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### [Claim of the State of Florida.]

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IN THE SENATE OF THE UNITED STATES.

APRIL 13, 1894.—Ordered to be printed.

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

REPORT:

[To accompany S. 1286.]

The Committee on Claims, to whom was referred the bill (S. 1286) to authorize the Secretary of the Treasury to pay to the State of Florida the balance found to be due said State according to an account stated by the Secretary by authority of Congress, have given the case careful consideration and submit the following report thereon:

The principal item of this claim in behalf of the State originated during the Seminole wars. When Indian hostilities were renewed in December, 1855, the governor, believing the U. S. forces in the field to be wholly inadequate to protect the settlers, raised, equipped, and provisioned a number of companies. They were mustered into the State service and rendered efficient aid in connection with the U. S. troops in protecting the country in the war that ensued. These troops were offered to the War Department, but only a part of them were accepted. The war had, however, assumed greater proportions than the military authorities at Washington supposed, and it afterward became manifest that the services of these companies were required, and their employment was approved by the President.

But in consequence of the delays incident to the long distance, the difficulties of communication and other causes and the ending of the terms of enlistment, the order of the War Department to muster them into the United States service was never carried out and the expense of maintaining these particular companies fell upon the State. After these companies had performed this service a larger force was employed and maintained by the United States in the further prosecution of the war.

The State being unable to bear this expense from the ordinary resources of her treasury, the legislature authorized the governor to issue bonds to raise the necessary funds to pay off these troops and the cost of their maintenance, and he did so. Some of these bonds were bought by the United States for the Indian trust fund and still constitute a part of that fund; some after their maturity were refunded in other interest-bearing obligations of the State, and the State has continuously been liable for interest on the money originally borrowed and much of this interest has been paid; the part not paid is represented by outstanding coupons and liabilities on overdue bonds in the Indian trust fund.

The amount of this claim was investigated by the War Department and reported to Congress by Secretary Lincoln in obedience to a joint

resolution approved March 3, 1881. The report from the Military Committee of the Senate favoring the adoption of this joint resolution was presented by the late Senator from Kansas (Mr. Plumb) and gives a brief history of the case to which reference is made for further particulars and it is hereto attached as a part of this report. The reference was accordingly made to the War Department and Secretary Lincoln made his report May 22, 1882. (House Ex. Doc. No. 203, Forty-seventh Congress, first session.) The matter was referred in the Senate to the Committee on Military Affairs and a favorable report was made as to the principal of the debt, but the State was unwilling to accept this as a settlement, believing that she was entitled to be reimbursed for moneys paid on account of interest as well as for the principal sum paid or for which she had given her valid obligations.

No further progress was made till the Fiftieth Congress when, in accordance with an amendment offered in the Senate to the deficiency appropriation bill, the Secretary of the Treasury was directed to examine the claim and report all claims in favor of the State of Florida and the General Government and to state the account between them.

The result was reported to Congress during the first session of the Fifty-first Congress, and is found in House Ex. Doc. No. 68. It suggests two methods of stating the account, the first, which is the most favorable to the United States, results in a balance due the State of \$567,954.50 up to January 1, 1890, the date to which interest was computed.

A bill to make a settlement upon this basis was referred to this committee during the Fifty-first Congress and favorably reported, but no final action was taken upon it. A similar bill was favorably reported by the committee during the Fifty-second Congress and was passed in the Senate. It was also favorably reported by the Committee on Claims of the House of Representatives, but it was still upon the Calendar at the final adjournment. Reference is here made to the report of the Senate committee for a fuller history of the case than is here given (*vide* Senate Report No. 198, Fifty-second Congress, first session).

After it became manifest that the bill would not be reached upon the House Calendar the substance of it was incorporated in an amendment to the deficiency appropriation bill in the Senate, which was adopted, but upon a nonconcurrence in the House it was lost in conference and the effort to secure the desired legislation failed.

The committee have again considered the claim and have reached the same conclusion as to its merits that has been before reached, and it is recommended that the bill do pass.

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[Senate Report No. 378, Forty-sixth Congress, second session.]

The Committee on Military Affairs, to whom was referred the joint resolution (S. Res. 79) directing the Secretary of the Treasury to adjust and settle the accounts between the United States and the State of Florida, have had the same under consideration and submit the following report:

The claims of the State of Florida, for which this resolution seeks to make provision, grew out of the Seminole war of 1855-1857. It appears that in December, 1855, the Indians of that tribe in Florida, who had for some time been in a turbulent and threatening state, commenced actual hostilities by attacking a detachment of U. S. troops commanded by Lieut. Hartsuff. This outbreak occasioned great excitement along the extended exposed frontier, and urgent demands were made upon the State authorities by the people for their protection. So urgent seemed the necessity that

the citizens of several of the counties hastened to effect voluntary organizations in advance of the action of the State executive. These companies were promptly recognized by the governor and rendered efficient service. In the emergency the governor appealed to the War Department to accept the services of the troops thus raised and organized, but the Secretary consented to receive only 5 companies.

These forces, with the U. S. troops then on duty in that section, were inadequate to the protection of the people, and the governor felt constrained to retain in the service, besides those received by the General Government, several companies, aggregating about 400 men. These were added to from time to time as the exigency seemed to require. These forces were regularly organized and mustered into the service of the State for a period of six months, unless sooner discharged. They cooperated with the U. S. troops and rendered efficient service.

All the facts in the case and the voluminous correspondence submitted—correspondence between the State executive and officers of State troops and citizens living in the exposed localities, and between the executive and the military authorities at Washington and the officers of the U. S. Army in service in Florida—satisfy the committee that the necessity which prompted the action of the governor in organizing and maintaining State troops in the field was imperative. He could not well have done less than he appears to have done without culpable neglect of duty.

This service, of course, was a serious burden to the State financially. The troops in the field had to be equipped, supplied, and paid. The funds at the command of the executive were insufficient for the purpose, and he was forced to negotiate burdensome loans in anticipation of the action of the legislature. This is a mere outline of the facts upon which the committee base their recommendation, as they do not deem it necessary to their present purpose to treat the subject in minute detail.

On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective cooperation with the U. S. troops, and to emphasize the necessity of the course he pursued he alluded to the circumstance that when Brig. Gen. Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for 10 mounted and 5 foot companies of volunteers, "being," as the governor remarks, "a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter." The governor concluded his letter by asking the Secretary of War, in behalf of the United States, "to approve and adopt the service."

Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that "an officer be sent as soon as possible to muster them in and out of the service of the United States," which recommendation was approved by the Secretary of War, who notified the governor as follows:

WAR DEPARTMENT,  
*Washington, D. C., May 21, 1857.*

His Excellency JAMES E. BROOME,  
*Governor of Florida, Washington:*

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,

JOHN B. FLOYD,  
*Secretary of War.*

The official order mentioned in the foregoing letter is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,  
*Washington, D. C., May 21, 1857.*

SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster rolls will at once be sent to your address.

I am, sir, very respectfully, your obedient servant,

S. COOPER,  
*Adjutant-General.*

COMMANDING OFFICER,  
*Department of Florida, Tampa, Fla.*

On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question."

The committee are of the opinion that the facts set forth as to the urgent necessity for the services of these troops for the defense of the State and the protection of the people against the hostilities of the Indians create an equitable obligation on the part of the General Government to reimburse the cost of such necessary service. This obligation is so clearly enforced by a long series of precedents that the action of the President and the Secretary of War in this particular case only strengthens it by evidencing the opinion they entertained at the time, with a full knowledge of all the facts and circumstances, of the judicious and necessary action of the governor in summoning the troops to the field. In a report recently submitted to the Senate by this committee, and also submitted in the last Congress, relative to military expenditures by the State of Kansas, the question of the obligation on the part of the United States to reimburse the States for expenditures of this character is fully presented in the light of numerous cited precedents. The committee would not deem it necessary to traverse this field again, even if the liability of the Government were less generally conceded than it is. We hold, therefore, that the State of Florida has a proper and legitimate claim against the United States for expenses properly incurred by her in the manner indicated.

While the committee are satisfied of the justice of this claim of the State of Florida, they are not prepared to recommend the passage of the specific bill referred to them. They think it would be wiser to authorize and direct the Secretary of War to cause this claim to be thoroughly investigated, and to report the result to Congress for further consideration. It is probable that the data on file in the War Department will greatly facilitate the proposed investigation, so that no great delay is likely to result if the recommendation of the committee shall be adopted by the Senate and be followed by a law to the same effect. A similar course has been pursued in the case of the State of Kansas, to which reference has been made, and we therefore submit a substitute for the joint resolution, and recommend its passage.