

CLAIMS OF KANSAS, NEVADA, OREGON, TEXAS, IDAHO,
AND WASHINGTON FOR INDIAN WAR EXPENSES.

FEBRUARY 7, 1882.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BAYNE, from the Committee on Military Affairs, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany bill H. R. 3839.]

The undersigned, members of the Committee on Military Affairs, dissent from the conclusion of the committee in favorably reporting this bill.

Section 4 of article 4 of the Constitution provides that—

The United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

From this provision of the Constitution flows the authority and the duty of the general government to employ its military forces at the instance of the States. The authority and power of the general government to employ its military forces in furtherance of its own aims and purposes, where it may be necessary, should be eliminated from the consideration of this measure. This bill is intended to provide for paying the States and Territories' expenses, which they incurred in repelling invasions and suppressing Indian hostilities. To assert that the general government should pay these claims because of this provision of the Constitution is an obvious *non sequitur*.

Why, then, are these claims presented to Congress, and why is the general government asked to pay them?

Two reasons are given. One is, that there is a long line of precedents establishing the right. The second is, that it was necessary for the authorities of the States and Territories to act without delay.

Now, both these reasons may be answered together: It is true that there are many precedents for paying such claims. But the undersigned think it is time to arrest the making of such precedents and their influence in this regard. When the earlier precedents were made there were no railroad facilities and telegraphic communication, and the power of the general government was much less formidable, and the invasions and hostilities were much more frequent and dangerous than they have been of late. It was then difficult, and perhaps sometimes impossible, to call on the general government for protection. Circumstances have changed. The authorities of all the States and Territories now have convenient and immediate access to the general government. It is therefore submitted that a rule should be established which will preclude all

such claims, past and future, unless the general government, on actual request from the authorities of the States and Territories, fails to afford the protection to which they may be entitled. If this duty shall be enjoined upon all the State and Territorial governments, which will be the effect of the adoption of the principle that applications should be made in all cases where a claim would be considered proper under precedent or necessity, it will preclude a class of claims which should never be presented, and will at the same time enable the general government to judge of the necessity of moving in the matter.

Desiring to do no injustice, and believing that some of these States, at least, have meritorious claims, the undersigned were disposed to favor the following as a substitute for all the bills relating to this subject, including the one reported by the committee, viz:

A BILL to authorize the Secretary of War to ascertain and report to Congress the amount of money expended by the States of Kansas, Texas, Oregon, and Nevada, and the Territories of Washington and Idaho, in repelling, suppressing, and guarding against invasions, incursions, and hostilities by Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to ascertain, or cause to be ascertained, the amount of expense necessarily incurred, respectively, by the authorities of the States of Kansas, Texas, Oregon, and Nevada, and the Territories of Washington and Idaho, for arms and supplies, and for paying the volunteer forces called out and employed to suppress and repel Indian hostilities or invasions by armed bodies from foreign countries under the authority of the Government of the United States, and in cases where the Government of the United States was called upon by the legislature or the executive of any of such States or Territories for protection and failed to afford the same, and report to Congress the amounts of money so expended by the aforesaid States and Territories, respectively, together with the facts upon which said reports may be based: *Provided,* That any expenditures made by the said State of Texas prior to November 1, 1865, shall not be included: And, *provided further,* That nothing in this act shall be construed to commit the Government of the United States to the payment of any of the aforesaid claims.

The undersigned submit that it would be the better and wiser course not to pass the bill reported by the committee.

THOMAS M. BAYNE.
GEORGE R. DAVIS.