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Claims of the states of Texas, Colorado, Oregon, Nebraska, California, Kansas, and Nevada, and the territories of Washington and Idaho

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CLAIMS OF THE STATES OF TEXAS, COLORADO, OREGON,
NEBRASKA, CALIFORNIA, KANSAS, AND NEVADA, AND
THE TERRITORIES OF WASHINGTON AND IDAHO.

MARCH 18, 1884.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. ROSECRANS, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. Res. 172.]

Your committee having had under consideration the above resolution, report as follows:

The act which the joint resolution proposes to amend was passed as a substitute for Senate bills 1673, 1310, 1144, and 87, and Senate joint resolution 10, upon which was made a favorable report, No. 133, Forty-seventh Congress, and House bills 422, 1688, 1908, 1909, 1936, and 3839, and House joint resolutions 27, 34, and 47, upon which was made a favorable report, No. 141, Forty-seventh Congress.

The date of April 15, 1861, was fixed as the earliest limit of the claims in question, because said claims of the various States and Territories mentioned in the above bills and joint resolutions were on account of expenditures subsequent to that date. It is only requisite to extend the benefits of this act to the State of California, whose expenditures were mostly, if not altogether, during the ten years anterior to the date fixed therein. The State of California had a bill for payment of the unpaid balance due her for expenditures in Indian wars in 1851 and 1852, before the War Claims Committee of the Forty-seventh Congress, upon which a favorable report was made, but no further action taken, and consequently the name of the State of California did not appear in this general bill as reported by the Committee on Military Affairs. Subsequently, when the bill came to the House, the name of California was inserted as an amendment, on motion of one of the members of the California delegation who did not know that the expenditures made by that State were prior to the date mentioned in the bill (April 15, 1861).

From the report, No. 1847, Forty-seventh Congress, it will be seen that California had established a claim which is not within the provisions of this act. It also appears from a letter of the Third Auditor, dated April 11, 1873 (see Appendix A), that Governor McDougal called into service a battalion called the Mariposa Volunteers, for the purpose of suppressing the insurrection of the Mariposa Indians, which was suppressed into service January 24, 1851, and served until July 25, 1851, the expense of which the State assumed, but which in good conscience should have been paid by the Government of the United States. It is also stated in a letter to the chairman of this committee (see Appendix B) that the State in 1857 assumed, by act of the legislature of April

25, the payment of certain other expenses for the suppression of Indian hostilities of a similar character but of a small amount, the payment of which was provided for in 1862; but as the expenses were incurred prior to 1861, California could not obtain relief under the act in question.

To give to California the benefits and advantages which the act accords to other States and Territories under like circumstances, it will be sufficient to amend the act by adding at the end of section 1 of said act—

“Provided that all such claims of the State of California arising on and after the first day of January, eighteen hundred and fifty-one, shall be examined and investigated as aforesaid.”

Not doubting that California ought to be entitled to the benefits of the act the same as the other States specified therein, your committee recommend that the joint resolution do pass.

APPENDIX A.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., April 11, 1873.

SIR: In reply to your letter of the 19th of March, addressed to the Secretary of War, and referred to this office, I have to inform you that the battalion of Mariposa Vols., under command of Maj. James Savage, was in service from 24th of January, 1851, until 25th July, 1851.

The captains commanding in the battalion were John Boling, William Dill, and John J. Kuykendall.

Very respectfully,

A. M. GANGEWER,
Acting Auditor.

E. J. SMITH, Esq.,
No. 217 D street, Washington, D. C.

APPENDIX B.

DEAR GENERAL: Permit me to call your attention to House joint resolution No. 172, introduced February 25, 1884, and referred to your honorable Committee on Military Affairs, and to some of the reasons, in so far at least as same relates to the State of California, why said resolution should pass, to wit:

There are several instances wherein between the middle of January, 1851, and middle of April, 1861, calls were made upon the citizens of California to organize themselves in said State to suppress Indian hostilities, and for which the State of California incurred some expense and liability, and for which there is not now any adequate legislation to reimburse said State. Among other cases, I would cite that of the “Mariposa Battalion,” called out when Governor McDougal was governor of that State, about the middle of January, 1851, and mustered into the service on the 24th day of January, 1851, and served from January 24, 1851, to July 25, 1851, as per letter of Third Auditor of April 11, 1873, inclosed as an exhibit. These volunteers provided their own horses and equipments. The camp supplies and baggage-trains were furnished by the State of California. This military force was called into existence by the State authorities, but its maintenance was at the expense of the General Government. Maj. Ben. McCullough was offered the command of the battalion, but he declined it.

Such men in California at that time as James D. Savage volunteered and served as major; John J. Kuykendall, John Boling, and William Dill as captains; Reuben Chandler, Gilbert, and Crawford as lieutenants; A. Bronson and Lewis Leach as surgeons, and Drs. Pfifer and Black as assistant surgeons; with Barbour, Brinnell, McKee, Wozencraft, Hays, and other distinguished Californians, many of whom are known to you. Among others in said battalion were Col. Thomas Henley (father of Hon. Barclay Henley, your colleague now in Congress), Wm. B. Lewis, of Fresno, and W. J. Campbell, of Kings River, Tulare County, California, and others.

I also cite you the instances of the expenses incurred by the State of California in the suppression of Indian hostilities in certain counties of California assumed by said

State April 25, 1857, and payment provided for May 21, 1862. So that the date of incurring such expense was prior to April 15, 1861, but payment made by California subsequent to April 15, 1861, and which case, therefore, would not strictly come within the purview of the act of June 27, 1882, and which expenses have not yet been reimbursed said State by any adequate provision by Congress.

While the expenses in these cases are not large, equity and good conscience both enjoin that some ample legislative provision should be now made to fully meet the same.

In my judgment this resolution (H. Res. 172), if passed, will be ample to meet all such cases.

The act of Congress which your joint resolution seeks to amend has passed through the careful scrutiny of both the Military Committee of the Senate and of the House and both branches of Congress before it became a law, and hence it may be assumed to fully represent the views of Congress as to the principle and measure of relief to be granted said States in said act, and resolution No. 172 is intended simply to change the date of April 15, 1861, in said act to January 15, 1851, so as to admit such cases as may exist in any of said States between the two dates named in said resolution and of the classes as now provided for by law.

The history of the act of June 27, 1882, now sought to be amended, might be appropriately referred to by me with a view of stating to your honorable committee why the 15th April, 1861, came to be named in said act at all.

As State agent for Oregon and Nevada in December, 1881, I believe that under section 3489 of the Revised Statutes the States of Oregon and Nevada could not recover from the United States the expenses by them incurred during the war of the rebellion, 1861-'65, without additional legislation, and because said two States had not then filed their claims against the United States for the expenditure during the war of the rebellion and under the act of July 27, 1861. Whereupon, at my request, on December 10, 1881, Senator Grover, of Oregon, introduced in the Senate, Senate joint resolution No. 10 for Oregon (copy inclosed herewith). On December 13, 1881, Senator Fair also introduced Senate joint resolution No. 13 for Nevada (copy inclosed herewith); and on February 8, 1882, Senator Plumb introduced Senate bill No. 1144, which, while including both Oregon and Nevada, also included Kansas, Texas, Idaho, and Washington Territories. (See copies inclosed herewith.) But, as Senator Plumb had on December 5, 1881, introduced Senate bill No. 87, which, like all the foregoing recited bills, were referred to the Senate Committee on Military Affairs, said Senate bill No. 87 was on February 7, 1882, reported back to the Senate by Senator Cockrell in Senate Report No. 133, first session, Forty-seventh Congress, and acted upon by the Senate as a separate measure (see copy of report that accompanied said Senate bill No. 87, herewith inclosed), and passed Senate 30th March, 1882.

Now, in none of these bills was any provision made for California, or any reference in any thereof to said State. Thereafter, to wit, on May 12, 1882, Senator Grover reported back a substitute (Senate No. 1673) for said Senate resolution No. 10 and Senate resolution No. 13 and Senate bill No. 1144, and, as will appear from copy herewith inclosed, and of his Report No. 575, first session, Forty-seventh Congress, and in which report he left out Kansas, and because said State had been reported on as a separate measure, and acted on separately, as before recited.

Now, in these Senate joint resolutions Nos. 10 and 13, without any particular attention being paid to the date, reference was had more especially to the expenses incurred during the war of the rebellion by Oregon and Nevada, and which expenses began on April 15, 1861, the date of April 15, 1861, named in said resolution chanced thereby to become the date named in Senator Grover's substitute. As this was being discussed in the Senate (see Record, vol. No. 13, pages 6 to 8, first session, Forty-eighth Congress), it received sundry amendments, and by which Colorado, Nebraska, and California were included, and in that shape it passed the Senate on 8th June, 1882. In the House there were also sundry bills and resolutions introduced and to accomplish the same ends, and all referred to your Military Committee, to wit, House bills Nos. 422, 1688, 1908, 1909, 1936, and House resolutions Nos. 27 and 34, and for all of which Mr. Upson, from your Military Committee, on July 31, 1882, reported a substitute (H. R. No. 3839), with a report thereon (No. 141), copies of all of which bills, resolutions, and reports are inclosed herewith. This House substitute (No. 3839) was not acted on in the House, but when the aforesaid Senate bill No. 1673 (which passed the Senate) reached the House, the friends of the Senate Kansas bill (No. 87) sought to have said Senate bill, in which Kansas was not included, amended so as to include Kansas; this amendment was made in the House on the 20th day of June, 1882 (see extract of Record, June 22, herewith); whereupon this Senate bill, so amended, returned to the Senate for its concurrence, and it was concurred in by the Senate on the 20th day of June, 1882, and was approved and became the law on June 27, 1882; and which law House resolution No. 172 seeks to amend simply by changing the date named therein, and not otherwise.

This will account for the fact that no special attention was given to the date named therein, April 15, 1861, and the manner in which California came in under its provisions.

The fact is that there have not been any Indian hostilities in California since April 15, 1861, but all occurred prior to that date, and unless said act be amended as resolved in said House resolution No. 172, it is simply a dead letter to the State of California. The intention of Congress in said act was to provide for all cases of the class named in said act not heretofore provided for, and if there be any cases named in said act in the other States enumerated in said act, as I submit do now exist in the State of California, then there is every good reason why said resolution should be unanimously and favorably recommended for passage.

I therefore suggest in any case that it be enacted even if its provisions be limited only to the State of California.

Respectfully,

JOHN MULLAN,
State Agent for California.

Hon. W. S. ROSECRANS,
Chairman Committee on Military Affairs, House of Representatives.

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