

Rep. No. 597.

[To accompany bill H. R. No. 478.]

HOUSE OF REPRESENTATIVES.

TENNESSEE MOUNTED VOLUNTEERS.

MAY 16, 1848.

Mr. JOHN A. ROCKWELL, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of twenty-two volunteers, of the State of Tennessee, for per diem pay and forage for horses, report:

The facts set forth in the petition, in the letter of B. F. Butler, acting Secretary of War, under date of 29th December, 1836, and in a communication from the Second Auditor of the Treasury, (appended to this report,) explain fully the nature and merits of the claim.

As these volunteers were mounted volunteers, it is quite apparent that, in accordance with the principle of the decision of the two Secretaries of the War Department, the allowance should be made of forty cents per day and fifteen cents per day for forage, and they report a bill accordingly.

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

The undersigned, petitioners, would respectfully represent to your honorable body, that they were called into the service of the United States, about the 8th of July, 1836, under authority from the War Department; were mustered into service by Major M. M. Paine, of the United States army, as mounted volunteers, for twelve months; we were ordered by General Wool (under whose command we served) into the Cherokee Nation, where

we served until about the 1st of November, 1836, when we were ordered home by General Wool, to there wait, without pay, the further order of the commanding general, and were further required by the said order, to hold ourselves and horses in readiness to march when the commanding general saw fit to order us so to do; reminding us, at the same time, that we had engaged to serve twelve months, and that we would be required to comply with our obligation. We returned home in obedience to said order, and there waited until the 1st of April, 1837, when, by a subsequent order of General Wool, we were discharged from the service, he being informed by the decision of the Secretary of War, had thereon by Colonel Standefer, "that we were under an indefinite furlough and were entitled to our pay and rations until discharged." The paymaster refused to pay us the forty cents per diem for our horses, and the twelve and a half cents for the forage of our horses, furnished by ourselves, which your petitioners believe they were entitled to under the provisions of the law; alleging that those allowances were not included in the Secretary's decision, and therefore your petitioners are unable to obtain said allowances. Your petitioners' means for support is their labor, and they did not feel authorised to make any engagements other than the one they had with the government, and which they were notified they would be required to fulfil. Your petitioners were bound to keep their horses at a very great expense, having, in many instances, no other use for them than to be ready to fill the obligation they had made with the government. Therefore your petitioners ask your honorable body to grant them such relief as justice and the nature of their case requires, and your petitioners in duty bound will ever pray.

J. P. Collins,
 Azariah Barton,
 Thomas C. Darwin,
 William C. Johnson,
 Robert Mitchell,
 John Crawford,
 James Flecher,
 Henderson Compton,
 Peter W. Miller,
 Zachariah Compton,
 R. C. Miller,
 William Miller,

Sherrel Dudley,
 John S. Thompson,
 Archibald Beard,
 William Whittenburg,
 Samuel Whittenburg,
 Thomas D. Lewis,
 George Gross,
 by Thomas McCallir,
 Stephen Chandler,
 by Thomas McCallir,
 Wilson Kelgon.

WAR DEPARTMENT, December 29, 1836.

SIR: I had the honor to receive your letter of the 15th inst. on the day after its date. An earlier reply to it has been delayed, partly by the press of business, but chiefly by my desire to ascertain what course had been pursued, during the war of 1812, and in

other analagous cases, under laws authorizing the employment of volunteers, and to give to the case the full consideration to which its importance entitles it. The order issued by General Wool, under date of the 1st ult., so far as it requires the officers and soldiers referred to therein to hold themselves in readiness for any further call to active duty in the field, during the period of their original engagement, conforms to the construction which has been given by this department to the act of the 23d May, 1836, under which they were mustered into service. It was not intended as a discharge, and cannot be construed as such. Nor is it, in terms, such a *furlough* as is usually granted in the regular army; because, by the regulations now in force, furloughs must specify the precise term of time for which they are granted, and must contain an order for returning to duty at the expiration thereof. Indefinite furloughs are, however, known to military usage, and in that light I regard the order of General Wool, and have, therefore, little or no doubt as to its validity, except so far as it requires the troops to wait, *without pay*, the further call of the President, or of the commanding general.

That part of General Wool's order was, no doubt, deemed by him a fair inference from the language used in his instructions. But it was not intended in those instructions to decide this point; and, after bestowing much reflection on the subject, I am of opinion that, under the indefinite furlough in question, the officers and men will be entitled to their pay and rations until actually *discharged*. So far as may depend upon me, this construction will, accordingly, be given to the act.

Should you entertain any serious doubts as to the accuracy of the views expressed in this letter, I trust you will endeavor to procure the passage of an explanatory law at the present session of Congress.

Very respectfully, your most obedient servant,

B. F. BUTLER,

Secretary of War, ad interim.

HON. JAMES STANDEFER,
House of Reps.

TREASURY DEPARTMENT,
Second Auditor's Office, July 9, 1846.

SIR: In answer to your letter of the 7th instant, to the Third Auditor, and transmitted to this office, I have to state that the Tennessee militia, to which you refer, were called into service for six and twelve months; were furloughed by General Wool, without pay; were afterwards paid monthly pay and rations only, agreeably to decision of the Hon. B. F. Butler, Secretary of War, *ad interim*; and that subsequently they were allowed the commutation of clothing by the Hon. Joel R. Poinsett, Secretary of War,

which was accordingly paid; and why they were not allowed forage and the 40 cents per diem for the use and risk of their horses, this office has no means of ascertaining. The papers are, accordingly, herewith returned.

I am, sir, very respectfully, your obedient servant,
JNO. M. McCALLA,
Second Auditor.

The Hon. J. A. ROCKWELL,
Of Congress, H. R.