

LUCIEN B. WEBSTER.

DECEMBER 31, 1845.

Read, and laid upon the table.

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

REPORT:

The Committee on Military Affairs, to whom were referred the petition and accompanying papers of Lucien B. Webster, report:

The petitioner alleges, that being a lieutenant in the army of the United States, and in actual service as such, against the Seminole Indians in Florida, in the year 1836, he was appointed, by the General commanding, to the office of assistant quartermaster, and, as such, received and paid over for the use of the service, and according to order, the sum of \$143,595 02—excepting from said sum, however, the sum of \$2,652 46, which he retained in his own hands and claimed by way of commission upon his disbursements. The petitioner further states that, on settlement with the department, said claim for commissions was disallowed by the department, and that, subsequently, suit has been brought against him by the United States; that a judgment was recovered against him for the amount last above named, that the same remains in force against him, and that his accruing pay as an officer in the line of the army has been withheld for the payment of said judgment; and thereupon, the petitioner prays that Congress will pass a law granting him said commissions, and also indemnifying him for his costs, attorney's fees, and expenses incurred in said suit, amounting, as he alleges, to the further sum of about seven hundred dollars.

The committee find that by an act of Congress, approved 3d March, 1835, entitled "An act making additional appropriations for the Delaware breakwater," &c., it was provided, among other things, "that no officer of the army shall receive any per cent., or additional pay, extra allowance or compensation, in any form whatever, on account of the disbursing any public money, appropriated by law during the present session, for fortifications, execution of surveys, works of internal improvement, building of arsenals, purchase of public supplies of any description, or for any other service or duty whatsoever, unless authorized by law."

That by an army order, dated March 14th, 1835, and "published for the information of all concerned," it was decided that said act took effect from and after its passage, and extended to the following among other particulars, viz:

Ritchie & Heiss, print.

"Monthly allowance or percentage to officers of the line temporarily performing staff duties; percentage to officers disbursing funds not properly appertaining to their department."

Said army order further set forth that "the Attorney General had decided that the general clause in the above proviso would render illegal the allowance of any percentage or compensation for disbursing appropriations made previous to as well as during" said session of Congress. And it was in affirmance of this construction of the act of March 3d, 1835, that the judgment, against which the petitioner seeks to be relieved, was given.

That the policy and principle embodied in the army order above referred to, has subsequently met the deliberate sanction of Congress, and is now a part of the permanent law of the country; for by "an act making appropriations for the support of the army," &c., approved August 23d, 1842, section 2, it is enacted "that no officer in any branch of the public service, or any other person whose salary, pay, or emoluments is or are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or any other service or duty whatsoever, unless the same shall be authorized by law; and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation."

That the costs, fees, and expenses, incurred by the petitioner, and for which he prays to be indemnified, were incurred by him voluntarily and in his own wrong; and the committee are of opinion that he is, therefore, not entitled to such indemnity.

Finally, the committee are of opinion that, placing out of view the fact that the most of them were educated and prepared for professional life at the expense of their country, the officers of the army of the United States are liberally paid at rates fixed by general laws; far more liberally paid than the incumbents of most civil offices in the States, requiring for the proper discharge of their duties a much greater amount of labor, and at least an equal degree of intellect; and that, in return for such liberality, the government has a right to expect, and does expect, the devotion of their whole energies to her service, without extra allowances, and without complaint.

The committee are therefore of opinion that the prayer of said petitioner ought not to be granted, and beg leave to be discharged from the further consideration of the subject.