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John A. Sutter

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JOHN A. SUTTER.

APRIL 8, 1880.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. DICKEY, from the Committee on Claims, submitted the following

REPORT :

[To accompany bill H. R. 5678.]

The Committee on Claims, to whom were referred the memorial and papers of John A. Sutter, asking relief, respectfully report that they have had the same under consideration, and find :

That it appears from the memorial signed by Gen. W. T. Sherman and other prominent and distinguished Army as well as Navy officers, who were operating as such in California and on that coast during the Mexican war, and a large number of prominent and well-known citizens, early residents of that State, "that they were and are familiar with the history and career of Gen. John A. Sutter during many of the years of his residence in that country, and conversant with his deeds of public philanthropy and private generosity in the early days of the settlement of California."

These memorialists, who are personally cognizant of the willing sacrifices made and the important part taken by General Sutter in the development of the great empire of human prosperity, bear strong testimony to his merits, and the duty of the United States to provide for his support, during the few remaining years left him, in a manner becoming his former position in life and among men.

In this connection your committee deem it not improper to state that it appears from the reports of the exploring expeditions of Wilkes and Frémont that before the acquisition of California by the United States, General Sutter, then a resident of that country, was a man of great influence as Mexican military governor of Upper California; that he was possessed of great wealth, consisting of large grants of lands from the Mexican authorities, and immense herds of horses, cattle, sheep, &c.; that as a colonial head, through his energy and bravery, he had succeeded in subduing and partially civilizing the wild tribes then inhabiting the country which is now the great State of California.

For the purpose of establishing and maintaining his colony, and subduing and controlling the Indians he found there, he constructed what has since been known as Fort Sutter, and mounted it with artillery. By this means and by the use of the Indians in his employ and under his control he protected his immense herds of stock and cultivated his large fields of grain.

His known devotion to the principles of American institutions drew to his fort and to his support many American settlers.

We find the following account of General Sutter and his operations

in California contained in the Report of the Exploring Expedition of Admiral Wilkes (vol. 5, pp. 178, 179), in which Lieutenant-Commandant Ringgold states that—

When Captain Sutter first settled here in 1839 he was surrounded by some of the most hostile tribes of Indians on the river, but by his energy and management, with the aid of a small party of trappers, he has thus far prevented opposition to his plans. He has even succeeded in winning the good will of the Indians, who are now laboring for him in building houses and a line of wall to protect him against the inroads or attacks that he apprehends more from the *present authorities* than from the tribes about him, who are now working in his employ. The extent of his stock amounts to 1,000 horses, 2,500 cattle, and about 1,000 sheep, many of which are now to be seen around his premises, giving them an appearance of civilization. The duties I have already named might be thought enough for the supervision of one person, but to these must be added the direction of a large party of trappers and hunters, mostly Americans, who enter into competition with those of the Hudson Bay Company, and attention to the property of the Russian establishment at Ross and Bodega, which has just been transferred to him for the consideration of \$30,000.

During our stay, there was much apprehension on the part of some that the present governor of the district next west of New Helvetia—the name of Sutter's possessions—felt jealous of the power and influence that Captain Sutter was obtaining in the country, and it was thought that had it not been for the force which the latter could bring to oppose any attempt to dislodge him it would have been tried. In the mean time Captain Sutter is using all his energies to render himself impregnable.

This is the official account of the operations of General Sutter by one of our most distinguished naval officers in 1841. Afterwards, General Sutter was visited by Col. John C. Frémont, in charge of an overland exploring expedition sent out under the direction of the United States, who reached Fort Sutter with his surveying party in an almost starving condition; and, as shown by the official report of Colonel Frémont, General Sutter showed himself a generous friend to the Americans, and immediately supplied Colonel Frémont and his party with fresh horses, mules, and other necessary supplies. It appears from all the official reports that General Sutter made no secret of his American sympathies.

In the fall of 1845, the war between the United States and Mexico being in contemplation, the Mexican authorities, distrusting General Sutter, and being desirous of dislodging him, sent a commission composed of Senator Castillero and General Castro, governor of California, authorized to purchase the New Helvetia possessions from him. This commission offered Sutter \$100,000 in money and the mission lands of San José and the cattle belonging to the same, where he would be less dangerous than in the interior, for his fort and possessions. This offer, as shown by the secretary of the commission, was declined by General Sutter on the ground that he did not desire to leave his American settlers to the mercy of the Mexicans.

Soon after this the war between the United States and Mexico was declared, during which the War Department, being informed of the sympathy of General Sutter with the United States, gave confidential instructions to Gen. S. W. Kearny, who was ordered to California, as follows :

It is understood that a considerable number of American citizens are now settled on the Sacramento River near Sutter's establishment, called New Helvetia, who are well disposed towards the United States. Should you, on your arrival in the country, find this to be the true state of things there, you are authorized to organize and receive into the service of the United States such portions of these citizens as you may think useful to aid you to hold possession of the country. (See Senate Doc. No. 5, page 29, Thirtieth Congress.)

It seems that Colonel Frémont, who was at that time engaged in another surveying expedition, reached Fort Sutter before General Kearny, and being well acquainted with General Sutter and knowing his sympathies for the United States, proceeded, with the sanction of Sutter, to

form a battalion from among General Sutter's men, with which the United States held that part of the country and protected the Americans there. Sutter's fort was the base of the operations of the Americans. The history of the war shows that on the 7th of July, 1846, the American Commodore Sloat took possession of Monterey and hoisted the American flag, and on the next day an English fleet under command of Admiral Seymour appeared at that port for the purpose of possessing the same in the name of Great Britain, pursuant to negotiations between that power and Mexico for the cession of California to England. There is no doubt but the authoritative and formal possession of California by the United States was greatly hastened by the friendship and timely assistance of General Sutter. His invaluable service in that regard is shown by the statement of General Sherman in a letter to a personal friend, recently published, in which he says, that "*to him [Sutter], more than any single person, are we indebted for the conquest of California, with all its treasures.*"

Public history shows that General Sutter seemed to have had a prophetic appreciation of the growing power and ultimate success of the United States in the Mexican war. The triumphant advance of our armies to the Pacific coast and the change of jurisdiction were hailed with joy, and our forces were cordially welcomed by this eminent pioneer, whose large possessions were thus brought under the power and protection of our government.

But the political change which thus brought the petitioner and his flourishing colony into the embrace of this Republic, and which seemed to promise so much for the increase and security of the wealth accumulated by his long and laborious exertions, was not destined to confer any benefit whatever upon him. That which enriched the whole country and gave sudden fortunes to numerous adventurers brought nothing but disaster to General Sutter. The discovery of gold in 1848, which was first made in digging a mill-race by him, caused a great rush of settlers from the States, many of whom forcibly occupied his lands.

The rejection of his "Sobrante" grant of twenty-two leagues of land by the Supreme Court of the United States, after it had been pronounced valid by the board of commissioners and by the United States district court of California, completed the record of his ruin. This grant contained about 97,000 acres of land, for which, at the minimum price, the government received about the sum of \$122,000.

It appears that on December 22, 1844, Manuel Micheltorena, governor and commandant of the Californias, conferred upon General Sutter the power and authority of granting lands within that governmental department to citizens; which grants made by General Sutter, under that authority, have been confirmed by the courts, and the lands patented to the grantees by the United States.

At the time that Governor Micheltorena conferred this power on General Sutter he promised Sutter, in consideration of military services rendered by him to the Mexican Government, to grant him the Sobrante lands belonging to the New Helvetia grant, and but a few weeks thereafter, and on the 5th day of February, 1845, actually made the grant promised. So it seems the grant made directly by Micheltorena to General Sutter was rejected by the court on the sole ground of the want of authority in Governor Micheltorena to make such a grant; while the grants made by Sutter, under authority delegated to him by Micheltorena, were approved by the board of commissioners and the district court of California as valid, and titles thereto passed from the United States to such grantees.

It is scarcely to be doubted, however, that under the Mexican Government Sutter's Sobrante grant would have been confirmed, while under ours the spirit of the pre-emption and homestead laws produced such a popular feeling against large grants of land, that even the administration of justice by the courts seems to have been brought insensibly, and perhaps naturally and correctly, under its control.

The decision of our highest tribunal against the validity of this grant must be accepted as an authoritative adjudication of that question, which leaves no other authority for Sutter to appeal to but Congress.

In a number of similar cases Congress has not hesitated to give relief in some form or other; usually by authorizing the parties whose grants had been rejected to enter the lands embraced in the rejected grants at the minimum price, and thus save themselves from the consequences of the failure of titles they had warranted; notable among these is that of the Vallejo grant, rejected by the Supreme Court. In that case Congress passed a special act for the benefit of the grantee and his assigns.

It is very certain that no other case could appeal more strongly to the cause of justice or the sympathy of Congress than that of General Sutter. The actual losses he has sustained, as shown by his memorial, and which is corroborated by the statements of others, summarized, are as follows: Expenses in money and services, which formed the original consideration of the grant, \$50,000; surveys and taxes paid on the same, \$50,000; cost of litigation, extending through years, including fees to eminent counsel, witness fees, and traveling expenses, &c., \$125,000; amount paid out to make good the covenants of deeds upon the grant over and above what was received from sales, \$100,000; making a total loss to him of \$325,000, as a result of the decision of the Supreme Court.

Aside from this actual loss, it must be borne in mind that the value of the grant of which he was thus dispossessed, had it been confirmed to him, would, upon a moderate estimate, have reached the sum of \$1,000,000.

The petitioner is not asking the government to make compensation in reference to the land, inasmuch as it cannot be appropriated in the manner adopted in other cases. However, the precedents would seem to justify an act for the relief of the petitioner. The other losses sustained, and services rendered by him, may well be considered as persuasive to a fair and liberal provision being made by Congress for him.

The committee find that the Committee on Private Land Claims, of the House of Representatives of the Forty-fourth Congress, to whom the memorial of the petitioner was then referred, made a report to the House on June 30, 1876, recommending the passage of a bill appropriating \$50,000, to be paid Gen. John A. Sutter, in full satisfaction for his services and losses, and whatever equities he may have had under the said Sobrante grant. Inasmuch as the same relief cannot now be afforded him that has heretofore been extended to others in similar cases, because the lands embraced in the said Sobrante grant have long since passed from the possession of the United States to individuals and cannot be appropriated to him upon his paying to the government the minimum price of public lands, therefore your committee would recommend the payment to the petitioner in full of his claim a sum in gross, and for that purpose report the accompanying bill, and recommend its passage.

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