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### Claims of the State of Kansas. (To accompany bill H.R. no. 112.)

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H.R. Rep. No. 64, 41st Cong., 2nd Sess. (1870)

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## CLAIMS OF THE STATE OF KANSAS.

[To accompany bill H. R. No. 112.]

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MAY 3, 1870.—Ordered to be printed and recommitted to the Committee on Military Affairs.

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

## REPORT.

*The Committee on Military Affairs, to whom was referred the bill (H. R. 112) to authorize the settlement of the claims of the State of Kansas for services of the troops called out by the governor of the State, upon the requisition of Major General Curtis, to repel the invasion of General Price, having had the same under consideration, beg leave to report :*

That in the year 1864 the rebel General Price had invaded the State of Missouri, and was marching in the direction of the State of Kansas. This was in September of that year. Major General Curtis was in command of the department, and Major General Sykes in command of the district of South Kansas. On the 21st of September, 1864, General Sykes notified the governor of the State that a large force was marching on Fort Scott, and asked the governor to call out the militia. This Governor Carney proposed to do as soon as there was a demand in proper form by the commanding officer of the department.

On the 5th day of October, 1864, General Curtis called upon Governor Carney, in writing, to call out the militia of his State to assist in repelling the invasion. This was necessary, as there were but few federal soldiers in Kansas, and, beside, the Kansas volunteers were serving in distant fields. On the 8th day of October the governor issued his proclamation, and called upon the Kansas militia to turn out in mass, and issued orders placing the whole force under the command of Major General Deitzler. On the 9th day of October Major General Deitzler issued orders directing the militia of the State to rendezvous immediately at the places named in the order, to serve for thirty days, or less if sooner discharged. On the same day Major General Curtis issued orders—General Orders No. 53—embracing the proclamation of the governor and the orders of General Deitzler, in which he gave direction to all federal officers to aid in the circulation of these orders, to gather and subsist troops, and to do whatever was necessary to make a united effort against the approaching foe.

Immediately the militia of the State rallied in force, including a brigade of colored citizens, under the command of Captain James S. Rafferts, of the Eighth United States colored troops; and on the 10th day of October, 1864, General Curtis proclaimed martial law in Kansas, directing all places of business closed, except when necessary for health and subsistence, and only such houses to be open as might have leave granted the proprietors by general officers; and the militia forces were to be

subject to rules and articles of war, and were clothed with the same duties and authority as the regular soldiers and volunteers.

The entire able-bodied male population marched to the conflict with such means of subsistence, transportation, and arms as they could command, even passing out of the State and the military department to which they belonged, engaged in bloody and victorious battles, losing many in killed and wounded, losing artillery, transportation, and munitions of war, and assisting to win several fiercely contested battles. They fought at Big Blue, Little Blue, Hickman's Mills, Westport, State Line, Mine Creek, Mound City, and Marias des Cygnes.

On the 25th of October, 1864, the enemy having been driven into the State of Arkansas, Major General Curtis issued his orders in the field at Fort Scott, in which he declared that the necessity for martial law no longer exists, and revoked General Orders No. 54. On the 27th day of October, 1864, the governor issued his proclamation disbanding the militia and they were discharged. The militia, under this call, turned out twenty-four regiments and four battalions, numbering in all 12,411 men, and in alacrity in responding to the call, and for bravery and gallantry in the field, these men were rarely, if ever, equaled. This force was mustered out upon proper muster-out rolls, showing the length and character of the service performed by each man. The legislature of the State of Kansas passed, February 10, 1865, a law to provide a commission to adjust and audit these claims. Under this act a commission was appointed under which claims were audited, and they have been assumed by the State. During the same year a small militia force was called out to suppress Indian difficulties in the southwestern portion of the State. This call was made on the demand of Major General Curtis, commanding the department, and the claims for pay and subsistence rest upon the same grounds and should be considered in connection with the Price raid claims.

The commission audited and allowed claims for services, (on pay-rolls,) transportation, forage, subsistence, and property lost in action, the total amount being \$563,932 71, of which the State of Kansas has assumed \$500,000.

The account of the commission as made up stands thus:

For services as per muster-rolls.....	\$256, 761 20
For material, supplies, and transportation .....	111, 352 53
For damages sustained.....	159, 191 34
For miscellaneous claims.....	36, 627 64
Total.....	563, 932 71

It appears that the first and second items are legitimate claims against the United States, but the government has never yet, as your committee believe, established the precedent of paying claims of the character described in the third item. The fourth item does not seem to be well enough defined for your committee to judge whether they are within the class of claims heretofore settled for by the government. The proposed commission, under such rules as would be prescribed by the War Department, would be the judges as to the character of claims presented, and none should be allowed unless they came within the rules prescribed by that department, and as defined by the practice of the government.

Application has been made by the State of Kansas to the War Department for the payment of these claims, but that department has held, February 6, 1866, that, "The expenditures having been incurred for troops not mustered into the United States service, they cannot be adjusted at the Treasury without the action of Congress. W. Scott

Ketchum, brevet major general, assistant inspector general;" and under this decision the State has presented her claim for reimbursement to Congress. For fuller particulars and more extended detail as to the matters herein, as well as for the proclamations of the governor and the orders of Major General Curtis and Major General Deitzler in full, your committee refer the House to Miscellaneous Document No. 36, second session forty first Congress.

Your committee are unable to see any difference in the claims now presented by the State of Kansas, and claims heretofore recognized and allowed for like services to the States of Pennsylvania, Ohio, Iowa, Indiana, and Missouri.

By the act of April 12, 1866, Statutes at Large 14, page 32, \$800,000, or so much thereof as might be necessary, was appropriated to reimburse the State of Pennsylvania for money expended for the payment of the militia in the service of the United States.

This appropriation was made for the payment of the militia called into active service during the invasion of the State in 1863.

By the act of April 17, 1866, Statutes at Large 14, pages 38 and 39, a commission was authorized to ascertain the amount of money paid out by the State of Missouri in calling out, equipping, subsisting, and paying the militia of the State during the rebellion, under the restrictions and limitations of the act, and such rules and regulations as should be prescribed by the War Department, to report to the Secretary of the Treasury, when the accounting officers of the Treasury were authorized to audit and pay the same, and the sum of \$6,714,089 65 was appropriated to carry said act into effect.

This appropriation was made to reimburse the State for payments on account of calling into the service, under the orders of the commanding officer of the federal army having military command in that State, the enrolled militia of the State. The Missouri State militia, consisting of ten regiments, was a force mustered into the United States service for three years or during the war, and was clothed, subsisted, and paid by the general government.

By the act of March 29, 1867, provision was made to pay the militia of the States of Indiana and Ohio, called into active service during the year 1863 on account of the Morgan raid of that year through those States, by raising a commission, and an appropriation was made to meet the necessary amount found due those States by said commission. The commission was authorized to report to the Secretary of the Treasury, when the same would be audited, and, if found correct, be paid.

Congress had also, by act passed July 25, 1866, authorized the President to appoint a commissioner to examine and report upon certain claims presented by the State of Iowa for militia furnished for service in the State of Missouri; also for forage, transportation, and for raising, arming, and equipping troops during the war, to report by December, 1866; and afterward, by the act of March 3, 1839, an appropriation of \$229,843 was appropriated to pay the State the amount allowed by the commissioner.

It appears to your committee that the State of Kansas has a just and meritorious claim against the United States for the payment of her State militia, called into active service by General Curtis, commanding the military department; that the services were necessary, the urgency great, and were accepted and should be promptly paid for, and doubtless will be as soon as proper steps can be taken to ascertain the amount of such service, and for stores furnished to the government.

The bill (H. R. 112) referred to your committee provides for the ap-

pointment of two commissioners, not citizens of Kansas, who, in connection with an army officer to be detailed for the purpose, are to examine and report upon all claims presented by the militia called into active service by the governor, under the request of General Curtis, to repel the invasion of the rebel General Price; and your committee believe will, if passed, provide for the auditing of these claims. It calls for no appropriation, but requires a report to be made to Congress for final action. The bill is carefully drawn; under it, improper claims cannot be allowed. Your committee have made certain amendments to said bill providing for a detail of three army officers to be made by the Secretary of War to compose said commission, and with said amendment your committee recommend the passage of said bill.