

The Raleigh Minerva.

FRIDAY, MARCH 19, 1819.

No. 9.

Vol. 1.

RALEIGH, (N. C.)

PRINTED, WEEKLY, BY HARVEY AND CASSO, EDITED BY A. LUCAS.
Subscription: Three dollars per year, one half to be paid in advance. No paper to be continued longer than three months after a year's subscription becomes due, and notice thereof shall have been given. Advertisements, not exceeding 14 lines, are inserted for one dollar; for twenty-five cents each subsequent insertion; and in like proportion where there is a greater number of lines than fourteen. The cash must accompany those from persons unknown to the printer.
No subscription can in any case be received without payment of at least \$1 50 in advance; and no discontinuance without payment of arrears, unless at the option of the editor.

CONGRESSIONAL.

IN SENATE.

FEBRUARY 24, 1819.

Mr. LACOCK, from the committee appointed in pursuance of the resolution of the Senate of the 13th December last, "That the message of the President and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States' troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of, Spain; and particularly, what circumstances existed, to authorize or justify the commanding general in taking possession of those posts"—Reported: That they have, under the authority conferred on them, called for and examined persons and papers. The testimony obtained is herewith submitted. The committee, after the most mature and dispassionate examination of the subject, offer for the consideration of the Senate the following narrative of facts, and the opinions and deductions clearly arising from, and growing out of, the facts thus presented. On the origin of the hostilities between the United States and the Seminole Indians, the committee asked leave to remark, that the different savage tribes living within and on the borders of the Floridas, denominated Seminole Indians, were principally fugitives from the more northern tribes, resident within the limits of the United States. After the treaty of 1814, with the Creek Indians, a considerable addition was made to the number of those fugitives; as the Indians who were dissatisfied with the provisions of that treaty, took refuge in the Floridas, cherishing, there can be little doubt, feelings of hostility to the United States. These feelings seem to have been strengthened by the influence of foreign emissaries who had taken up their residence among them; and among whom, as the most conspicuous, were Alexander Arbuthnot and Robert C. Ambrister. In this state of things, it appears that the executive department of the government deemed it necessary, for the security of the frontier, to establish a line of forts near the southern boundary of the United States, and to occupy those fortifications with portions of the regular forces, and by these means peace was maintained with the Indians until the spring or summer of 1817, when the regular forces were withdrawn from the posts on the Georgia frontier, and concentrated at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line. But it seems that about this time a border warfare was commenced between the Seminole Indians and the frontier inhabitants of Georgia. It is difficult to determine with certainty who commenced those hostilities, or on whom the greatest injuries were inflicted. General Gaines, however, demanded a surrender of the Indians who had committed outrages on the frontier of Georgia. With this demand they refused to comply, alleging that the first and greatest aggressions had been made by the white men. In consequence of this refusal, Gen. Gaines was authorized by the Secretary of War, at his discretion, to remove the Indians still remaining on the lands ceded to the United States by the treaty made with the Creeks in 1814: in so doing he is told that it might be proper to retain some of them as hostages, until reparation was made for the depredations committed by the Indians. In pursuance of this discretionary authority, General Gaines ordered a detachment of near 300 men, under the command of Major Twiggs, to surround and take an Indian village, called Fowl Town, about 14 miles from Fort Scott, and near the Florida line. This detachment arrived at Fowl Town in the night, and the Indians, taking the alarm, and flying to an adjacent swamp, were fired on by the detachment, and one man and one woman killed. Two Indians were made prisoners. The detachment returned to Fort Scott. A day or two afterwards, as stated by Captain McIntosh, who was of the party, about the same number of troops paid a second visit to the same village, (as he states,) for the purpose of obtaining property. While loading their wagons with corn, and collecting horses and cattle, they were fired upon by the Indians, and a skirmish ensued, in which a small loss was sustained on both sides. It is stated by Captain Young, the topographical engineer, that

this town contained about 45 Indian warriors, besides women and children.

A few days after the affair of Fowl Town, Lieut. Scott, with a detachment of 40 men, 7 women, and some children, ascending the Apalachicola, with clothing and supplies, for the garrison at Fort Scott, when within a few miles of that place, was attacked by a party of Indians; himself and his whole party fell victims to their fury, except six men, who made their escape, and one woman made prisoner.

From this time the war became more serious: the Indians, in considerable numbers, were embodied, and an open attack was made on Fort Scott. General Gaines, with about 600 regular soldiers, was confined to the garrison. In this state of things, information having been communicated to the War Department, General Jackson was ordered to take the field: he was advised of the regular and militia force, amounting to 1800 men, provided for that service, and the estimated force by General Gaines, of the enemy, (said to be 2800 strong) and directed, if he should consider the force provided insufficient to beat the enemy, to call on the Governors of the adjoining states for such portions of the militia as he might think requisite. On the receipt of this order, General Jackson, instead of observing the orders of the Department of War, by calling on the Governor of Tennessee, then in Nashville, near the place of his residence, chose to appeal, (to use his own expressions,) to the patriotism of the west Tennesseeans, who had served under him in the last war. 1000 mounted gun men, and two companies of what were called *life guards*, with the utmost alacrity, volunteered their services, from the states of Tennessee and Kentucky, and repaired to his standard. Officers were appointed to command this corps, by the General himself, or by other persons, acting under his authority. Thus organized, they were mustered into the service of the United States.

About the time General Jackson was organizing this detachment of volunteers in the state of Tennessee, or perhaps previously thereto, General Gaines was likewise employed in raising forces among the Creek Indians. There was this difference in the two cases: General Jackson raised his army in disregard of positive orders; General Gaines, without orders, took upon himself the authority of raising an army of at least 1000 Creek Indians; and appointing their officers, with a brigadier general at their head, and likewise mustering this force into the service of the United States.

While your committee feel a pleasure in applauding the zeal and promptitude that have marked the military conduct of these general officers, on many former occasions, they would feel themselves wanting in their duty to the Senate and the nation, if they did not express their decided disapprobation of the conduct of the commanding generals in the steps they took to raise and organize the force employed on this occasion. There was no law in existence that authorized even the President of the United States to raise or accept the services of volunteers. The law passed for that purpose, had expired in the year 1815. The constitution of the United States gives to Congress exclusively, the power of raising armies, and to the President and Senate the power of appointing the officers to command those armies, when raised. The constitution, likewise, gives Congress power to provide for calling forth the militia to execute the laws of the Union—to suppress insurrections, and to repel invasions; but reserves to the states, respectively, the appointment of the officers. In conformity with the last recited provision of the constitution, the Congress of the United States have passed laws authorizing the President, when the contingencies above alluded to should happen, to call on the governors, or any militia officers, of the respective states, for such portion of the militia as he might deem requisite for the occasion; and, in strict observance of these laws, was General Jackson ordered to call on the governors of the states adjacent to the seat of war, for the requisite militia force.

It is with regret that the committee are compelled to declare, that they conceive General Jackson to have disregarded the positive orders of the Department of War, the constitution, and laws; that he has taken upon himself not only the exercise of those powers delegated to Congress, as the sole legislative authority of the nation, and to the President and Senate, as it relates to the appointments, but of the power which had been expressly reserved to the states, in the appointment of the officers of the militia; a power the more valuable to the state because, as they had surrendered to the general government—the revenues and physic force of the nation, they could only look to the officers of the militia as a security against the possible abuse of the delegated power. The committee find the melancholy fact before them, that military officers, even at this early stage of this republic, have, without the shadow of authority, raised an army of at least 2500 men, and mustered

them into the service of the United States. Two hundred and thirty officers have been appointed, and their rank established, from an Indian brigadier general down to the lowest subaltern of a company. To whom were those officers accountable for their conduct? Not to the President of the United States, for it will be found that it was not considered necessary even to furnish him with a list of their names: and not until the payrolls were made out, and payment demanded were the persons known to the Department of War. And in this place it is proper to observe, that General Jackson seemed to consider those officers of his own creation, competent to discharge all the functions of officers appointed by the authority of the general or state governments, for we find five of them detailed afterwards to set on a general court martial, on a trial of life and death. Might not, on the same principles, General Jackson have tried, condemned, and executed, any officer of the Georgia militia, by the sentence of a court martial, composed of officers created by him, and holding their assumed authority by the tenor of his will?

Your committee will dismiss this branch of the subject by observing that, consistently with the character and genius of our government, no officer, however high or exalted his station, can be justified for an infraction of the constitution; it is an offence against the sovereignty of the nation, this sovereignty being vested in the great body of the people. The constitution is the written expression of their will, and above the control of all the public functionaries combined. And when that instrument has been violated, the people alone have power to grant the indemnity for its infraction: and all that can be said in favor of the officer who transgresses his constitutional powers, must be taken not in justification of the act, but in mitigation of the enormity of the offence committed. With this view of the subject, which they conceive to be a correct one, the committee have in vain sought for an excuse for the commanding general. He has stated in his letter to the Secretary of War, assuming the power to judge for the national legislature, that volunteer force, of mounted gun men, would be the least expensive and the most efficient. His duty was to execute the orders of his superior officers, not to disobey them to observe and enforce the laws, not violate them. Obedience and subordination are the first and highest duties of a soldier, and no one know better the truth of, and the necessity for, observing this maxim, than the officer in question. For the truth of this observation we have his own declaration: In his letter to the Secretary of War, of 20th January 1818, he says, "your letter, enclosing your general order of the 23rd ultimo, has been received: like yourself, I have no other feelings to gratify than those connected with the public good, and it gives me pleasure to find we coincide in those opinions calculated to produce it. Responsibility now rests where it should, on the officer issuing the order: and the principle acknowledged, is calculated to insure the subordination so necessary to the harmonious movement of every part of the military machine."

It is to be regretted, that an officer who seemed to be so perfectly acquainted with what belonged to the duty of others, should have been so totally regardless or unconscious of his own; and while the committee are willing to admit that the volunteer forces called into service by General Jackson, were more efficient and less expensive than the militia, had he confined himself to the usual proportion of officers—this, they conceive, should not be urged as an argument in favor of employing them, or pled in justification of the unlawful act; for if these reasons be considered conclusive, and should be acquiesced in, they will be applied with increased force, (fortified by this precedent) in all future wars; an army of regulars will be considered (as they really are) more efficient and less expensive than either the volunteers, if authorized by law, or the militia; and the officer at the head of such army (acting on the principles before stated, and encouraged by the acquiescence of the nation) may dispense with the militia altogether, and increase the regular army to any extent that folly or ambition may suggest; and all this under the plea of necessity. The committee can scarcely imagine a possible case that may occur in a future war, where the necessity will be less strong than in the present. This war was waged when the United States were at peace with all the world, except this miserable undisciplined banditti of "deluded Indians," and fugitive slaves; their whole strength, when combined, not exceeding 1000 men; opposed to whom, (previous to Gen. Jackson's taking the command) and under Gen. Gaines, were a force of 1800 regulars and militia, besides the 1500 friendly Indians, illegally subsidized by the last mentioned general. What then, in this state of the case, becomes of the plea of necessity? And if it be admitted in this case, to justify or palliate an act of military usurpation, the committee would anxiously inquire where it is to be disallowed or denied? And here the committee, having pledged themselves

faithfully to disclose facts, and impartially to draw conclusions, beg leave to remark, that the conduct of the commanding general, in raising this volunteer corps, was approved by the War Department, as will appear by the letter of the Secretary, dated the 29th day of January, 1818; and it is but justice to the Department to state, that it was not until the officers that had assisted in this officering and organizing this corps, were examined by the committee, that they were apprised of the illegality of the measure; for there is nothing to be found in Gen. Jackson's letters on this subject, to the Secretary of War, of the 12th, 13th and 20th of February, 1818, from which it can be fairly inferred that he had appointed a single officer. Indeed, it would seem, from a fair interpretation of those letters, that the officers, at least, were of the regular militia of the states and that the only departure from his orders by the general, was, his having called on the subordinate officers of the militia, instead of the governor of the state of Tennessee, and his preference of mounted men to infantry. And it will also appear, from the letters aforesaid, that had the Department of War disapproved of this conduct, and determined to countermand the order of Gen. Jackson in raising this force, no order to that effect could have reached him before he had arrived at the seat of war, and of course, the army might have been disbanded in sight of the enemy, and the objects of the campaign thereby jeopardized, and perhaps defeated.

The committee will next take notice of the operations of the army in the Floridas, whether they were authorized to pursue the enemy; and, connected with this authority, it was enjoined on Gen. Gaines, to whom the first order to this effect was given, that in case the enemy took refuge under a Spanish garrison, not to attack them there, but to report the fact to the Secretary of War; and the observance of this order, the committee conceive, was equally obligatory on Gen. Jackson, who succeeded to the command—at least it must have clearly evinced the will of the Secretary of War on that point, and how far this injunction was observed, will be found by what followed. It appears that Gen. Jackson advanced into Florida with a force of 1800 men, composed of regulars, volunteers, and the Georgia militia, and afterwards, on the 1st day of April, was joined by Gen. McIntosh, and his brigade of 1500 Indians, who had been previously organized by Gen. Gaines; opposed to whom it appears, from the report of Captain Young, topographical engineer, and other evidence, the whole forces of the fugitive Seminole Indians and runaway negroes, had they all been embodied, could not have exceeded 900 or 1000 men; and at no time did half that number present themselves to oppose his march—of course little or no resistance was made.

The Mickasuky towns were first taken and destroyed. The army marched upon St. Marks, a feeble Spanish garrison, which was surrendered "without firing a gun," and then occupied as an American post; the Spanish commandant having first, by humble entreaties, and then by a timid protest, endeavored to avert the measure. Here Alexander Arbuthnot was found, taken prisoner, and put in confinement, for the purpose, as it was stated by Gen. Jackson, "of collecting evidence to establish his guilt;" and here, also, were taken two Indian chiefs, one of whom pretended to possess the spirit of prophecy; they were hung without trial, and with little ceremony.

This being done, and St. Marks garrisoned by American troops, the army pursued their march eastward to Suwaney river, on which they found a large Indian village, which was consumed, and the Indians and negroes were dispersed; after which the army returned to St. Marks, bringing with them Robert C. Ambrister, who had been taken prisoner on their march to Suwaney. During the halt of the army for a few days at St. Marks, a general court martial was called; Arbuthnot was arraigned; found guilty; sentenced to suffer death, and hung.

Ambrister was tried in like manner, found guilty, and sentenced to whipping and confinement. Gen. Jackson annulled the sentence and ordered him to be shot; and this order was executed.

It appears, by the testimony, that the army had arrived at St. Marks, on their return from Suwaney, on the 25th of April; and on the 26th Gen. Jackson writes to the Secretary of War in the following manner: "I shall leave this in two or three days, for Fort Gadsden; and, after making all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Apalachicola, I shall proceed direct to Nashville: my presence in this country can be no longer necessary. The Indian forces have been divided and scattered: cut off from all communication with those unprincipled agents of foreign nations, who have deluded them to their ruin, they have not the power, if the will remains, of annoying our frontier." It appears, however, by the conduct of the commanding general that he had, at this time, looked to different