

Article Title: "Report of Mr. Lacock on a Senate committee's findings in the Seminole War. February 24, 1819. Characterizes the taking of Pensacola as an unconstitutional act of war against Spain and Jackson's execution of prisoners as 'cold-blooded.' "

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CONGRESSIONAL.

IN SENATE FEBRUARY 24, 1819.

Mr. LACOCK, from the committee appointed in pursuance of the resolution of the Senate of the 18th December last, " That the message of the President and documents relative to the Seminole war, be referred to 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 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. 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 ask leave to remark, that 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 ; 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 the 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 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 M'Intosh, 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, the 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 Appalachicola, 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 1600 Creek Indians; 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 officer of the militia ; a power the more valuable to the states, because, as they had surrendered to the general government the revenues and physical 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 transcends 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 a 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 knew 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 29th 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 that 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 authorised 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, 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 approbated 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 thus 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 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, whither they were authorised 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 or course little or no resistance was made.

The Micasuky 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 Appalachicola, 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 movements ; for, at the time he was writing this letter, as will be seen by the testimony of Captain Call and Surgeon Bronaugh, he had despatched Lieut. Sands to Mobile, to forward on a train of artillery, to a given point, to be ready to be made use of in reducing Pensacola and the fort of Barrancas, should that measure be thereafter tho't proper. Having made these arrangements, the army marched to Fort Gadsden, on the Appalachicola river. There, as stated by Gen. Jackson, and confirmed by the testimony of Col. Butler, information was received by a private letter, written by a merchant at Pensacola to Mr. Doyle, and shown to General Jackson, that a number of Indians had recently visited Pensacola, and were committing depredations on the Spanish inhabitants of that place, and were receiving aid and comfort from the garrison. On the receipt of this intelligence, the resolution seems to have been taken to garrison that place with American troops, and, after a march of about twenty days, having met his artillery, general Jackson, with about 1200 men, the rest having been discharged, appeared before Pensacola, the capital of the province. The place was taken with scarce the show of resistance. The governor had escaped, and taken refuge in the fort of the Barrancas; to which place, distant about six miles, the army marched, and the fortress was invested on the 25th of May; and a demand being made for its surrender, and refused, the attack was made on the fortress by land and water, and after the bombardment and cannonading had been kept up for a part of two days, and some lives lost, the fortress was surrendered, the garrison made prisoners of war; and the officers of the government, civil and military, transported to the Havana, agreeably to the terms of the capitulation; which terms general Jackson, in his letter of the 2d of June, 1818, declares, " were more favorable than a conquered enemy would have merited." The civil and military government of Spain thus annulled, general Jackson thought it necessary to abolish the revenue laws of Spain, and establish those of the United States, as more favorable to the commerce of the United States; , for this purpose, captain Gadsden was appointed collector, and by him, under the authority of general Jackson, that department of the new government was organized. The Spanish authorities being thus put down by the sword, both civil and military, a new government was established for this newly acquired territory, the powers of which, both civil and military, were vested in military officers. And general Jackson having declared in numerous communications to the Department of War, that the Seminole war was closed, and the object of the campaign at an end, he returned to his residence at Nashville, state of Tennessee. And here it would have given the committee sincere pleasure to have stated, that the history of the campaign had closed, but facts which it becomes now their duty to report, require that history to be continued. On the 7th of August, 1818, more than two months after his consumation of the conquest of West and part of East Florida, he issued an order to general Gaines, directing him to take possession of St. Augustine, a strong fortress, and the capitol of East Florida. A copy of this order is subjoined to this report, and his reasons for this measure are stated at large in the order, and reiterated and enforced by his letter to the Secretary of War, dated the 10th of the same month, which reasons, fully and beyond the possibility of doubt, discover the motives of the commanding general in all his movements against Spain. The tendency of these measures by the commanding general, seems to have been to involve the nation in a war without her consent, and for reasons of his own, unconnected with his military functions.

Your committee would be unwilling to attribute improper motives, where those of a different character could be possibly inferred, more especially, when it is to affect a character, whose military fame is the pride and boast of the nation; but even such a character becomes more eminently dangerous, when he exalts himself above the majesty of the laws; declares the public will, and becomes the arbiter

between the United States and foreign nations. That these high and transcendent powers have been usurped and exercised in the present case, is, it appears to the committee, incontrovertibly evident from the facts adduced.

The Constitution declares, Article 1, sec. 8. " Congress shall have power to declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water." Surely it was never designed, by this provision, that a military officer should first make war, and leave it to Congress afterwards to declare it; this would involve an absurdity, that it is unnecessary to expose. It is sufficient to say, that the executive authority of the United States, and much less a subordinate officer, has no power to change the pacific relations of the nation. The President of the United States is bound, constitutionally, to preserve the peace of the country, until Congress declares it in a state of war; he can only, while thus in a state of peace, use the military forces of the nation, in three specified cases, that is, " to execute the laws of the union; to suppress insurrection, and repel invasion." (see Constitution, article 1. sec. 8. also, the act for calling forth the militia, passed 28th February, 1795.) It will not be pretended, that Spain had invaded the United States, or that Congress had declared war against that nation, and of course the relations of peace did exist between the two countries, at the time general Jackson took possession of the Spanish possessions in the Floridas; these facts being admitted, and they cannot be denied, the only question to decide is, whether the military conduct of general Jackson, was not war against Spain, and on this subject, there can be no room to doubt. The capital of a Spanish province is taken by the sword, a fortress is invested and bombarded, lives are lost, and the place surrendered on capitulation, the terms of which are declared " more favorable than a conquered enemy merited; " military officers and men, as well as those in the civil departments of government, are transported to the West Indies, and a new government established for the conquered country. If all these acts of hostility combined do not constitute war, the committee confess themselves utterly at a loss for its definition ; or if the fact be denied, the consequence of such denial will be a proof that no war was made by the Seminole Indians on the United States, and, of course, that the invasion of Florida was an unauthorized act of aggression on the part of the United States. But the committee will pursue this subject a little farther, and examine the reasons offered by the officer commanding for taking possession of, and occupying the Spanish fortresses, more especially Pensacola and the Barrancas. Those reasons are to be found in his numerous reports to the War Department, and his letter to the Spanish officers who commanded in the different fortresses, and are these; That Spain had not observed her treaty stipulations with the United States, as it related to the Florida Indians, and whose peaceable conduct she was bound to guarantee to the United States ; that she had furnished those Indians, at war with the United States, with arms, ammunition, and supplies necessary to carry on the war. Here the committee would observe, that they are neither the advocates nor the apologists of Spain : there can be no doubt but she had, by the violation of her engagements, given the United States sufficient cause of war ; but they defend the constitution, by saying that Gen. Jackson had no power to declare nor make the war ; that neither he, or even the President of the United States, had any discretion or power to judge what was, or was not, cause of war ; this, the constitution had wisely lodged in Congress. The treaty with Spain still existed ; it was made, by the constitution, the supreme law of the land, and had Spain violated, on her part, every article of that treaty, still the Executive of the United States, who is bound to see the laws " faithfully executed," must, in good faith towards Spain, have observed on our part that treaty ; and the obligation of preserving the peace of the nation would have remained until the treaty should have been revoked or annulled by Congress. Furnishing the Indians with arms, ammunition, and supplies, were so many violations of treaty stipulations, and might have been considered good cause of war by Congress ; but of this General Jackson was not the judge. His duty was pointed out ; it was to subdue and punish the Seminole Indians, with whom we were at war ; for this purpose he was ordered to pursue them into the territorial limits of Spain, and over a part of which territory those Indians had, at least, a qualified right of possession and property. Under these orders no act of aggression on the Spanish authorities could have been designed, nor can any such acts be justified. Spain, before she could become or be made a party to this war, must have merged her neutral character in that of the enemy, and clearly identified herself with the Seminole Indians, and, by acts of open and undisguised

hostility to General Jackson, have opposed him by physical, not moral force.

But the weakness of the Spanish authorities is urged in justification of this outrage upon our constitution. And is the weakness of an independent power to disparage their neutral rights, or furnish pretences for a powerful neighbor to weaken them further by hostile aggressions? And is it thus we are to be furnished, by an American officer, with a justification for the dimemberment of Poland, the capture of the Danish fleet by Great Britain, and the subjugation of Europe by Bonaparte? and shall the United States be called upon to imitate the example, or silently acquiesce and thereby subscribe to doctrines and approve measures that are in direct opposition to the repeated and invariable declarations of the government, given to this nation and the world, through the official medium of presidential messages and the correspondence of all her public ministers, and sanctioned by all her public laws on the subject of neutral rights? Will it not be said that we have changed our national policy? Shall we not be addressed in the following language, by the nations of Europe?

" The time was, when the United States were also weak, she had no navy, she had no army. In those days, she was a strong advocate for neutral rights, anxious that free ships should make free goods; that the neutral flag of the republic should protect all sailing under it, ever protesting against, and complaining of, the violation of her neutral rights by the belligerents of Europe. But these times have passed away ; the nation has tried her strength in battle, and found herself quite equal to the struggle ; she has had time to strengthen her army and increase her navy ; her former weakness forgotten, her former precepts abandoned, and feeling power and forgetting right, she walks over a prostrate constitution to conquer and subdue a miserable and feeble, though neutral colony, whose very weakness (pleaded in excuse for the aggression) should have rather constituted an appeal to a generous people for protection."

In this unfavorable light, the committee have too much reason to fear, will the civilized world view this transaction and, if sanctioned by the nation, they regret to say, there will be too much reason given thus to consider it.

But there are still other reasons disclosed and facts developed, that discover the motives of the commanding officer more fully than those above stated. More than two months after this campaign had ended, and the Seminole war was terminated, another expedition is planned and the land and naval forces of the United States ordered to execute it ; which is to reduce the fortress of St. Augustine, the capital of East Florida. The reasons offered for this measure are stated in his orders to Gen. Gaines, dated Nashville, 7th August, 1818, and are as follows :

" I have noted with attention Maj. Twiggs's letter, marked No. 5. I contemplated that the agents of Spain, or the officers at fort St. Augustine, would excite the Indians to hostility, and furnish them with the means of war. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take and garrison fort St. Augustine with American troops, and hold the garrison prisoners until you hear from the President of the United States or transport them to Cuba, as, in your judgment, under existing circumstances, you may think best.

" Let it be remembered, that the proceedings carried on by me, or this order, is not on the ground that we are at war with Spain ; it is on the ground of self-preservation, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontiers, hence, the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war : this evidence being obtained, you (if your force is sufficient) permit nothing to prevent you from reducing fort St. Augustine, except a positive order from the Department of War.

" Orders some time since have been given to the officer of the ordnance commanding at Charleston, to have in readiness a complete battering train, the number and calibre of the guns pointed out. I have no doubt you will find them in readiness.

" I enclose you the report of Capt. Henley, of the naval force on that station : you will open a correspondence with commandant A. J. Dallas, to ensure his co-operation, provided it should be required."

In this projected expedition, it was not thought necessary or expedient to consult the Executive branch

of the government ; the order sent to Gen. Gaines was peremptory, on the discovery being made that the Indians had been supplied with ammunition and provisions, and excited to war ; the blow was to be struck, and nothing but an express order from the Secretary of War was to prevent it. Long before this period, the commanding general had, by his letters to the Secretary of War, declared the Seminole war at an end, and after which not a single new act of hostility had been committed. Yet, in this state of peace, is a military officer directed to ascertain certain facts, and, on such facts being substantiated, to make war on the neutral colony of a nation in peace and amity with the United States ; thus disregarding not only the legislative and executive authorities of the United States, but setting at naught the usages of all civilized nations, by making war without a previous and public declaration. Were this nation subject to the will of a military despot, and were there no constitutional barriers to the inordinate exercise of military ambition, more than this could scarcely have been expected. It is with pain the committee are constrained to make these observations; but, where the vital principles of the constitution have been violated, as they conceive, it would be criminal in them, under the instructions they have received from the Senate, and the duty they owe the nation, to be silent. Silence on their part would have been considered an acquiescence in those measures, and they fear this precedent and example may be pleaded and followed on future occasions.

If these things be admitted in the south, will they not be considered as authorized in the north ? Are there not fortresses there to be won, and provinces to be conquered ; and are there not Indians in that quarter likewise, and may not the officer in command find means to prove that those Indians have been or hereafter may be, furnished by the British with arms and munitions of war; and, if so, may he not follow the example set in the south? And add something to his stock of military fame by reducing the British fortresses of Canada, and unfurling the star spangled banner of this nation on the walls of Quebec?

We hope better things of the distinguished officer at the head of our armies, and we had hoped better things of the hero of New Orleans, but we have been disappointed ; and, if the conduct of the officers in the south be sanctioned and approved by the nation, we are free to declare that the reduction of Quebec (where Montgomery fell, unable to conquer) would present a much stronger claim to public approbation.

It is necessary here to remark, that a copy of the order issued by Gen. Jackson to Gen. Gaines, for the reduction of St. Augustine, was transmitted to the Secretary of War, and a countermanding order promptly despatched to Gen. Gaines, which reached him before the military expedition set on foot by Gen. Jackson had commenced; and thus was suddenly arrested a military scheme, (as unconstitutional as it was impolitic) and when might, as stated by the Secretary of War, in his letter of the 8th day of September, 1818, have involved this nation in a war with all Europe.

In thus promptly prohibiting the unauthorised seizure, at the will of a commanding general of the possessions of a neighboring nation with whom the United States are at peace, the committee recognize that sacred regard to the rights of other nations, which ought never to be departed from by the Executive of a free country, and that vigilant attention to the conduct of the officers of the army which is necessary to secure a due subordination of the military to the civil power.

They consider that on this occasion, the Executive of the United States has (by promptly restoring St. Marks and Pensacola, wrested from Spain, in violation of instructions) pursued the course, that the constitution demanded, that all former precedents justified, and to which the public sentiment gave a decided approbation.

In reviewing the execution of Arbuthnot and Ambrister, your committee cannot but consider it as an unnecessary act of severity, on the part of the commanding general, and a departure from that mild and humane system towards prisoners, which in all our conflict with savage or civilized nations, has heretofore been considered, not only honorable to the national character, but conformable to the dictates of sound policy. These prisoners were subjects of Great Britain, with whom the United States are at peace. Having left their country, and united their fate with savages, with whom the United States were at war, they forfeited their claim to the protection of their own government, and subjected themselves to the same treatment, which might according to the practice and principles of the American government, be extended towards those with whom they were associated. No process of

reasoning can degrade them below the savages with whom they were connected. As prisoners of war they were entitled to claim from the American government that protection which the most savage of our foes have uniformly experienced when disarmed and in our power. Humanity shudders at the idea of a cold-blooded execution of prisoners disarmed, and in the power of the conqueror. And, altho' savages, who respect no laws, may, according to the strict principles of the law of nations, have their own system of cruelty inflicted on them by way of retaliation, it is believed that such a system would degrade and debase the civilized nation who could resort to it, and is not only repugnant to the mild principles of the christian religion, but a violation of those great principles of moral rectitude which distinguish the American character. Retaliation in the United States has always been confined to specified acts of cruelty. It is not believed that any attempt has ever been made to retaliate for charges so general as those exhibited against Arbuthnot and Ambrister, viz : " Inciting the Indians to war." During the revolutionary war, only two cases occurred of persons seized for purposes of retaliation, neither of whom was executed. The case of Asgill, seized on account of the murder of Huddy ; and Governor Hamilton, of Vincennes, for specific acts of cruelty also. Hamilton was confined for a short time with rigour, and afterwards released. During the late war, marked with some cases of cold-blooded massacre on the part of our enemy, particularly the one at the river Raisin, no such measure as retaliation was resorted to.

The principle assumed by the commanding general, that Arbuthnot and Ambrister, by uniting in war against the United States, while we were at peace with Great Britain, " became outlaws and pirates, and liable to suffer death," is not recognised in any code of national law. Nothing can be found in the history of civilized nations, which recognises such a principle, except a decree of the Executive Directory of France, during their short career of folly and madness, which declares that, neutrals, found on board enemy's ships, should be considered and treated as pirates."

The committee forbear to make any other remarks on the violation of the usual and accustomed forms in the punishment and conviction of Arbuthnot and Ambrister, except that even despots claiming to exercise absolute power cannot, with propriety, violate their own rules.

Having detailed a court martial, for the purpose of trying the prisoners, the commanding general, by his own authority, set aside the sentence of the court, and substituted for that sentence his own arbitrary will. In trials involving the life of an individual, a strict adherence to form is in ordinary cases considered the best security against oppression and injustice.

A departure from these forms is calculated to inflict a wound on the national character and tarnish the laurels so justly acquired by the commanding general by his former victories. Such are the facts, as they appear to the committee, and such are the views taken by them of the important subjects referred to their consideration, and, together with their report, they submit various depositions and documents, to which, and to the correspondence and documents relating to the Seminoole war, communicated to the Senate by the President of the United States, at the last and present session, they refer.

[We are obliged to postpone, for the present, the publication of the Documents accompanying this Report, not choosing to divide them, and not having room in this paper for the whole of them.]