

Calendar No., 1391.

52D CONGRESS, }
1st Session. }

SENATE.

{ REPORT
{ No. 198.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 10, 1892.—Ordered to be printed.

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

REPORT:

[To accompany S. 1391.]

The Committee on Claims, to whom was referred the bill (S. 1391) "to authorize the Secretary of the Treasury to pay the balance found to be due the State of Florida, according to the account stated between the General Government and such State by the said Secretary, under the authority of the act" approved March 2, 1889, known as "the deficiency appropriation act," having carefully examined the same, submit the following report thereon:

The unsettled accounts between the State of Florida and the United States have been before Congress for adjustment and settlement for many years. This committee had the subject under consideration during the Fiftieth Congress upon a bill (S. 746) to settle and pay the balance claimed by the State, and afterwards upon an amendment offered to the deficiency appropriation bill of March 2, 1889, having the same purpose in view as the bill. The favorable recommendation of the committee upon this amendment was followed by its adoption by the Senate, and in a modified form it became a part of the act, as approved, and so appears in 25 U. S. S. L., p. 939. The particulars of its adoption will be stated more at length in the statement of the case.

The Secretary of the Treasury made a report in accordance with this act on the 16th day of December, 1889, and the same appears in Executive Document No. 68 of the House of Representatives of the Fifty-first Congress. The present bill was introduced to carry out the results of this report, and provide for the payment of the balance found to be due the State of Florida, and is substantially the same as the amended bill reported by this committee at the last Congress to accomplish the same purpose.

In presenting a history of this claim, the committee will make free use of the report made upon the bill (S. 746) already referred to in the Fiftieth Congress, which report is numbered 2482, and also of other reports of earlier date upon the same subject.

The account originated in a claim set up by the State of Florida for money expended in military operations for the defense of her people during the Seminole war in the years 1856 and 1857.

There were reasons which will appear further on why the General Government could not re-imburse the State for these expenditures without the action of the Congress.

During the first session of the Thirty-fifth Congress, upon the motion of Hon. George S. Hawkins, who then represented the State in the House of Representatives, all the papers on file in the War Department, relating to the manner in which the troops employed by the State in these operations were called into service, were sent to the House of

Representatives, and January 11, 1859, were referred to the Committee of Ways and Means and ordered to be printed. They appear in Executive Document of the House of Representatives No. 38 of that Congress. No further action seems to have been then taken.

During the first session of the Thirty-sixth Congress Hon. David L. Yulee, then a Senator from Florida, introduced a bill on the 31st of March, 1860, for the purpose of effecting a settlement of the claim. It was referred to the Committee on Military Affairs of the Senate, but no report was made upon it.

The war followed, and the records of Congress show no further action until the second session of the Forty-sixth Congress. Joint resolutions were then introduced into both Houses directing the Secretary of War to investigate the matter and report the results. The House resolution was referred to the Committee on Claims and the Senate resolution to the Committee on Military Affairs. Reports followed in both Houses. The Senate report was offered by the late Senator from Kansas (Mr. Plumb). It briefly states the facts upon which the claim rests, and upon this statement both Houses pronounced their judgment and passed the joint resolution in the shape which the committee recommended. The Senate report reads as follows, and the House report is in harmony with it. The joint resolution as it passed follows the report:

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

Mr. Plumb, from the Committee on Military Affairs, submitted the following report (to accompany S. Res. 79):

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, '56, and '57. 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 United States troops commanded by Lieutenant 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 five companies.

These forces, with the United States 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 four hundred 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 co-operated with the United States 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 United States 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 co-operation with the United States troops; and to emphasize the necessity of the course he pursued, he alluded to the circumstance that when Brigadier-General 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 ten mounted and five 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 3, 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 re-imburse 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 re-imburse 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.

The substitute for the joint resolution became a law March 3, 1881. It is found in 21 Statutes, page 520, and its provisions are as follows:

"That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1850. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary or proper for or against claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department.

"In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States."

The following extract from the Senate report of the 50th Congress continues the history of the claim:

The Secretary of War, Hon. Robert T. Lincoln, entered upon the examination of the claim in a very thorough manner, distributing the different abstracts of expenditures submitted by the State among the different departments under his control having charge of the matters included in them. The vouchers were carefully examined and acted upon, and the work of each sub-department was afterwards reviewed by the head of the War Department. The result appears in the report made to the Congress by the Secretary, May 22, 1882, and the same was printed as House Executive Document No. 203, Forty-seventh Congress, first session.

The following statement shows the amounts claimed and the amounts allowed. Many of the items were rejected for insufficient vouchers, and it is quite probable that this loss to the State is caused by the destruction and misplacement of papers, which might have occurred without the fault of the officers in charge of them during the period of over thirty years since the payment of the amounts, in which time the State passed through a period of war.

The following extract from a letter of the governor of Florida, dated April 12, 1882, addressed to the Secretary of War, in reply to a request for further evidence as to some of the items claimed by the State, accounts for the loss of missing vouchers and papers:

"I am informed by the agent of the State that the vouchers in most part sustaining the account of J. W. Pearson (marked A) have been filed in your Department, and it is much to be regretted that all of these vouchers, as well as the vouchers upon which the payments by the Treasury (statement B) were made, can not be furnished. In probable explanation of this it may not be improper for me to say that after the late civil war the archives and official records of the State were removed from their original places of deposit and stored in an unused and damp vault, where many of them were much mutilated and defaced and some entirely lost.

* * * * *

"W. D. BLOXHAM,
"Governor of Florida."

The statement is as follows:

Nature of claim.	Claimed.	Allowed.
A, for pay of troops	\$180,037.28	\$154,623.66
B, for subsistence	23,474.90	7,800.92
C, for forage	42,279.52	34,669.74
D, for transportation	19,843.28	17,247.39
E, for camp and garrison equipage	193.81	98.59
F, for quartermaster's stores	589.67	395.16
G, for ordnance stores	808.43	187.90
H, for contingencies	10,332.84	9,015.81
I, for stationery	111.11	10.10
K	1,362.83	501.32
Claim of J. M. Cooper		7.50
	279,033.67	224,648.09

The report of the Secretary of War came before the Forty-seventh Congress, and in the Senate was referred to the Committee on Military Affairs with a bill (S. 209c) to carry out the conclusions reached by the Secretary. This committee made a report at the second session (No. 995), through the present Senator from South Carolina (Mr. Hampton), and it was ordered to be printed February 16, 1883.

The report accepts the result reached by the Secretary of War, that there is due the State from the General Government on account of these Indian war expenditures the sum of \$224,648.09.

The committee accepts it as established "that the funds at the command of the executive of the State of Florida in the years referred to were insufficient to equip, supply, and pay the troops in the field, and, relying upon the approval given by the President of the United States and the Secretary of War on the 21st day of May, 1857, of the service of these volunteers, the State legislature, in order to provide their equipment and maintenance, authorized the issue of 7 per cent. bonds."

The statutes of the State authorizing the issue of these bonds are before the committee; the first was approved December 27, 1856, but it did not give the governor sufficient authority to accomplish fully the desired purpose, and an amendatory act was passed by the legislature, and approved January 7, 1859, which increased the power of the governor, and he was then able to dispose of the bonds.

The message of the governor setting forth these matters and the report of the disbursing agent of the State of his acts in the premises are here inserted as evidence of this loan.

Message from the governor on the subject of payment of volunteers, State loan, etc.

EXECUTIVE DEPARTMENT,
Tallahassee, December 9, 1859.

Gentlemen of the senate and house of representatives:

I submit herewith the official report of Col. John W. Pearson, who was appointed by me disbursing agent to discharge the debts and liabilities of the State incurred in suppressing Indian hostilities in the year 1856. I negotiated a loan for the State, through the agency of Colonel Pearson, in the cities of Charleston and Savannah, for \$241,300, payable in twelve months, which will be due in April, 1860. The State realized in cash from said loan \$222,015, and has disbursed \$193,331, leaving a cash balance of \$28,684, as per report of the disbursing agent, to which your attention is respectfully invited. The abstracts and vouchers for the unpaid claims referred to in the report of the agent have been placed in his hands with instruction to pay the same. In this connection I would call your attention to the fact that no claims for services rendered prior to the mustering in of the several companies have been paid. In several instances companies were organized on the first outbreak of the Indians without awaiting orders and promptly marched to the defense of the unprotected citizens, who were being massacred by the savages, and actually performed active and arduous service for which they have not been paid. This service was recognized and approved by the executive, but the agent has not felt authorized to pay from the day of enrollment, but from the date of mustering in, in accordance with the Army Regulations of the United States. I would respectfully recommend that the several companies of State troops be paid from the date of enrollment, upon satisfactory proof being made that they did actually perform active service in suppressing Indian hostilities. The act "to provide for the payment of the debts of the State," approved December 27, 1856, authorized the issuance of \$500,000 of bonds in the name and behalf

of the State, for the payment of the debts of the State, or so many thereof as may be necessary, conditioned, however, that the said bonds should be sold at their par value or hypothecated for the payment of a loan to the State, to be negotiated on the most practicable terms. It was questioned by capitalists whether the power to hypothecate carried with it the right to sell the bonds upon the failure of the State to pay the loan at maturity, and I was unable either to sell the bonds at their par value or to negotiate a loan upon them by hypothecation. This fact was communicated by me to the legislature, and the difficulty removed by "An act in addition to an act to provide for the payments of the debts of the State," approved January 15, 1859, empowering the governor to stipulate for the sale of the bonds hypothecated, or so many thereof as may be found necessary, at their market value, to meet the debt at maturity in the event the same shall not be otherwise provided for.

It has always been claimed, and I believe never denied, that the duty of suppressing Indian hostilities devolved upon the General Government, and that Government had long ago endeavored to effect their removal, and assumed the right to permit them to remain in the State, and withdrew the protection which the people had a right to expect. On the breaking out of hostilities the people on the frontier, for want of the protection which it was the duty of the Federal Government to give, found it necessary to embody themselves, and perform the service which the exigencies of the times imposed upon them, and in doing so they had to abandon their usual occupations and suffer all the privations incident to an exposed frontier life. Under these circumstances the State felt it due to her own citizens to provide for their payment, relying on the justice of the General Government to refund to her the amount which she felt it her duty to pay.

The justice of such a demand can not rightfully be disputed, and it is hoped will at once be recognized. I therefore recommend that the general assembly will, either by memorial or resolutions, or such other mode as they deem best, request of Congress the passing of a law refunding to the State the amount she has expended.

The loan made by the State to enable her to pay the just claims of her citizens falls due in April next, for the payment of which \$346,000 of the bonds of the State have been hypothecated, by virtue of authority in me vested by the above-recited acts, and as the Federal Government may fail to refund in time the amount thus advanced by the State, I would recommend that the governor be authorized to sell, at their fair market value, so many of the bonds as may be found necessary to pay the loan at maturity, rather than permit them to be thrown upon the market at the option of the parties holding them, in the event of the payment not being otherwise provided for.

Very respectfully,

M. S. PERRY.

TALLAHASSEE, FLA., November 30, 1859.

DEAR SIR: I herewith transmit to you a statement, together with my account current with the State of Florida as disbursing agent in the settlement of militia claims for services rendered in the year 1856:

I received from the State in cash.....	\$222, 015
I have paid claims to the amount of	\$193, 331
Cash balance on hand ready to pay over.....	28, 684
	222, 015

I refer to account current, with vouchers, for proof. The pay-rolls show the amount of nearly \$1,800 which is yet unpaid, owing to the fact that the parties performing the service for which it is due have deceased, and no representatives have qualified as executors or administrators to receipt for the same. The abstracts and vouchers of Captains Hooker, E. T. Kendrick, Addison, and Parker's companies, for transportation, etc., have not been placed in my hands for disbursement; consequently they are not paid. I have no means of knowing the amount, as I have not been able to see abstracts and vouchers.

Very respectfully, your obedient servant,

J. W. PEARSON,
Disbursing Agent.

His Excellency Governor PERRY.

J. W. Pearson, in account with State of Florida.

Dr.

To cash received from Bank of Charleston	\$92,000.00
To cash received from Peoples' Bank	46,000.00
To cash received from the Peoples' Bank	12,880.00
To cash received from S. W. R. R. Bank	46,000.00
To cash received from Merchants and Planters' Bank	25,135.00
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	222,015.00
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To balance	29,029.84
Less additional allowance, account omitted	345.00
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	28,684.84
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Cr.

By cash paid A. J. T. Wright's company	3,667.71
By cash paid Asa Stewart's company	11,510.89
By cash paid A. Bell's company	3,526.62
By cash paid W. B. Hardee's company	180.14
By cash paid Robert Youngblood's company	5,804.18
By cash paid E. Daniel's company	1,999.35
By cash paid A. D. Johnston's company	16,739.85
By cash paid A. D. Johnston's company	8,893.93
By cash paid W. H. Kendrick's company	16,277.99
By cash paid W. H. Kendrick's company	8,966.50
By cash paid Ed. Kendrick's company	3,243.36
By cash paid L. G. Lesley's company	14,103.24
By cash paid W. B. Hooker's company	4,809.57
By cash paid John Addison's company	10,232.41
By cash paid F. M. Durrance's company	15,794.93
By cash paid F. M. Durrance's company	9,693.00
By cash paid John McNeill's company	2,059.03
By cash paid John McNeill's company	3,303.06
By cash paid Simeon Sparkman's company	2,967.31
By cash paid Thomas Hughey's company	803.91
By cash paid R. B. Sullivant's company	809.15
By cash paid A. J. T. Wright's company	574.68
By cash paid John Parker's company	4,556.69
By cash paid staff officers, assistant surgeons, etc	12,341.49
By cash paid quartermaster men	710.33
By cash paid transportation, etc	17,546.95
By cash commissions for negotiating and disbursing	5,550.37
By cash on hand due State of Florida	29,029.84
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	222,015.00

TALLAHASSEE, December 2, 1859.

I have compared with this account the abstract of disbursements on account of transportation, etc., and find that the paymaster is entitled to \$345 more than is embraced in this account.

I also find the account to correspond with abstracts of disbursements to staff officers, etc., and persons employed in the quartermaster's department. The proper amounts are as follows:

Transportation, etc	\$17,891.95
Staff officers, etc	12,341.49
Quartermaster men	710.33

HUGH ARCHER,
Quartermaster-General.

I have compared the pay-rolls with the above (except \$12,341.49, \$710.43, and \$17,546.95) and find them to correspond.

DECEMBER 2, 1859.

C. H. AUSTIN,
Paymaster.

STATE OF FLORIDA,

Office of the Secretary of State:

I, John L. Crawford, secretary of state, do hereby certify that the foregoing (and braced in pages 1 to 7, inclusive) is a true and correct copy of and transcript from the original manuscript record of the proceedings of the senate of the State of Florida as recorded on pages 519, 520, 521, and 522 of "Record Book D, senate journal of 1856 to 1861," and as the same appears on pages 102, 103, 104, and 105 of the printed official journals of the senate.

Given under my hand and the great seal of the State of Florida this 12th day of April, A. D. 1882, at Tallahassee, the capital.

[SEAL.]

JNO. L. CRAWFORD,
Secretary of State.

Some of the bonds issued by the State of Florida under the authority of these statutes, to the amount of \$132,000, were sold to the General Government as trustee of the Indian trust fund, and it has always been contemplated that these bonds should be brought into the proposed settlement between the State and the United States whenever it was made, and the Committee on Military Affairs so recommended in their report.

The bonds issued by the State obligated the State to pay interest upon the debt at the rate of 7 per cent. per annum, and this interest is now due on the bonds belonging to the Indian trust fund from July 1, 1861, up to which date it was paid by the State. The Committee on Military Affairs, in the report referred to, found as a matter of fact that the State was compelled to borrow money with which to pay the expenses of these military operations in which this claim originated, and they further recognized the fact that "Congress has universally paid interest to the States where they have paid interest." They further say:

"Thus it will be seen that the precedent for the payment of interest under the rule adopted for the settlement of claims of the war of 1812-1815 is well established."

But the committee did not make its recommendations entirely in harmony with its findings. It proposed to deduct the amount of the bonds belonging to the Indian trust fund from the amount expended by the State and to pay the State the balance without interest:

Amount due Florida, as per report of Secretary of War.....	\$224, 648. 09
Bonds due the Indian trust fund.....	132, 000. 00
Balance	92, 648. 09

The committee further proposed to pay the debt to the Indian trust fund and deliver to the State her bonds and coupons. But the State felt that she was entitled to be re-imbursed for the interest she had paid to other creditors as well as for that she had paid and still owed the Indian trust fund, and was not willing to accept a settlement on this basis.

This matter came again before the Forty-eighth Congress at its first session, and was referred in the Senate to the Committee on Military Affairs. This committee again recognized the debt and recommended the same settlement as before, but no final action was taken.

It came up again before the Forty-ninth Congress, at its first session, in the Senate, and the same committee renewed its former recommendation, and the bill (S. 1729) to carry out the proposed settlement was passed; but the vote by which it was passed was reconsidered, and the bill was placed on the Calendar, and there remained until the final adjournment.

Meanwhile the House had been considering the same matter without final action until the Forty-ninth Congress, when a bill was passed substantially the same as that now before the Senate and this committee. It recognized the entire claim of the State, principal and interest, and provided for a settlement upon this basis. The bill after its passage in the House came to the Senate and was referred to this committee during the second session, and was reported adversely a few days before the final adjournment. A minority report was made, favoring the passage of the House bill, and went to the Calendar, but no final action was taken upon it. A favorable report has been again made upon a bill of the same tenor by the House Committee on Claims at the first session of the present Congress, and the bill so reported is now there upon the Calendar.

The only unfavorable report ever made upon this Indian war claim was that made by a majority of this committee in the Forty-ninth Congress. The President recognized its justice in 1857; the Senate and its Committee on Military Affairs have more than once passed favorably upon the claim for the principal; the War Department, through Secretary Lincoln, found a large amount due the State, after a most careful examination, in 1886 and 1887; the House of Representatives found principal and interest due the State to the full amount claimed.

These results have been reached after careful examinations into the circumstances

of the case and the law applicable thereto, and the burden of proof, after these findings of fact and law, ought to be upon those who discredit the claim. These findings should stand unless new evidence is found as a basis for a new trial or a re-hearing.

The record shows that the war was commenced in 1855 by an attack made by the Indians upon a detachment of United States troops, resulting in the death of four men and the wounding of three others. Florida was then a frontier country. She had already suffered severely in the former Seminole war, from 1835 to 1842, and the governor at once placed troops in the field to defend the people along an exposed and far-extended line of operations. The General Government did not at first seem to appreciate the difficulties of the military situation in a country so well adapted as Florida was to the peculiar warfare of the Indians, and only a portion of the troops offered by the governor were accepted. The State troops were, nevertheless, maintained in the field and rendered valuable assistance to the troops in the service of the General Government.

The war lingered along until 1857, when General Harney was put in command, and the regular troops, which numbered 840 in 1855, 866 for the first nine months of 1856, was increased to 1,756 from October 1, 1856, to September, 1857. Meanwhile there were in the United States service 321 volunteers in 1856 and 1,164 in 1857. The importance of having a larger number of troops in the field than at first was deemed necessary was afterwards manifest, and the President approved of the employment of those whose services had not been accepted. May 21, 1857, it was ordered by him, through the War Department, that they be mustered in and out of the service, so that they might be recognized as having been in the service of the United States. It was too late to do this, and the Secretary wrote that the Department should receive the State rolls as official.

It will be seen by reference to the report of the Secretary of War already referred to, made May 22, 1862, that the volunteer troops thus retained and employed by the State, after the failure of the War Department to accept them, served for different periods, beginning and ending at different dates, from April 23, 1856, to January 14, 1857, extending to within a few months of the time when the President recognized and approved of their services.

Had the troops been mustered as directed, the United States would have paid them, but as they were not, the Secretary stated that the only course left was to base upon the State rolls a recommendation to Congress for the necessary appropriation to pay off the troops.

The troops had rendered the service; the General Government, whose province it was to carry on the war, had found the service necessary, and the State after this approval had paid the troops and the expenses incurred in keeping them in the field. Surely the claim of the State to be re-imbursed is just and equitable.

The record shows, too, that in order to pay off these troops who had defended the country against these hostile Seminoles the State had borrowed money from the Indian trust fund and other sources upon her bonds, upon which she has paid or is still obligated to pay interest at 7 per cent. per annum from January 1, 1857, and from April 1, 1859, upon those negotiated at a later date. There can be no complete re-imburement without the repayment of this interest.

There is no obstacle in the way of this re-imburement. The Secretary of War has found the amounts actually expended by the State, so far as the State was able at this late day to prove the amounts by legal vouchers; the rate of interest is known; the date of the bonds is known; and the amount of the bonds in the Indian trust fund is known; and the State desires them to be paid out of the moneys due her on this account.

These statements are undisputed; most of them are historic; the only adverse report ever made upon the claim admits all the essential facts here set forth.

The report goes on to mention certain other items which it had been proposed to bring into the settlement, which will be referred to more at length hereafter, so far as they are important; and ends with a recommendation that with certain amendments the bill pass, giving to the State the principal and interest upon the aggregate of the sums advanced by her, as shown by the report of Secretary Lincoln, after deducting therefrom the amount of principal and interest due upon the bonds of the State in which the Indian trust funds had been invested. The following is the language of the bill as reported:

A BILL to authorize the Secretary of the Treasury to settle and pay the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities, and for other purposes.

Whereas under the joint resolution of Congress approved March third, eighteen hundred and eighty-one, directing the Secretary of War to investigate the claim of

the State of Florida against the United States for the suppression of Indian hostilities between the years eighteen hundred and fifty-five and eighteen hundred and sixty, the said Secretary of War did investigate said claim and ascertain the amount due to the said State to be two hundred and twenty-four thousand six hundred and forty eight dollars and nine cents, as returned to Congress in the letter of the Secretary of War, dated May twenty-second, eighteen hundred and eighty-two, in Executive Document Number Two Hundred and Three; and

Whereas there is now held by the Treasury of the United States, in trust for the Indian trust fund, certain bonds of the State of Florida aggregating the sum of one hundred and thirty-two thousand dollars; and

Whereas there has been credited upon the account of said bonds of the State of Florida certain moneys due said State under the act approved March third, eighteen hundred and forty-five, entitled "An act supplemental to the act for the admission of Florida and Iowa into the Union, and for other purposes;" and

Whereas certain other moneys are due said State under the act approved March second, eighteen hundred and fifty-five, entitled "An act for the relief of purchasers of swamp and overflowed lands:" Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the claim of the said State of Florida as found and reported in said letter of the Secretary of War, dated March twenty-second, eighteen hundred and eighty-two, and under the acts above cited, and to pay to the said State such sum of money as he may find to be due the said State, and in making such settlement he shall retain the whole, or so much thereof as may be necessary, of said allowance or settlement and apply the same to the payment of the principal and interest, or either, of said bonds of the State of Florida, held as aforesaid; or to the reimbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of such settlement, the rate of interest stipulated in said bonds, apply the same to the payment of the balance due of the principal and interest, or either of said bonds of the State of Florida, held as aforesaid, after a proper credit is given for such sums as may have been retained by the Secretary of the Treasury under section thirty-four hundred and eighty-one of the Revised Statutes, or to the reimbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of such settlement, the rate of interest stipulated in said bonds: *Provided,* That in computing the interest on said advances, the Secretary of the Treasury shall apply the following rule as applied by act of Congress to the claim of the State of Maryland, namely: Interest shall be calculated from the date said advances were made up to the time of any payment. To this interest the payment shall be first applied, and if it exceeds the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal, so as to produce interest.

The bill thus stood upon the calendars of the two Houses favorably reported. But it was manifest that the amount of business awaiting consideration and action was so large in the Senate that the prospect of reaching the bill was hopeless, and on the 19th day of February, 1889, the junior Senator from Florida, who had reported the bill, offered an amendment to the deficiency bill to carry out the same purpose as the bill. The amendment was as follows, and it was referred to this committee:

AMENDMENT intended to be proposed by Mr. PASCO to the bill (H. R. 12571) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for prior years, and for other purposes, viz: Insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the claim of the State of Florida as found and reported in the letter of the Secretary of War, dated March twenty-second, eighteen hundred and eighty-two, and under previous acts of Congress, and to pay to the said State such sum of money as he may find to be due the said State; and in making such settlement he shall retain the whole, or so much thereof as may be necessary, of said allowance or settlement and apply the same to the payment of the principal and interest, or either, of said bonds of the State of Florida held by the Treasurer of the United States in trust for the Indian trust fund or to the reimbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of

such settlement, the rate of interest stipulated in said bonds, apply the same to the payment of the balance due of the principal and interest, or either, of said bonds of the State of Florida, held as aforesaid, after a proper credit is given for such sums as may have been retained by the Secretary of the Treasury under section thirty-four hundred and eighty-one of the Revised Statutes, or to the re-imbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims for the purpose of such settlement, the rate of interest stipulated in said bonds: *Provided*, That in computing the interest on said advances, the Secretary of the Treasury shall apply the rule applied by act of Congress approved March third, eighteen hundred and fifty-seven, to the claim of the State of Maryland. And there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, so much money as may be necessary to carry out the above provision.

This was subsequently reported back to the Senate with a recommendation that it be adopted when the bill came before the Senate for action.

This amendment, thus favorably reported, was offered in the Senate March 1, 1889, when the deficiency appropriation bill was under consideration, and was adopted upon a division. The bill afterwards went to a conference committee of the two Houses and the amendment was retained, but the appropriation feature was removed and the scope was enlarged, whether intentionally or not, so as to make the examination and report of the Secretary cover the amount of all mutual claims and the entire account between the General Government and the State. The amendment as thus reported reads as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to examine the claim of the State of Florida, reported in the letter of the Secretary of War dated May 22, 1882, and under previous acts of Congress, and to make a report upon the same to the next regular session of Congress, and in connection therewith to report the amount of all claims in favor of the General Government against the State of Florida, and in said report to state the account between the General Government and the State of Florida.

The following colloquy occurred when the conference report had been submitted March 2, 1889, as appears on page 2897 of the Record for that session:

Mr. PASCO. I should like the Senator from Maine to state whether the understanding is that the account of the State of Florida is to be made up upon the principle involved in the present amendment to the bill.

Mr. HALE. Yes; the Secretary of the Treasury is directed by the amendment agreed to by the conference committee to report the sums due to the State of Florida, and any offset that the United States has against the claim, to the next Congress.

Mr. PASCO. Recognizing the right to charge and receive interest on each side?

Mr. HALE. Yes, sir.

Mr. EDMUNDS. But still subject to the future consideration of Congress?

Mr. HALE. Subject to the action of the next Congress.

Mr. PASCO. Undoubtedly; but I wished to understand whether it was made up on the principle established in the amendment to the present bill.

The following extract from the Secretary's report, made in obedience to this legislation, sets forth the amounts in favor of the State:

The State advances two claims under this provision, viz:

First. The claim specifically referred to in the act as reported in the letter of the Secretary of War, May 22, 1882. This claim is for the re-imbursement of certain expenses incurred by the State in suppressing Indian hostilities between December 1, 1855, and January 1, 1860, \$268,103.40 (*vide* joint resolution of March 3, 1881; also report by Secretary of War, in House Ex. Doc. No. 203, Forty-seventh Congress, first session).

Second. Sundry expenses for similar purposes, incurred in 1849, but not paid by the State until 1859, \$21,685.72. In making the report above referred to the Secretary of War excluded these items because the joint resolution under which he was acting was limited to expenses incurred between December 1, 1855, and January 1, 1860. But the act of 1889 requires a report upon any now unsettled claims by the State.

On the claim originating in the years 1855-'59 (*vide* detailed statement)

I find an expenditure proven in the sum of..... \$246,426.51
 Deduct amount realized by the State by sales of military stores (Ex. III).. 1,405.65
 245,020.86

In the items of expenses in 1849 (paid by State in 1859) I find an expenditure proven (*vide* detailed statement) in the sum of..... 16,913.45

Aggregate..... 261,934.31

Exhibit I of this report shows the companies called into the military service by the State, during these hostilities in 1856-'57, the period of their service, the amount paid to each according to the claim of the State. It is here inserted because this is the basis of the claim, the other items being for subsistence, forage, and other expenses connected with their service.

EXHIBIT I.—Summary of Third Auditor's allowances for "pay of troops" from December 1, 1855, to January 1, 1860. (Abstract A.)

Company.	No. of roll.	Period of service.		Claim.	Amount allowed.	Amount disallowed.
		From—	To—			
W. B. Hooker.....	1	Jan. 3, 1856	Feb. 21, 1856	\$4,809.57	\$4,557.01	\$252.56
F. M. Durance.....	2	Feb. 21, 1856	Aug. 22, 1856	15,794.91	15,416.21	378.70
Do.....	3	Aug. 22, 1856	Dec. 21, 1856	9,693.00	9,567.92	125.08
William H. Kendrick.....	4	Feb. 26, 1856	Aug. 28, 1856	16,277.99	16,158.46	119.53
Do.....	5	Aug. 28, 1856	Dec. 6, 1856	8,906.50	8,832.11	74.39
A. D. Johnson.....	6	Feb. 26, 1856	Sept. 2, 1856	16,739.85	16,459.66	280.19
Do.....	7	Sept. 2, 1856	Dec. 20, 1856	8,833.93	8,706.46	127.47
Leroy G. Leslie.....	8	Mar. 12, 1856	Aug. 20, 1856	14,108.34	13,740.30	368.04
A. J. T. Wright.....	9	Apr. 23, 1856	May 17, 1856	574.68	544.49	30.19
Do.....	10	May 18, 1856	Aug. 1, 1856	9,667.71	9,566.96	100.75
John McNeill.....	11	May 15, 1856	Aug. 12, 1856	2,059.45	2,004.05	55.40
Asa A. Stewart.....	12	May 18, 1856	Sept. 30, 1856	11,510.89	11,492.31	18.58
Robert Youngblood.....	13	May 18, 1856	Sept. 30, 1856	5,804.18	5,698.05	106.13
Enoch Daniel.....	14	May 30, 1856	July 20, 1856	1,994.82	1,981.85	12.97
Wm. B. Hardee.....	15	June 1, 1856	June 29, 1856	180.14	179.04	1.10
Alexander Bell.....	16	June 24, 1856	Sept. 30, 1856	3,526.62	3,411.61	115.01
Thomas Hughey.....	17	Aug. 18, 1856	Sept. 30, 1856	784.40	781.02	3.38
E. T. Kendrick.....	18	Oct. 23, 1856	Jan. 14, 1857	3,243.36	3,199.16	44.20
John Addison.....	19	Apr. 8, 1856	Oct. 7, 1856	10,232.43	10,232.43	.....
John Parker.....	20	Oct. 7, 1856	Dec. 15, 1856	4,556.59	4,023.98	532.61
John McNeill.....	21	Not stated on abst.		3,303.06	3,237.00	66.06
S. Sparkman.....	22	do.....	do.....	2,967.31	2,907.96	59.35
R. B. Sullivant.....	23	do.....	do.....	809.15	809.15	.....
Field and staff.....	26½	do.....	do.....	12,341.49	10,138.60	2,202.89
Total.....				168,720.37	163,645.79	5,074.58

NOTE.—Rolls 24, 25, and 26, aggregating \$11,316.91, pertain to payments made by the State of Florida for services in 1849, and are not included in above statement.

All the items claimed above are found to the debit of the State in its account with its disbursing agent, which appears earlier in this report.

If the items mentioned in the note had been added the total sum claimed would have been the same as that included in Abstract A of the report made by Secretary Lincoln.

Exhibit II is a summary of the abstracts with the aggregate amounts allowed and disallowed upon each.

EXHIBIT II.—General summary of Third Auditor's allowances on items pertaining to Indian hostilities, 1855-'59.

Abstract.	For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
A.....	Pay of troops.....	\$168,720.37	\$163,645.79	\$5,074.58
B.....	Subsistence.....	23,836.44	21,587.07	*2,249.37
C.....	Forage.....	42,304.62	32,429.60	†9,875.02
D.....	Transportation.....	19,843.28	17,286.89	2,556.39
E.....	Camp and garrison equipage.....	193.81	98.59	95.22
F.....	Quartermasters' stores.....	589.67	395.16	194.51
G.....	Ordnance.....	808.43	507.80	300.63
H.....	Contingencies.....	10,332.84	9,862.59	470.25
I.....	Stationery.....	111.11	104.20	6.91
K.....	Medical and hospital stores.....	1,362.83	508.82	854.01
	Total.....	268,103.40	246,426.51	21,676.86

NOTE.—Abstract K includes accounts of J. M. Cooper, J. A. Jarrard, Fred. K. Lykes, and Perry G. Wall for \$7.50, \$22, \$5.90, and \$31.25, respectively. (See Colonel Barr's report, pages 91 and 96.)

*The sum of \$1,514.52 of the amount disallowed is for subsistence of Captain Dyche's company in 1849, and is commented on under head of expenditures for that period.

†Items \$150, \$4,410.77, and \$4,293.52 of the amount disallowed are for forage for troops in 1849, and are commented on under head of expenditures for that period.

The total amount allowed upon these items in the report of the Secretary of War was \$224,648.09, or \$21,778.42 less. Many of the other items were suspended; some were disallowed.

The amount of \$246,426.51 above allowed is increased in the report by an earlier claim for similar expenses in 1849. This was set up in the bill introduced during the Fiftieth Congress, but the committee recommended no action upon it. The broader scope of the amendment which became a part of the law enabled the Secretary of the Treasury to include these earlier expenditures in this report.

Exhibit IV of this report includes the unsettled demands pertaining to the Indian hostilities of 1849, which were not reported upon by the Secretary of War in 1882 because they were not regarded as within the scope of the joint resolution approved March 3, 1881, but the Secretary of the Treasury considered them as included in the later inquiry. This exhibit is as follows:

EXHIBIT IV.—General Summary of Third Auditor's allowances on items pertaining to Indian hostilities in 1849.

For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
Capt. H. D. Dyche's company.....	\$4,786.43	\$4,786.43	.....
Capt. A. Jernigan's company.....	4,929.48	4,929.48	.....
Capt. J. O. Devall's company.....	1,601.00	1,389.50	\$211.50
A. L. Caruthers, subsistence.....	1,514.52	1,514.52	.....
S. L. Sparkman, forage.....	150.00	.....	150.00
A. Jernigan forage.....	4,410.77	.....	4,410.77
A. L. Caruthers, forage.....	4,293.52	4,293.52	.....
	21,685.72	16,913.45	4,772.27

The first three items aggregate \$11,316.91, and are the same as those referred to in the note to Exhibit I.

The basis of the former report was the amount found to be due by the Secretary of War, and was restricted to the Indian hostilities of 1855 to 1857. The later report is increased by a more liberal ruling as to the formal evidence of the discharge of its obligations by the State.

The reason for the additional allowance is in each instance given in the Secretary's report. The statement of the difference and the increased amount found in the later report is as follows:

Amount found due the State by Secretary of War.....	\$224,648.09
Additional items of same account reported favorably in letter of Secretary of Treasury.....	21,778.42
Total in war from 1855 to 1857.....	246,426.51
Items due on account of war of 1849	16,913.45
Amount realized by State from sale of stores.....	263,339.96
Amount found due in letter of Secretary of Treasury.....	1,405.65
	261,934.31

In the earlier reports of the Senate and House the muster-rolls have been printed, and Exhibit I shows the period during which each company rendered its military service, except the three last named, and the periods of their service as taken from the rolls filed in the office of the Adjutant-General at the War Department appear to be as follows:

John McNeill's company, October 13, 1856, to December 25, 1856; S. Sparkman's company, December 31, 1855, to February 18, 1856; R. B. Sullivant's* company, September 6, 1856, to September 30, 1856.

The letter of the Secretary of the Treasury proceeds to consider the offsets held against this claim by the United States. As already stated, some of the bonds issued by the State to raise money to meet this indebtedness, amounting in all to \$132,000, were purchased by the Government as an investment for the Indian trust funds under the control of the Secretary of the Interior. These bonds obligated the State to pay interest at the rate of 7 per cent. per annum, and in the last report of this committee it was shown that the State met these interest payments up to July 1, 1861. The statement of the Secretary of the Treasury shows that since then certain amounts which have become due the State from time to time from the General Government under the act for the admission of Florida into the Union and a subsequent act for the relief of purchasers of swamp-lands, and an amount appropriated to the State for taking the census of 1885 have been applied to the payment of the accruing interest on these bonds. The aggregate of these amounts is \$109,494.23, and the following extract from the Secretary's letter shows that the application to the payment of the interest upon the bonds on which the Indian trust funds were invested has discharged the obligation of the State for interest thereon to November 26, 1863:

The Secretary of the Interior reports that the United States holds, as assets of its "Indian trust fund," bonds of the State in the sum of \$132,000, bearing 7 per cent. interest; that the interest to July 1, 1862, was paid by the State, and that, since the suspension of the interest payment, by it, the Interior Department has from time to time applied to the interest sundry accounts falling due to the State on sundry accounts. And thus it appears that at this date the interest has been paid to include November 26, 1873.

The accounts to be adjusted then stand as follows: The State of Florida has paid the sum of \$261,934.31 for expenses incurred in keeping troops in the field in 1849 and in 1856 and 1857, during the continuance of a war with the Indians, and in 1857 and 1859 borrowed money upon her bonds to meet the necessary expenditures incurred during the later war, the said bonds drawing interest payable semi-annually at the

*Also spelled Sullivan.

rate of 7 per cent. per annum. The Secretary's letter equalizes the date of these bonds as the first day of January, 1858.

The United States, as the trustee of the Indian trust, funds has a claim against the State for \$132,000, which was invested in some of the bonds of the State, issued and sold to raise the money needed to pay these expenditures in the Indian war, and there is due on these bonds interest at 7 per cent. per annum from November 26, 1873.

Two methods are suggested for striking a balance: (1) By computing interest on each side to the day of settlement. (2) By computing interest on the amount due the State to November 26, 1873 (the date to and including which the interest due on the bonds in which the Indian trust funds have been invested has been paid), and striking a balance and computing interest to the day of settlement on the principal of the amount advanced by the State. The effect of this second method will be to stop the interest as against the State from November 26, 1873. The amount due the State according to the first method on the first day of January last was \$567,954.50; and according to the second method at the same time, \$716,667.15. The United States stands in the relation of trustee towards these funds, and they should suffer no diminution, either as to interest or principal, by the delay in this settlement. As no complete justice can be done to the beneficiaries of this trust without continuing to pay them the interest on their capital invested in these bonds until the day of settlement and the payment of the bonds, the committee are of the opinion that the first method suggested in the Secretary's report should be adopted, and that the interest should be computed on both sides to the day the settlement is made, and that all the outstanding bonds and coupons of the State of Florida should then be surrendered to the Governor of the State.

The committee during the last Congress recommended the form of a bill to carry out these views, and that now under consideration is identical with it, and the committee recommend its passage.

