill.

It is impossible for the committee to audit such an account as this; and its object in presenting it in the manner it has done is with a view only of eliciting inquiry both in the House and among the accounting officers of the Treasury, in order, if possible, to arrive at the facts of the case, and to ascertain how much is justly due to a patriotic State, whose authorities and citizens have at all times manifested a most praiseworthy disposition to repel the aggressions of those bands of marauding Indians, who have hitherto been within the limits of the State, or have hovered upon her borders. And while the committee cannot, in the discharge of their duty, recommend the passage of the Senate's bill in its present shape, they do not doubt that a portion of the sum mentioned therein is due to the State. They therefore propose to amend the same, reducing the amount, altering the title, and referring the subject to the proper accounting officers of the Treasury for final settlement, on the principles adopted in regard to similar claims; and they therefore report an amended bill for that purpose

EXECUTIVE DEPARTMENT,

Milledgeville, June 16, 1838.

SIR: I transmit to the War Department, for adjustment, the accounts of the State of Georgia against the United States, for payments made to the volunteers and militia of the State employed in the Greek, Seminole, and Cherokee campaigns, during the years 1836 and 1837, for services, losses, expenditures, forage, subsistence, arms, and ordnance stores, under a resolution of the Legislature and several laws, copies of which accompany the accounts, and to which I must refer the War Department for an explanation of the various items of expenditures made by the State, and which are considered properly chargeable to the United States.

Thirty thousand one hundred and eighty-six dollars and ninety-one cents of these accounts have been paid by Governor Schley, out of the sum of thirty-five thousand dollars received by him as the agent of the United States. The sum of four thousand eight hundred and thirteen dollars and four cents remain on deposit in the Central Bank of Georgia. Many allowances should be made by the War Department in the adjustment of these accounts, for the want of form, and the irregularity of the service in which the accounts originated.

The whole line of the State bordering upon the State of Alabama and the Territory of Florida was subject to the continual inroads of the Creek Indians during the year 1836. Its defence rested almost entirely upon the militia of the country, very badly organized, and often without any organization at all. Supplies were obtained without the aid of regular commissary officers, and from a new country, very scarce of provisions and of course at a high rate.

From these circumstances, under the most enlarged rules which the Department can adopt in passing upon these accounts, many items will without doubt be rejected. It is the direction of the Legislature that application shall be made to Congress for the passage of a special law authorizing the payment of such of these accounts as may be thus rejected by the Department. I must request that they be passed upon as soon as possible, that this course may be pursued. Will you give me immediate information when the accounts are passed upon?

Very respectfully, &c.

GEORGE R. GILMER.

Hon. JOEL R. POINSETT.

WAR DEPARTMENT, *January 15, 1839.*

SIR: I have the honor to acknowledge the receipt of your excellency's communication of the 3d instant.

You remind the Department of the transmission by you, in June last, of the claims of the State of Georgia for disbursements to militia engaged in the campaigns against the Seminole, Creek, and Cherokee Indians, in 1836 and 1837, and inquire what action has been had upon them by the accounting officers. These claims were promptly referred to those officers, who set about the investigation of them as soon as other important matters would permit; but in consequence of the nature of the subject, and of the immense press of other business, but a very limited force could be assigned to this duty; and because of these circumstances, and of the sickness of one of the gentlemen having charge of the matter, the investigations have gone on much more slowly than was desirable. They are not yet completed, but are still pursued with all the rapidity possible. I fear, however, that they will not be got through with so that you can be advised of the result in season for the allowances and disallowances to serve as a guide in the settlement of the claims of the troops called out during the last summer to repel the Indians which took refuge in the Okefenokee swamp. But I hope that the accounting officers will be able to inform you of the amounts that cannot be allowed under existing laws in time for the Georgia delegation in Congress to make an effort to procure the action of that body upon them.

You likewise refer particularly to the claims of these last-mentioned troops, and to the correspondence between yourself and the Department respecting their payment; and you remark that "you do not perceive that any appropriation has been asked of Congress for this purpose."

In the letter to you from the Acting Secretary of War, on this subject, of the 24th of August last, your excellency was informed that the Department had under its control no funds applicable to the purpose, that the claims could be provided for only by a special act of Congress, and *that the Department would do all in its power to obtain the favorable action of that body upon them*; and it was suggested that you would cause to be transmitted accurate returns, certified by the proper officers, of the number of the militia that were in service and the time they served. These returns, you were informed, were necessary to serve as data on which to base estimates, (always required in such cases) of the amount which it would be necessary to ask Congress to appropriate. On the 12th of October,

I had the honor to transmit to your excellency, in compliance with a request which you made, blank muster rolls, to aid the proper officers in preparing these returns, with which were sent a report of the Paymaster General upon the subject, together with a printed memorandum showing the prescribed organization of a company, regiment, &c. These returns have never reached the Department; and it is because of this that no application has been made to Congress for an appropriation for the claims in question, the Department having no other information to enable it to make such an application.

The Department is, however, about to submit an estimate to Congress, and to ask an appropriation for carrying on the operation against the hostile Indians during the year; and, in order that full justice may be done to Georgia, an effort will be made to obtain a sum more than sufficient for this purpose, and to have the act so framed as to admit of the reimbursement to that State of so much of the amount, to be paid to those troops by the commissioner you are about to appoint, as the principles upon which such payments have heretofore been made will admit of.

I have also had the honor to receive your excellency's letter of the 7th instant, asking, for the information and guidance of the above commissioner, the rates of pay and allowances to certain grades and descriptions of officers of the army. Prompt measures have been taken to collect and arrange this information in proper form; and, as soon as this shall have been done, it will be immediately transmitted to you.

Very respectfully, your most obedient servant,

J. R. POINSETT.

His Excellency GEORGE R. GILMER,
Governor of Georgia, Milledgeville, Ga.

WAR DEPARTMENT, *January 31, 1839.*

SIR: I transmit, for the information of your excellency, a copy of a communication this day addressed to the Committee on Military Affairs of the House of Representatives, on the subject of an appropriation for the purpose of reimbursing the State of Georgia for payments to the militia called out, in the first instance, for the defence of the country in the vicinity of the Okefenokee swamp.

Very respectfully, your obedient servant,

J. R. POINSETT.

His Excellency GEORGE R. GILMER,
Governor of Georgia, Milledgeville, Ga.

WAR DEPARTMENT, *January 31, 1839.*

SIR: In the month of June last, a number of Indians, supposed to be fugitive Seminoles or Creeks from Florida, took refuge in the Okefenokee swamp, in the counties of Ware and Camden, in the State of Georgia. In their course there they committed several alarming outrages on the property

of citizens of that State, and soon after reaching the swamp they several times sallied out and repeated these outrages, and in some instances aggravated them by the most inhuman murders. Great excitement and alarm, on the part of the citizens of that quarter, was of course the consequence. The urgency of the case in the first instance did not admit of the delay that would have taken place in obtaining a militia force for their protection, by application to this Department; and a number of patriotic militia promptly repaired to the scene of action, for the defence of their fellow-citizens, without waiting for orders from the Department. This force was in service for some time, was discharged; and, after it, application was made by the Governor of Georgia to have them paid; but with this application the Department was unable to comply, as the restrictions in the acts placing funds under its control, for the prevention and suppression of Indian hostilities, admitted of the payment of such militia only as had been *called out by the authority of the President of the United States*, or received into service by a general officer of the army. The Governor was told, however, that the Department would do all in its power to obtain an appropriation of Congress, if he would cause it to be furnished with returns showing the number of the force, and the time they were in service, so that an estimate could be made of the amount that would be required. These returns have not been received; and I understand from the Governor that they cannot probably be furnished in season for the action of the present Congress. The Governor has also informed the Department that the authorities of Georgia, unwilling that any further delay should take place in the payment of these just claims, have taken measures for their satisfaction, with the expectation that the State will be indemnified by the United States; and considering these claims similar in character and equal in justice to those of the State of New York, provided for by the act of the 7th July last, and that Georgia would be entitled to as prompt indemnity as was granted to that State, the Department informed the Governor, that when the estimates should be submitted to Congress of the amounts necessary for the prevention and suppression of Indian hostilities for the present year, it would endeavor to form some estimate of the sum that would probably be necessary to refund to the State of Georgia the sum which might be paid by it to the militia in question, so far as this would be warranted by existing laws and principles of settlement. *In submitting the estimate for the prevention and suppression of Indian hostilities, which was done in my letter to the Committee of Ways and Means of the 22d instant, this promise to the Governor was omitted to be attended to, and the object in now addressing the committee is to comply with it.*

As already stated, no returns of the troops have been received; and the only data on which to base an estimate of the amount due for their services is the letters addressed to the Department by the Governor of Georgia, from time to time, respecting the necessary measures for the protection of the inhabitants in the vicinity of the Okefenokee swamp. In none of these are the number of troops and the period they served stated; but, from the vague information which they contain on these two points, it is estimated that a sum will be required sufficient to compensate five companies of mounted militia for three months' service, including pay, subsistence, and all other allowances authorized by existing laws. This sum is \$85,223; and I would respectfully suggest that it be added to the amount which has been asked for the prevention and suppression of Indian hostilities; and that in the act

which may be passed, making appropriations for that object, provisions be inserted authorizing the settlement of the claims of Georgia for payments made to the troops referred to, similar to those contained in the act of the 7th of July last, providing for the settlement of similar claims of the State of New York.

It is quite probable that the above sum will be more than sufficient; if so, the excess will of course not be used, but will remain in the Treasury.

Very respectfully, your obedient servant,

J. R. POINSETT.

Hon. J. J. McKAY,

Chair'n Committee on Military Affairs, H. R.

WAR DEPARTMENT, *February 6, 1839.*

SIR: I have had the honor to receive your excellency's letter of the 24th ultimo, relative to the payment of the claim of the State of Georgia for the services of the militia. In reply, I beg leave to forward, herewith, copies of the report of the Second Auditor of the 2d instant, and of the papers therein referred to, together with a copy of the report of the Third Auditor, dated the 4th instant; the originals of all which have been placed in the hands of the honorable Mr. Haynes, of the Georgia delegation, for the action of Congress.

Very respectfully, your most obedient servant,

J. R. POINSETT.

His Excellency G. R. GILMER,

Governor of Georgia, Milledgeville, Ga.

EXECUTIVE DEPARTMENT,

Milledgeville, May 22, 1839.

SIR: The Legislature of this State, at its last session, authorized the appointment of an agent to audit and pay off the accounts for the pay and expenses of the militia called into service during the year 1838, by the proper authorities of the State, to repel the invasion of the Indians from Florida, and made an appropriation of fifty thousand dollars to enable this agent to discharge his duty.

Colonel Yelverton P. King, the agent appointed, has audited and paid off all the accounts, for the pay and the expenses of the militia of the State, who operated against the Indians in the Okefenokee swamp, except two companies in the county of Lowndes, and the account of the quartermaster who supplied the militia of that county. The appropriation proved deficient near ten thousand dollars.

I send you, for your information upon this subject, a copy of Col. King's report and general account. I am desirous of knowing whether you are authorized to repay the State the money which has been thus expended by it, and to pay off the accounts of the militia of the State, which its agent could not pay, for the deficiency of funds appropriated for that purpose. If you have this authority, you are requested to state in what manner Col.

King's accounts will be settled, and the State repaid the money advanced, and how you will pay what is yet due the militia of the State. Colonel King will proceed to Washington city with the accounts, if you desire it.

Very respectfully, yours,

GEORGE R. GILMER.

Hon. JOEL R. POINSETT.

WAR DEPARTMENT, June 1, 1839.

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 21st instant, enclosing a copy of the report of the agent, appointed under an act passed at the last session of the Legislature of Georgia, for paying the volunteers and militia who took the field on the irruption of the Indians from Florida into Georgia, in the early part of the last year.

You inquire whether the Department is authorized to repay to the State the money which has been expended by it for the above purpose; and also the balance still due a portion of those troops, in consequence of the insufficiency of the appropriation made by the Legislature.

In reply, I regret to inform you that the Department possesses no greater authority on this subject than it did when the question was presented in your letter of the 17th of July last; in reply to which you were told that, on a careful examination, it was clearly ascertained that there were no funds legally applicable to the payment of the claims of the volunteers, and that they could only be provided for by special act of Congress. Your excellency was further informed, that the Department would do all in its power to obtain the favorable action of that body in the case; and, by the enclosed copy of a letter to the chairman of the Committee on Military Affairs, you will perceive that the subject was fully explained to that committee, and that its interposition was asked, for the purpose of obtaining an appropriation and the requisite authority for refunding the State of Georgia the sum which it might cause to be paid in satisfaction of the claims of the volunteers. Neither the addition of the amount estimated for this object was made, as requested, to that asked for the prevention and suppression of Indian hostilities, nor the provisions of the act making the appropriation for that purpose so varied from those of former acts as to confer upon the Department the power to make indemnification to the State. On the contrary, the provisions and restrictions of that act are precisely the same as those of former acts, which prevented the favorable action of the Department upon the subject, when brought before it by you in July last.

Very respectfully, your obedient servant,

J. R. POINSETT.

His Excellency GEORGE R. GILMER,
Governor of Georgia, Milledgeville, Ga.

EXECUTIVE DEPARTMENT, GA.,

Milledgeville, June 5, 1840.

GENTLEMEN: On the 21st of March last, I had the honor to address you on the subject of the claims of Georgia upon the General Government, for the expenses of several military expeditions against the Indians. In

that communication I had the honor to refer you to the War Department for the accounts which would sustain the greater part of the claim; other original accounts were enclosed to our Senators.

The great interest which the State has in this matter will be a sufficient apology for calling your attention again to it. I hope that the present session of Congress will not be permitted to close without the enactment of a law for the payment of these accounts. *Not having called on me for additional vouchers*, I suppose the papers forwarded, with those found in the War Department, will enable you to sustain the claim. The Secretary of War, in his correspondence with my predecessor, has shown every disposition to adjust it. The only obstacle with him is the want of legal authority.

It is a matter of great importance to Georgia, that, should the law repealing the act exempting railroad iron from duty be passed, the State of Georgia should be excepted, and that the iron to be imported for the use of the Western and Atlantic railroad, and for the other roads intended to connect that road with the Savannah river, the Atlantic, and the Gulf, should be imported free of duty.

This road, more than any other, is entitled to the benefit of this exemption. A large portion of country will be benefited by its construction, and, in the event of war, it will afford greater facilities than any in the Southern or Western States, perhaps than any in the Union, for the transportation of troops and munitions of war.

If you succeed in having the act passed appropriating money to pay the claims of the State of Georgia, I would suggest to you, if it be possible, to obtain an additional appropriation of \$15,000 or \$20,000, to pay similar claims, upon their being presented to the Secretary of War. This sum will not, I think, be required; but there are outstanding accounts, under the law, I am informed, which have not been presented.

With great respect and consideration, I am, gentlemen, your obedient servant,

CHARLES J. McDONALD.

REPRESENTATIVES IN CONGRESS FROM GEORGIA.

WAR DEPARTMENT, *February 10, 1841.*

SIR: Permit me, through you, to call the attention of the Committee of Ways and Means to the accompanying copy of a communication dated the 27th ultimo; just received from the Governor of Georgia, on the subject of the claims of that State against the United States, for indemnification for expenses incurred by calling out militia, in cases of emergency, to aid in the suppression of Indian hostilities in Florida and Alabama, and to protect the citizens of Georgia from sudden incursions and the ravages of Creek and Seminole Indians. This Department has heretofore, on more than one occasion, recommended these claims to the favorable consideration of Congress. The acts of the Executive of Georgia were not only proper, but were rendered imperatively necessary by the nature and suddenness of the emergency which gave rise to them. A portion of the expenditures were incidental to the calling out of troops for the protection of the inhabitants of Florida and Alabama, on the outbreak of hostilities on the part of the Seminole and Creek Indians, and before it was possible for the General Government to take the necessary measures for calling and mustering them into

its service, so that they could be paid by the United States. For the prompt action on the part of the authorities of Georgia, in sending timely succors to the menaced inhabitants of Florida and Alabama, they deserve much credit. The emergencies were of that character which rendered it the duty of the General Government to provide the necessary defence and protection; and this would have been done, and the expense been paid by the United States, had there been time for information of the necessity to reach the seat of Government, and for regularly calling out and mustering the troops into the service—a condition which the law renders imperative.

The nature of the claims, and the particular reasons why the Executive cannot pay them without legislative action, are fully shown by a report made by this Department to the House of Representatives on the 8th of May last, a printed copy of which is enclosed, and by the accompanying copies of letters to the chairman on Military Affairs of the House, and to the Governor of Georgia—the first dated 31st of January, 1839, and the latter June 1st, 1839.

The Department had fully advised the Executive of Georgia of the reasons why the claims could not be paid without the action of Congress; it had recommended them to the favorable consideration of that body, and, on several occasions, had made known to different Representatives of the State what had been done. It thus fulfilled its promise to the Executive of Georgia to do all in its power that was proper to have the claims provided for. In compliance with the request in the Governor's letter, it takes the liberty of again presenting the subject to the committee, and of respectfully asking its favorable consideration thereof.

The act of May 28th, 1836, (9th vol. Laws, page 348,) was passed to authorize the payment of claims for services and expenses of troops called out under similar circumstances by the Governors of States and Territories, but it embraced only those which happened to have been received into the service by some general officer of the army. This was not the case with the Georgia troops in question. What is required to enable the United States to make a fair and equitable settlement of the claims of that State is, first, that that act, and the principles of settlement adopted under it, be made applicable to these claims; and, secondly, an appropriation of the amount necessary to pay them, or such part of them as may be found justly due on such a settlement. I respectfully recommend that this be done.

I would suggest that the amount of appropriation should be that specified in the Governor's letter, viz: \$208,618; such part of it as it might be found, on settlement, the State has no just claim to, would, of course, not be drawn from the Treasury.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. J. W. JONES,

Chairman Com. Ways and Means.

EXECUTIVE DEPARTMENT,

Milledgeville, Geo., January 27, 1841.

SIR: The payment of the claims of Georgia upon the General Government, for the expenses of several expeditions against the Creek and Seminole Indians, has been so long delayed, that I must request you to ask of

Congress a special appropriation for this purpose, during its present session.

My predecessor forwarded to you, in 1838, accounts for these services, paid by this State, anterior to that time, amounting to \$146,394 75
 The further sum was paid in 1839, audited by Col. King - 49,480 16
 Audited by Rockwell and Hansell, and Anderson - 1,890 24
 Paid to Captains Simmons and Knight, under the act of 1840 9,920 88
 Paid to individuals under special appropriations - - 932 27

208,618 30

I shall request our Senators to furnish you with the original accounts paid by Col. King. It is to be hoped that the accounts forwarded, and in the possession of the Department, and those transmitted to our Senators in Congress, and the foregoing statements, will afford sufficient data upon which to estimate the amount of the appropriation. I have the fullest confidence that you will do all in your power to have this claim, already so long deferred, finally adjusted.

I have the honor to be your obedient servant,

CHARLES J. McDONALD.

Hon. J. R. POINSETT.

HOUSE OF REPRESENTATIVES, *February 3, 1841.*

SIR: Enclosed is a communication of his excellency Governor McDonald. To Georgia it is of the first importance, just now, to realize the funds thus advanced for the public defence. I sincerely hope you will favor the Governor's views, and ask of the Committee of Ways and Means to include this in their bill of appropriations for your Department. Should you do so, I doubt not it will be included and passed without difficulty.

With great respect, your obedient servant,

MARK A. COOPER.

Hon. J. R. POINSETT, *Secretary of War.*

EXECUTIVE DEPARTMENT,

Milledgeville, March 19, 1842.

SIR: The vouchers for which you write have all been transmitted to Washington, and are, I presume, to be found either in the War Department or in some of the offices at the Capitol. They have all heretofore been before committees; and if there are offices in which such papers are preserved for the use of committees or Congress, they may, in all probability, be found there. I send you the copy of a letter from Governor Gilmer, in which he states that the principal part of these vouchers have been sent forward, and also copies of communications from Mr. Poinsett to chairmen of committees of Congress, on the subject of this demand. The sum asked for in one of these documents is far below the amount to which Georgia is entitled, and the other seems to contemplate that an appropriation should be made for the payment; but that the accounts should be subjected to an examination that would in all probability lead to a rejection of a vast amount of them, in the loose and irregular manner in which the business was done.

The State of Georgia has paid from her treasury the amount now demanded, and the expenses were incurred for a service that ought to have been performed by the General Government. The Indians were driven, as is known to you, upon the territory of Georgia by the policy of the United States, and destroyed an immense amount of property and many valuable lives, and Georgia was forced to repel them with her own means. In the confusion of the occasion, accounts were made out and paid, which were inadmissible by the rules prescribed for the officers of Government; but this is no argument against their justness. It is only evidence that a statute is required to pay a demand that is just, but excluded by these rules.

Copies of the vouchers were kept in this department, but it will require much time to have them copied; but if necessary it shall be done, whatever expense of time and labor it may cost.

I have the honor to be your obedient servant,

CHARLES J. McDONALD.

Hon. M. A. COOPER, *Washington City.*

WAR DEPARTMENT, *April 12, 1842.*

SIR: Enclosed is a copy of the letter of the Governor of Georgia of January 27, 1841, requested in yours of the 8th instant. You request, also, any information the Department has, in addition to that contained in the documents which you specify as being in possession of the committee, in relation to the claims of Georgia to be reimbursed the amount she has paid to militia, to enable the committee to see why the sum of \$208,618, embraced in Senate bill No. 17, is now required for that purpose.

The only additional information known to the Department is contained in the report made by it to the House of Representatives on the 8th of May, 1840, which will be found in the Executive Documents of 1839-'40, vol. 4, No. 202, in the report and accompanying account of Y. P. King, Esq., transmitted in the Governor's letter of May 21, 1839, (copies of which are herewith enclosed,) and in the vouchers in support of that account, which the Governor states, in his letter of January 27, 1841, had been placed in the hands of the Senators of the State, and which it is presumed will now be found on the files of the proper committee of the Senate or House.

It will be perceived that the sum embraced in Senate bill No. 17 is that stated, in the Governor's letter of January 27, 1841, to have actually been paid by the State, and which this Department recommended, in its communication to the Committee of Ways and Means of February 10, 1841, should be appropriated. This sum includes the amount of the accounts to which the report of May 8, 1840, has reference, of that accompanying the report of Colonel King, and the three last items stated in the Governor's letter of January 27, 1841. *Respecting these three items the Department has no information whatever.*

Whether, as you inquire, more troops were not probably called out than the emergencies required, the Department is unable to say. It has no further information upon that point than that contained in its report of May, 1840.

Very respectfully, your obedient servant,

J. C. SPENCER.

Hon. W. L. GOGGIN,

Of the Committee on Military Affairs, H. R.