

1883-9

INDIAN WAR CLAIMS OF CALIFORNIA.

JANUARY 11, 1883.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

REPORT:

[To accompany bill H. R. 7241.]

The Committee on War Claims, to whom was referred the bill (H. R. 2139) for the relief of the State of California, submit the following report thereon:

That the bill, to quote its language, is—

That the sum of two hundred and fifty thousand dollars, or so much thereof as may be necessary therefor, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to indemnify the State of California for balances paid and remaining due, and to be paid by said State on account of Indian war bonds, issued by said State, under the acts of the legislature of eighteen hundred and fifty-one and eighteen hundred and fifty-two, and accrued interest thereon, recognized by the act of Congress of August fifth, eighteen hundred and fifty-four, but unpaid owing to delay due to War Department rulings.

On August 5, 1854 (United States Statutes at Large, vol. 10, pages 582-3), Congress passed an act appropriating money to defray expenses incurred by the State of California in suppressing Indian hostilities. Section 3 of said act reads as follows:

That the Secretary of War be, and he is hereby, authorized and directed to examine into and ascertain the amount of expenses incurred and now actually paid, by the State of California, in the suppression of Indian hostilities within the said State, prior to the first of January, anno Domini eighteen hundred and fifty-four, and that the amount of such expenses, when so ascertained, be paid into the treasury of said State: *Provided*, That the sum so paid shall not exceed in amount the sum of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents, which amount is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

The act of August 18, 1856 (11 Statutes at Large, page 91), authorized and directed the Secretary of War to pay to the holders of the war bonds of the State of California the amount of money appropriated by act of Congress, approved August 5, 1854, under the following restrictions and regulations:

Before any bonds shall be redeemed by the Secretary of War, they shall be presented to the board of commissioners, appointed by the legislature of said State by an act approved April 19, 1856, and the amount due and payable upon each bond be indorsed thereon by said commissioners. Upon presentation to the Secretary of War of any bond or bonds thus indorsed, it shall be his duty to draw his warrant in favor of the holder or holders thereof for the amount certified to be due upon the same by the said commissioners, upon the Secretary of the Treasury, who is hereby directed to pay the same: *Provided*, That said amounts in the aggregate shall not exceed the amount of money appropriated by act of Congress approved August 5, 1854, said bonds, after redemption, and after taking off the coupons that may be remain unpaid, shall be delivered to the Secretary of War to be canceled.

The facts, out of which this claim for relief arises, will be found stated in report of the joint committee of the senate and assembly, of the State of California, on the Indian war indebtedness, which is made a part of this report, and are as follows:

Report of the joint committee of the Senate and Assembly on the Indian war indebtedness.

SACRAMENTO, February 21, 1872.

MR. PRESIDENT:

The Committee on Claims of both Houses, to whom was referred the matter of the Indian war indebtedness of the State, beg leave to submit the following report:

HISTORY OF THE INDEBTEDNESS.

Being impressed with the belief that a complete history of the matter is necessary to its perfect comprehension, we have deemed it proper to commence at the beginning and trace its various fortunes up to the present time.

The war-bonds of eighteen hundred and fifty-one were issued in pursuance of the act of February fifteenth, eighteen hundred and fifty-one (Statutes of 1851, page 520), the first section of which reads as follows:

"SECTION 1. By virtue of the power given to the legislature by the constitution of this State, Article VIII—in case of war to repel invasion or suppress insurrection—a loan not exceeding five hundred thousand dollars is hereby authorized to be negotiated upon the faith and credit of the State, payable in ten years, and at any period after five years at the pleasure of the State, said loan to bear a rate of interest not exceeding twelve per cent. per annum, payable annually or semi-annually at such place as the contracting parties may agree, *Provided*, however, that the interest of the first year may be paid in advance out of the loan thus made."

The interest was made payable semi-annually, and fell due in March and September of each year.

The bonds of eighteen hundred and fifty-two were issued in pursuance of the act of May third, eighteen hundred and fifty-two (Statutes 1852, page 59), the first section of which reads as follows:

"SECTION 1. A sum not exceeding six hundred thousand dollars is hereby appropriated and set aside as an additional war fund, payable in ten years out of any moneys which may be appropriated by Congress to defray the expenses incurred by the State of California, and interest thereon at the rate of seven (7) per cent. per annum in the suppression of Indian hostilities, or out of the proceeds of the sale of any public lands which may be donated or set aside by Congress for that purpose; and should no such appropriation or donation be made, or if an amount sufficient should not be appropriated or donated within the said ten years, then the bonds authorized to be issued by this act shall be good and valid claims against the State, and shall be paid out of any moneys in the Treasury not otherwise appropriated to pay the expenses of the expeditions mentioned in this act."

The interest was made payable in annual instalments, and fell due in January of each year.

Under this act further appropriations were made in eighteen hundred and fifty-three, as follows:

By act of 15th April.....	\$23, 00
By act of 16th April.....	2, 500
By act of 18th May.....	23, 000

It is thus seen that by the act of eighteen hundred and fifty-one the bonds were issued upon the same terms as other bonds, and that by the act of eighteen hundred and fifty-two the State expressly bound herself to pay them if the General Government did not.

The bonds of eighteen hundred and fifty-seven were issued on far different terms, as the following section from the act authorizing their issue will show (Statutes 1857, page 262):

"SECTION 1. A sum not exceeding four hundred and ten thousand dollars is hereby appropriated and set apart as a "war fund," payable out of any moneys that may be appropriated by Congress to this State to defray the expenses incurred in the suppression of Indian hostilities, as specified in this act."

The bondholders therefore took these bonds with the express understanding that they must look to the general government for their redemption. It is sufficient to say that an appropriation was made by act of Congress March second, eighteen hundred and sixty-one (Statutes at Large, Vol. XII, page 199), for this purpose. The money was paid into the State treasury, and the matter is at an end.

We have only, then, to deal with the issue of eighteen hundred and fifty-one and eighteen hundred and fifty-two. An appropriation to pay these bonds with interest was made by Congress August fifth, eighteen hundred and fifty-four, in the following terms (Statutes at Large, Vol. X, page 583):

"SECTION 3. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to examine into and ascertain the amount of expenses incurred and now actually paid by the State of California in the suppression of Indian hostilities within the said State prior to the first day of January, anno Domini eighteen hundred and fifty-four, and that the amount of such expenses, when so ascertained, be paid into the treasury of said State: *Provided*, That the sum so paid shall not exceed in amount the sum of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents (\$924,259.65), which amount is hereby appropriated out of any moneys in the Treasury not otherwise appropriated."

On May fourth, eighteen hundred and fifty-five (Statutes 1855, page 241), the legislature passed an act for the purpose of utilizing this appropriation, the act in substance providing for the surrender of the war bonds of eighteen hundred and fifty-one and eighteen hundred and fifty-two, it being thought at that time that the whole amount appropriated by Congress would be paid into the State treasury. In this the State and bondholders were mistaken, as the following extracts from the message of Governor Bigler will show (Senate Journal, seventh session, page 27):

"By reference to pages five hundred and eighty-two and five hundred and eighty-three of the United States 'Statutes at Large' of eighteen hundred and fifty-four, it will be seen that the section numbered three (3) of the act making appropriations for the support of the army directs the Secretary of War 'to examine into and ascertain the amount of expenses incurred and now actually paid by the State of California in the suppression of Indian hostilities within the said State prior to the first day of January, A. D. eighteen hundred and fifty-four, and that the amount of such expenses, when so ascertained, be paid into the treasury of the said State.'"

"In compliance with the provision of law above quoted, the act of last session was passed, and statements certified by the proper constitutional officers duly forwarded by me to Washington City, under the impression that nothing further was necessary or requisite under the law of Congress to authorize the prompt and immediate payment into the State Treasury of the sum appropriated by Congress.

"This impression, however, it seems was incorrect, and the Secretary of War positively refuses to pay to the State the amount due and appropriated until he shall have examined the accounts and vouchers on which the original warrants or bonds were issued.

"These accounts and vouchers, it is proper here to remark, are a part of the archives of the State, and as such are required to be kept at the seat of government, as constituting not only a complete history and exposé of the several Indian wars, but as the basis of the action of the Controller and Board of Commissioners of the War Debt, and as such their proper place is among the records of the State.

"Under the law no officer of the government has the right, if he so desired, to remove them without express legislative authority, either for the satisfaction or information of an officer of the Federal Government or for any other purpose whatever.

"The law of Congress which was intended to govern the action of the Secretary of War, in my opinion, does not require his examination into the *propriety* or *necessity* of any or all of the expenditures of the State in the suppression of Indian hostilities: but directs him to 'examine into and ascertain the amount of expenses incurred and actually paid,' and upon such ascertainment to pay the same into the treasury of the State of California; provided such amount should not exceed the sum of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents (\$924,259.65).

"The Secretary of War, however, has deemed it his duty to require the original vouchers and papers, and to refuse payment of the amount appropriated until they shall have been furnished.

"Although fixed in the belief that so far as the State of California is concerned the requirements of the law of Congress on the subject have been, on her part, fully complied with, and that the Secretary of War, having, from statements authenticated by the proper State officers, 'ascertained the amount actually paid,' should, without further question or delay, in accordance with the law of Congress, have paid the amount appropriated 'into the treasury of the State of California,' it is neither my intention nor desire in this communication to call in question or advert to the propriety or justice of the action of the Secretary of War in the premises, further than to dissent from the correctness of his decision, as being, in my opinion, unwarranted by the language of the act of Congress making the appropriation, and also to express sincere regret that months of delay in payment must, under the circumstances, necessarily ensue, burdening the State with a large sum in the shape of interest on the outstanding war bonds and warrants.

"Without further comment the whole subject is commended to your careful consid-

eration, for such action in the premises as, under all the circumstances, may by you be deemed proper and necessary to secure to California the prompt payment of the amount long since ordered by act of Congress into the treasury of the State."

In accordance with resolutions of both branches of the legislature, requesting from the governor such information as was in his hands regarding the condition of the war debt and its payment by the general government, Governor Johnson transmitted a message to the legislature on the thirty-first of January, eighteen hundred and fifty-six, an extract of which is given as follows (Senate Journal, seventh session, page 226):

"It is needless to inquire whether the Secretary of War has misapprehended the *spirit* and *intent* of the act of Congress making this appropriation, in rejecting the certified copies of vouchers forwarded him as satisfactory evidence of the payments made by the State; neither at this time can any beneficial results attend the discussion of an issue seemingly foreshadowed by the Secretary's letter, involving a construction of the law which would invest him with discretionary power to allow or reject at pleasure specific items of expenditure which have been assumed by the State. I must confess, however, that an assumption of authority so unwarranted as I believe this to be is quite manifest, and I am apprehensive that the aid of further Congressional legislation will have to be invoked ere our State will derive the benefits of the entire sum appropriated:

"If the Secretary of War shall, by virtue of the authority given him to examine into these claims, assert the right to go behind the act of the Board of Examiners, and inquire whether the demands were such as ought to have been allowed, and the evidence on which the payments were predicated, as appears of record, sufficient to sustain their decision, I doubt not that the exacting requirements of the Secretary and his auditing officers would find abundant pretexts to reduce the sum materially.

"In the various military expeditions which California, in defense of her citizens, was compelled to undertake, either from inability or neglect of the general government to provide such defense—owing to the condition of the country at those periods—with our State credit most ruinously depreciated, prices were paid for supplies and many expenses incurred which to us even now would appear enormous.

"Furthermore, in the settlement of accounts by the board of examiners, and in some few instances before committees of the legislature, the introduction of oral testimony on behalf of claimants was permitted, which, no doubt, to them was conclusive; but, unfortunately, the evidence was not perpetuated.

"From these and other causes we may be much embarrassed if the exercise of such discretionary power shall be persisted in. Whilst, therefore, hoping our fears may prove groundless, still these misgivings should suggest to our minds the necessity of extreme caution and deliberation regarding the measures now to be adopted.

"Let us so fortify ourselves against all possible contingencies that further delay in securing the payment of this money may not be the fruits of our own inefficient legislation.

"In the first place, authority should be given to transmit to the Secretary of War the original vouchers, and at a reasonable expenditure secure the services of such person or persons as may be necessary in the prosecution of these claims before that officer. One of our present members of Congress, General J. W. Denver—and of him I speak particularly, on account of his former position as one of the Board of Examiners—will, no doubt, lend his coöperation without compensation by the State. Such assistance will be all-important, as a very large portion of these claims were examined before him and allowed, and he is, consequently, possessed of an intimate knowledge of all matters connected with this indebtedness. There is another gentleman, however, A. J. F. Phelan, esq., whose services are indispensably necessary to the successful prosecution of these claims. In this I speak partially from my own personal knowledge as well as from the testimony of the late Board of Examiners, to whose efficiency and understanding of the whole subject they voluntarily bear witness.

"Mr. Phelan was the clerk of that board for nearly, if not quite, the entire period during which the seven per cent. bonds were being issued, and from his position necessarily became familiar with all the vouchers and testimony adduced in support of the claims presented; and his usefulness to the State in connection with these claims against the government can be readily foreseen; and I would, therefore, suggest that his services be secured, which I am advised by him can be effected on terms quite reasonable to the State."

From the foregoing it is plain that additional legislation was absolutely necessary, and thereupon followed the act of April nineteenth, eighteen hundred and fifty-six (Statutes 1856, page 206), which created the "Board of War Debt Commissioners," and defined their powers and duties. By the terms of this act Samuel B. Smith and J. W. Denver were appointed a board of commissioners to prosecute before the Secretary of War the claims of the State subject to be paid out of the appropriation above set forth. The act then proceeds to define their duties in the matter of advertising

for bids for surrender of the bonds of eighteen hundred and fifty-one and eighteen hundred and fifty-two—the former to have the preference. This was done to secure the payment of those bonds in full in case the appropriation should be deficient, which it might well have been had payment been made up to the time of presentation. It was expected by the legislature that payment would be so made, for section five provides that the commissioners shall “examine and compute the amount of principal and interest due up to time of presentation for redemption, if before the period indicated when they shall cease to bear interest; otherwise at the period so indicated.” This act of the legislature was followed by the following Congressional enactment (Statutes at Large, Vol. XI, page 91):

“SECTION 8. *And be it further enacted*, That the Secretary of War is hereby authorized and directed to pay to the holders of the war bonds of the State of California the amount of money appropriated by act of Congress approved May (August) fifth, eighteen hundred and fifty-four, in payment of expenses incurred and now actually paid by the State of California for the suppression of Indian hostilities within the said State prior to the first day of January, A. D. eighteen hundred and fifty-four, under the following restrictions and regulations; before any bonds shall be redeemed by the Secretary of War they shall be presented to the board of commissioners appointed by the legislature of said State, by an act approved April nineteenth, eighteen hundred and fifty-six, and the amount due and payable upon each bond be indorsed thereon by said commissioners. Upon presentation to the Secretary of War of any bond or bonds thus indorsed, it shall be his duty to draw his warrant in favor of the holder or holders thereof for the amount certified to be due upon the same by the said commissioners upon the Secretary of the Treasury, who is hereby directed to pay the same; *provided* that said amount in the aggregate shall not exceed the amount of money appropriated by act of Congress approved August fifth, eighteen hundred and fifty-four. Said bonds, after redemption, and after taking off the coupons that may remain unpaid, shall be delivered to the Secretary of War to be canceled.”

The Commissioners were met at the threshold by an unforeseen complication, which rendered it impossible for them to comply strictly with the terms of the act of the legislature; for by that act they were compelled, as has been seen, to allow interest up to the time of presentation of the bonds, while by the ruling of the Third Auditor, which ruling was affirmed by the Secretary of War, interest could only be allowed up to the first of January, eighteen hundred and fifty-four. Thus it happened that no provision was made for the interest between that time and September first, eighteen hundred and fifty-six, when the commissioners advertised for surrender of bonds. The ruling of the Third Auditor rendered it unnecessary, as the commissioners truly say, to give preference to the bonds of eighteen hundred and fifty-one, for by only paying interest up to January first, eighteen hundred and fifty-four, the Congressional appropriation would be more than sufficient for the purpose. In order to present this matter in its clearest light, we give below the decision of the Third Auditor, with that of the Secretary of War, in affirmation (Report of Committee on Finance, in Appendix to Senate and Assembly Journal, fourteenth session):

“TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,

“September 3d, 1856.

“HON. JEFFERSON DAVIS,

“Secretary of War:

“SIR: I have the honor to submit herewith for your consideration and decision a communication addressed to me to-day by J. W. Denver and Samuel B. Smith, esq., California War Debt Commissioners, inclosing a copy of a letter from them to you of the thirtieth ultimo.

“In these communications the Commissioners raise two points relative to the payment of the war bonds issued by the State of California, the redemption of which is provided for by the acts of the fifth of August, eighteen hundred and fifty-four, and eighteenth of August, eighteen hundred and fifty-six, to wit:

“First. Whether interest upon the bonds will be allowed for any time beyond the first day of January, eighteen hundred and fifty-four, to which it is calculated?

“Second. Whether any war bonds will be redeemed (upon Commissioners certifying them to be genuine, due and payable) that were issued by the State of California in the years eighteen hundred and fifty-four and eighteen hundred and fifty-five, in payment of expenses incurred in the suppression of Indian hostilities in said State; or, in other words, whether the money appropriated by the act of Congress of the fifth of August, eighteen hundred and fifty-four, can be applied to the payment of indebtedness accruing against the State of California, either as principal or interest, since the first day of January, eighteen hundred and fifty-four, the same not having been included in the estimate on which the appropriation was made?

“In submitting these points, I take the liberty of expressing the following opinion:

“First. If the result of the investigation now going on in this office shall show that the sum appropriated by the act of eighteen hundred and fifty-four will be sufficient

to pay the principal of the seven and twelve per cent. war bonds and interest beyond the first day of January, eighteen hundred and fifty-four, then, in my judgment, such interest can be paid to the extent of the appropriation, up to and not beyond the fifth of August, eighteen hundred and fifty-four, the day the law was approved by the President; otherwise, not. But if the appropriation shall turn out to be insufficient for the satisfaction of the bonds, with interest to the first day of January, eighteen hundred and fifty-four, then, in my opinion, they be paid pro rata to the extent of the appropriation.

"Second. The admission of the Commissioners, that the war bonds issued in eighteen hundred and fifty-four and eighteen hundred and fifty-five, either principal or interest, were not included in the estimate upon which the appropriation was made in the act of the fifth of August, eighteen hundred and fifty-four, is, in my judgment, conclusive on this point.

"I cannot see how the amount thus appropriated can be applied to any object outside the estimate upon which it was based, unless expressly directed by the supplemental act of the eighteenth of August, eighteen hundred and fifty-six.

"The latter act contains no such special direction, and the bonds issued in eighteen hundred and fifty-four and eighteen hundred and fifty-five are therefore clearly excluded from all the benefits of the original appropriation.

"I am, with great respect, your obedient servant,

W. H. S. TAYLOR,
Acting Auditor."

The following is the decision of the honorable Secretary of War upon the foregoing report:

"I concur in the view of the Third Auditor, as to the date to which interest may be calculated, and entertain no doubt as to the inapplicability of the appropriation to bonds issued after the date of the appropriation act of August fifth, eighteen hundred and fifty-four, as it provided only for expenses which had been incurred prior to the first of January, eighteen hundred and fifty-four, in the suppression of Indian hostilities within the State of California. Should the appropriation be inadequate to meet the obligation for which it was provided, then it will, of course, be necessary to pay pro rata.

JEFFERSON DAVIS,
Secretary of War.

"WAR DEPARTMENT, September 4th, 1856."

It is thus seen that the Commissioners were precluded from complying with the strict terms of the law under which they were authorized to act, and that they were thus reduced to the alternative of carrying out their instructions as nearly as possible or of throwing up their trust, and thus saddling the State with a burden of constantly accruing interest. That they did wisely in accepting the former alternative your committee have little doubt.

In order, however, to make the action of the Commissioners perfectly clear, we have deemed it best to give their two reports in full, with the exception of the tables annexed to them. Their first report can be found on page six hundred and eighteen of Senate Journal, thirteenth session, where it is incorporated in report of Senate Finance Committee. Their second report is in Appendix to Senate Journal, eleventh session.

REPORT OF COMMISSIONERS OF CALIFORNIA WAR DEBT.

To His Excellency J. NEELY JOHNSON,
Governor of the State of California:

"SIR: The Commissioners appointed by the act of April nineteenth, eighteen hundred and fifty-six, to liquidate the war debt of the State, beg leave to report:

"That in accordance with the provisions of said act, so soon after the same as practicable, they opened an office in the City of Washington and made application to the Secretary of War, as by said act directed, for payment of the sum of money appropriated by Congress in payment of expenses incurred by the State in suppression of Indian hostilities. As evidence of said indebtedness the Commissioners submitted a certified copy of the War Bond Register of said State, the various Acts of the Legislature authorizing the issuance of said bonds, and the Journals of the Legislature exhibiting the action of that body in relation to the same; proposing, further, to deliver him the bonds issued by the State before making requisition for said money. In reply, the Secretary of War stated in substance that the proofs submitted were insufficient; that he could not recognize the bonds as evidence of the indebtedness, but that the act of Congress of August fifth, eighteen hundred and fifty-four, under which act the appropriation was made, would require him to go into an examination of the original vouchers. As this course of procedure would have involved great delay and difficulty, and being satisfied from the condition of the original vouchers, which were

in very many instances informal, that a large portion of them would be disallowed, we applied to Congress for relief, and a bill was introduced at our instance directing the Secretary of War to pay over the full amount of the appropriation as directed by the Legislature of the State of California. The bill meeting with violent opposition influenced to a great extent by the holders of the seven per cent. bonds, who felt aggrieved at the manner of distributing the appropriation directed by said Act, and being unwilling to give our sanction to any Congressional action which might clash with the Act of the State of California, we finally submitted to the Secretary of War all the books and original papers in our possession, offering to make all necessary explanation, etc. As we had anticipated, the examination was delayed, and after several interviews with the accounting officers to whom the vouchers had been referred by the Secretary of War, and being convinced that the interest of the State would greatly suffer should a settlement be made upon such a basis, we finally agreed with the bondholders to a bill providing a pro rata distribution of the appropriation, viz, the payment of the principal of all the bonds issued prior to January first, eighteen hundred and fifty-four, and interest on the same up to that date. This bill passed. Immediately upon its passage the Commissioners advertised for the redemption of said bonds in various daily papers, a list of which will be found in the minutes of the Commissioners accompanying this report, which advertisement directed that all bonds should be presented to the Commissioners before the first day of September, after which date they would cease to bear interest. Upon an examination of the Act we found a mistake had occurred which apparently left to the Commissioners the power of carrying out the direction of the State in the disbursement of the appropriation. We immediately applied to the Secretary of War, asking his construction of the Act. It will be seen by reference to the correspondence which accompanies this report, that the Secretary of War would not permit any portion of the appropriation to be applied to the redemption of bonds issued since the first of January, eighteen hundred and fifty-four, nor for the payment of interest accumulating since that date on bonds previously issued. This construction rendered it unnecessary to make any distinction between the seven and twelve per cent. bonds, and superseded the necessity of advertising for bids as directed by the Act of California.

"Under the instruction of the Secretary of War the Commissioners, as bonds were presented, certified to the genuineness of each bond, and the amount, principal and interest, due thereon up to the first of January, eighteen hundred and fifty-four. The full amount certified to by the Commissioners is as follows:

"Of twelve per cent. bonds, principal, one hundred and seventy-seven thousand dollars; interest on the same, fifty-five thousand six hundred and eighty-three dollars and ninety-seven cents. Of seven per cent. bonds, principal, five hundred and fifty-nine thousand seven hundred and fifty dollars; interest on the same, forty-eight thousand two hundred and fourteen dollars and sixty-eight cents. Amounting in all to eight hundred and forty thousand six hundred and forty-eight dollars and sixty-five cents—a full statement of which accompanies this.

"The full amount paid by the United States Government up to the fifteenth day of November, eighteen hundred and fifty-six, is eight hundred and fourteen thousand four hundred and fifty-six dollars and eighty-four cents, as appears per statement of the Third Auditor, which accompanies this, leaving unpaid of the bonds at that time certified, twenty-six thousand one hundred and ninety-one dollars and eighty-one cents; of which, fifteen thousand two hundred and twenty dollars and twenty cents had been presented to the Secretary of War, the balance, ten thousand nine hundred and seventy-one dollars and sixty-one cents, still being in the hands of the holders. This amount has no doubt been paid in full. The interest coupons belonging to all the bonds presented to the Commissioners were detached from the bonds and distributed as follows:

"Of seven per cent. bonds, coupons one and two, up to January first, eighteen hundred and fifty-four, were attached to the bonds and have been paid; coupons three and four, up to January first, eighteen hundred and fifty-six, have been returned to the holders, stamped as follows: "California War Bond Coupon." Coupon number five, from January first, eighteen hundred and fifty-six, to January first, eighteen hundred and fifty-seven, similarly stamped, with the amount of interest due on the same up to September first, eighteen hundred and fifty-six, also stamped upon it, has also been returned to the holders. Coupons six, seven, eight, nine, and ten, representing the interest from January first, eighteen hundred and fifty-seven, to the maturing of the bonds, are returned to the State. Of twelve per cent. bonds, coupons one, two, three, four, and five, representing the interest up to March first, eighteen hundred and fifty-four, were attached to the bonds, but were paid only up to January first, eighteen hundred and fifty-four, leaving on every bond a balance of twenty dollars, interest from January first to March first, eighteen hundred and fifty-four, due to the bondholder—for which amount the Commissioners gave their certificate, a copy of which accompanies this. Coupons six, seven, eight, nine, and ten, representing the interest due up to September first, eighteen hundred and fifty-six, have been returned to the

owners: and the remaining coupons, numbers eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, and nineteen, are returned to the State.

"It will be seen that there are remaining unpaid of bonds issued prior to January first, eighteen hundred and fifty-four, of principal, fifty-nine thousand six hundred dollars; of interest to that date, about fourteen thousand dollars: total, seventy-three thousand six hundred dollars. There is remaining of the appropriation eighty-three thousand six hundred and eleven dollars; leaving a balance on hand, over and above the bonds and interest, up to January first, eighteen hundred and fifty-four, of not less than ten thousand dollars.

"The entire amount of coupons and certificates returned to holders of redeemed bonds, and now outstanding, is one hundred and sixty-one thousand one hundred and twenty dollars and ninety-one cents. The entire amount of coupons returned to the State is three hundred and seventeen thousand seven hundred and twenty-seven dollars and ten cents. The bonds redeemed have been cancelled, and are now on file in the Treasury Department. The General Government, by recognizing the bonds, and by the payment of interest up to January first, eighteen hundred and fifty-four, have virtually assumed the entire debt, and there is but little doubt of the speedy passage of an act making an additional appropriation to cover the unpaid coupons now outstanding, as well as the amount of bonds issued subsequent to January first, eighteen hundred and fifty-four, a statement of which will be found accompanying this.

"We cannot conclude our report without expressing our high appreciation of the services of Mr. A. J. F. Phelan, the clerk of the Commission. His thorough knowledge of all the details connected with the origin of the war debt, and his faithfulness and ability in discharging the onerous duties imposed upon him by the State, has very materially aided us in accomplishing all that has been effected toward the extinguishment of the debt.

All of which is respectfully submitted.

"SAM. B. SMITH,
"J. W. DENVER,

Commissioners California War Debt.

"SACRAMENTO CITY, *January 5th, 1857.*"

FINAL REPORT OF THE COMMISSIONERS OF THE CALIFORNIA WAR DEBT.

To His Excellency JOHN G. DOWNEY.

Governor of California:

SIR: The undersigned, Commissioners appointed by the act of April nineteenth, eighteen hundred and fifty-six, to liquidate the war debt of the State, beg leave to state:

"That since their last report, which was dated January fifth, eighteen hundred and fifty-seven, they have certified for redemption bonds and coupons amounting in all to fifty-seven thousand six hundred and thirty-three dollars and fourteen cents, which, added to the amount then reported—eight hundred and forty thousand six hundred and forty-eight dollars and sixty-five cents—makes up a total of eight hundred and ninety-eight thousand two hundred and eighty-one dollars and seventy-nine cents redeemed, leaving a balance outstanding of ten thousand nine hundred and fifty dollars in bonds, which last sum, together with the interest thereon to the first day of January, one thousand eight hundred and fifty-four, is fully provided for by the appropriation made by Congress. After these outstanding bonds and coupons shall have been redeemed there will still remain a balance of the appropriation unexpended amounting to about ten thousand dollars, but which will not be available to the State, as will hereafter be made to appear. The excess was caused by taking into the estimate on which the appropriation was made warrants or certificates issued before the first day of January, one thousand eight hundred and fifty-four, and not funded prior to that date.

"By reference to our former report you will ascertain the difficulties we had to encounter at Washington when attempting to discharge the duties imposed on us by the act under which we were appointed. That act provided first for the payment of the whole twelve per cent. bonds, with accruing interest up to the date of redemption, and to advertise for bids and give the preference to the lowest bidders among the holders of the seven per cent. bonds; but under the construction given by the Secretary of War to the acts of Congress referring to the appropriation, it was found impossible to carry out these provisions literally. None of the money appropriated could, under the construction referred to, be applied to the redemption of bonds issued after the first day of January, eighteen hundred and fifty-four, nor to the payment of interest accruing since that date. We had, therefore, to abandon the business altogether, or by conforming to the opinion of the Secretary of War, pay the principal and thereby stop the accruing interest.

"As before shown, the sum appropriated by Congress was sufficient to pay all the principal and interest due on the first day of January, one thousand eight hundred

and fifty-four. Having obtained the decision of the Secretary, we advertised and gave notice to the bondholders that we were ready to redeem the bonds and coupons due at that date (January first, one thousand eighteen hundred and fifty-four), and that all bonds would cease to bear interest after the first day of September, one thousand eight hundred and fifty-six. Accordingly, the bondholders came forward and in good faith gave up their bonds on our certificates, and received payment thereon. The coupons falling due between the first of January, one thousand eight hundred and fifty-four, and the first of September, one thousand eight hundred and fifty-six, which were unprovided for at the time the bonds were redeemed, amounting in the aggregate to the sum of one hundred and seventy-two thousand eight hundred and twenty-eight dollars and fifty-four cents, were retained by the bondholders, but the coupons which would have become due after the first day of September, one thousand eight hundred and fifty-six, amounting to the sum of three hundred and forty-four thousand six hundred and sixty-nine dollars and seventeen cents, were given up, and are now in our possession, less those attached to the few bonds not yet redeemed. By the course thus pursued, we were enabled to relieve the State from this accruing interest, which would, as shown, had the bonds been allowed to come to maturity, have increased the debt three hundred and forty-four thousand six hundred and sixty-nine dollars and seventeen cents, and for the payment of which the faith and honor of the State is pledged.

No provision has as yet been made for the payment of the coupons yet outstanding, amounting to the sum of one hundred and seventy-two thousand eight hundred and twenty-eight dollars and fifty-four cents. The Act of February fifteenth, one thousand eight hundred and fifty-one, under which the twelve per cent. bonds were issued, provided that the interest should be "payable annually or semi-annually," and the bonds were issued with semi-annual coupons attached. The Act of May third, one thousand eight hundred and fifty-two, under which the seven per cent. bonds were issued, provided that the interest should be paid annually, and the bonds were issued with annual coupons attached. The Legislature has never made provision for the payment of any of this interest, although the whole amount has now been due more than three years.

Good faith on the part of the State requires that these coupons should be redeemed, either by issuing to the holders, as many of them have requested, bonds bearing interest, or by payment in cash. The latter course is preferable if the condition of the Treasury will permit, as the amount is long overdue; and under the provisions of the laws authorizing the issuance of the bonds, and by the terms of the bonds themselves, the State was bound for the payment long since. Indeed, it is always better for the State to pay such indebtedness in cash if possible, and then to call on the General Government for remuneration, for by so doing officers will be held to a more strict accountability, accounts and vouchers will be subjected to a closer scrutiny, and, in consequence, Indian wars will not be too lightly engaged in.

The coupons heretofore referred to, which would have become due after the first day of September, one thousand eight hundred and fifty-six, are, as stated, now in our possession. The law at present does not authorize us to make any disposition of them. We therefore ask for permission to turn them over to the State Treasurer, to be by him destroyed, or to make such other disposition of them as the Legislature may direct.

We also request that we may be relieved from all further duties under the Act by which we were appointed. There are only twenty-nine bonds of all descriptions now outstanding with which we would have anything to do, and the duty of certifying to them can very well be devolved on some of the State officers, to whom we might be authorized to deliver the books and papers of the commission.

Herewith we submit for your inspection a tabular statement, prepared by the very efficient Clerk of the Board, A. J. F. Phelan, esq., which will be found full and comprehensive.

All of which is respectfully submitted.

J. W. DENVER,

SAM. B. SMITH,

Commissioners California War Debt.

SACRAMENTO CITY, *January 30th, 1860.*

It may be well to supplement the final report of the Commissioners by saying that Congress authorized the using up of the surplus of the original appropriation in the redemption of bonds issued subsequent to January first, eighteen hundred and fifty-four (Statutes at Large, Volume XII, page 104), and that this was done to the extent of seven thousand six hundred and fifty (7,650) dollars of principal (see official list in Appendix), with interest up to the time of presentation, leaving a surplus still of about ten thousand (10,000) dollars. This could not be utilized, because the estimate on which the appropriation was based included that amount of claims which had not been funded by the State prior to January first, eighteen hundred and fifty-four.

To state in a few words the action of the Commissioners, they indorsed as correct

the bonds with interest up to January first, eighteen hundred and fifty-four; and to the holders of the bonds of eighteen hundred and fifty-one, the coupons of which fell due in September and March, they gave a certificate of indebtedness for the interest from January first, eighteen hundred and fifty-four, to March first, eighteen hundred and fifty-four, they detaching and keeping this March coupon. Instead of giving certificates to the holders of the bonds of eighteen hundred and fifty-two for the interest from January first, eighteen hundred and fifty-six, to September first, eighteen hundred and fifty-six, they stamped the amount of this interest on the coupon that fell due January first, eighteen hundred and fifty-seven. The coupons of the bonds of eighteen hundred and fifty-one, from March first, eighteen hundred and fifty-four, to September first, eighteen hundred and fifty-six, inclusive, and those of the bonds of eighteen hundred and fifty-two, from January first, eighteen hundred and fifty-four, to January first, eighteen hundred and fifty-seven, inclusive (the latter having stamped on them the interest of September first, eighteen hundred and fifty-six), were detached and surrendered to the bondholders, and it is these coupons so detached, and those certificates of indebtedness, which are urged by their holders as being valid obligations of the State.

The coupons of the bonds of eighteen hundred and fifty-one, representing the interest from September first, eighteen hundred and fifty-six, to maturity, and the coupons of the bonds of eighteen hundred and fifty-two, representing the interest from January first, eighteen hundred and fifty-seven, to maturity, were detached and retained by the Commissioners, and amounted, according to their final report, to three hundred and forty-four thousand six hundred and sixty-nine dollars and seventeen cents. These were destroyed by the Military Committee of both Houses, in accordance with concurrent resolution (Senate Journal, 12th session, page 779). It will be seen on referring to the report of the committee, that the coupons destroyed amounted to the sum of three hundred and twenty-seven thousand two hundred and seven dollars and ninety-eight cents. The seeming discrepancy between these figures and those of the Commissioners is easily reconciled, when we call to mind the fact of the January, fifty-seven, coupons being surrendered to the bondholders with the interest stamped on it from January first, eighteen hundred and fifty-six, to September first, eighteen hundred and fifty-six. It is plain, therefore, that the coupons destroyed by the Committee would not be as great as the amount returned by the Commissioners by so much interest on the bonds of eighteen hundred and fifty-two as had accrued between September first, eighteen hundred and fifty-six, and January first, eighteen hundred and fifty-seven.

HISTORY OF THE CLAIMS.

None of the bonds of eighteen hundred and fifty-one have ever been presented to the Legislature for redemption until the present session, there being a bill now pending for the payment of bond Number Thirty-four, issued April first, eighteen hundred and fifty-one. It seems that a duplicate was issued for this bond to John C. Johnson, by Act of April thirtieth, eighteen hundred and fifty-three (Statutes 1853, page 130), and it is certain that the original has been paid. The claim is accompanied by a number of papers, among them being an affidavit on the part of the holder of the bond, who claims himself to be an innocent purchaser for value, and a letter from the Board of War Debt Commissioners in support of their action in refusing to certify to the correctness of the bond. As the recommendation of this report renders it unnecessary for us to pass upon the validity of this claim, we have not devoted to it any special study.

As to the bonds of eighteen hundred and fifty-two, the Legislature have made appropriations for their payment as follows:

In eighteen hundred and sixty-five and sixty-six (page 516 of Statutes), principal and interest in full.....	\$32,500 00
In eighteen hundred and sixty-seven and sixty-eight (page 468 of Statutes), principal and interest in full.....	1,765 00
In eighteen hundred and sixty-nine and seventy (page 698 of Statutes), principal and interest in full.....	2,380 00

When the bonds alone were first presented to the Legislature in eighteen hundred and sixty-five and sixty-six, the question of their constitutionality being raised, the matter was submitted to the Judiciary Committee of the Assembly, who decided them, with but one dissenting voice, to be constitutional and valid. (See Report in third volume of Appendix to Senate and Assembly Journals, sixteenth session.) A minority report was made by Mr. Luttrell, the present representative in part of the County of Siskiyou on the floor of the Assembly. This gentleman, however, recommended that a Commission be appointed to investigate the amount and character of the Indian war indebtedness of the State, and report the result to the ensuing Legislature. (See Report in Appendix, as above.) This recommendation was so far concurred in as that a committee was appointed, of which Mr. Luttrell was made Chairman. The com-

mittee, however, renewed the recommendation previously made by their Chairman, and so the matter came to naught. (See report in Assembly Journal, sixteenth session, page 630.)

No provision has ever been made for the payment of the coupons and certificates, though strenuous efforts have been made to induce such action. This seems singular, as the various committees to whom the matter was from time to time referred reported in favor of their payment.

The first time these claims were presented to the Legislature was in eighteen hundred and sixty. In that year Governor Weller called the attention of the Legislature to the matter, and recommended that "prompt provision be made for the payment of these just demands." (See his Message in Senate Journal, eleventh session.) A bill was introduced in the Senate in accordance with this recommendation, and referred to the Committee on Claims, who reported unanimously in favor of the payment of the coupons. They conclude their report as follows:

"The laws authorizing the issuance of the bonds provided that the interest should be paid on the twelve per cents semi-annually, on the first days of March and September of each year, and on the seven per cents annually, on the first day of January of each year, from and after their issuance. The bonds carried this pledge upon their face; the coupons attached promised the same. The bonds were transferable by delivery, and no doubt passed through many different hands. Parties purchasing had a right to expect that the interest would be paid by the State as set forth on the face of the bonds. They were signed by the Controller and Treasurer of State, indorsed by the Governor, stamped by the seal of State, and it is strange that the solemn pledge of the State should not ere this have been fulfilled.

"A majority of the holders of this indebtedness have, however, as your committee are informed, expressed a willingness to surrender their evidences of indebtedness, that is to say, their unpaid coupons and certificates, and receive in lieu thereof bonds of the State payable at some future date. Certainly the State cannot refuse to do this. In response to this your committee have prepared a bill, which is herewith reported, authorizing the funding of this debt and the issuance of bonds payable in the year one thousand eight hundred and seventy, bearing interest at the rate of seven per cent. per annum, containing a provision that if the General Government shall make provision for the payment of the same at an earlier date, the State shall have the privilege of calling them in by giving sixty days' notice, from and after which time they shall cease to bear interest.

"In recommending the passage of this bill, your committee have only to add that they feel that at best the State has been strangely tardy in providing for the payment of this indebtedness, and they hope that the same may be favorably and at once considered by the Senate."

These claims were not before the Legislature of eighteen hundred and sixty-one, so far as we can ascertain; but in eighteen hundred and sixty-two Governor Downey drew attention to them in his annual message of that year, as follows (Senate Journal, thirteenth session, page thirty-four):

"There is still due and unpaid the sum of two hundred and eighteen thousand four hundred and sixty-eight dollars and fifty-four cents on account of the Indian war debt, incurred prior to eighteen hundred and fifty-four, and for which an appropriation was made by Congress of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents (more than ample at the time to meet the whole war debt). This balance against the State on this account is mainly owing to the ruling of the Secretary of War, who refused to transfer the amount thus appropriated, declining to recognize the bonds as evidence of this debt, but requiring proof of the indebtedness by the production of the original accounts and vouchers, which in many instances had become quite impossible. Under this ruling of the Secretary interest of two years was suffered to accumulate, and the result has been this unpaid balance—consisting of interest on coupons—the sum of one hundred and seventy-two thousand eight hundred and sixty-eight dollars and fifty-four cents; bonds remaining unpaid, thirty-eight thousand one hundred dollars; interest due on the latter, seven thousand five hundred dollars; total, two hundred and eighteen thousand four hundred and sixty-eight dollars and fifty-four cents. These bonds mature in eighteen hundred and sixty-two. The faith of the State is pledged to their payment; and if Congress will not assume this debt, as it properly should, the State ought to make provisions for its liquidation."

This portion of the Governor's message was referred by the Assembly to a special committee, who reported as follows:

"MR. SPEAKER: Your committee to whom was referred that part of Governor Downey's message relating to the balance due on account of Indian War Debt, report:

"That they find that there is now outstanding about two hundred and twenty thousand dollars of the old Indian war debt, consisting of war bonds, coupons, etc., for the payment of which the faith and credit of the State has been pledged, as will ap-

pear by an Act passed May second, eighteen hundred and fifty-two, and other Acts supplementary thereto, under which said bonds were issued.

"That said bonds become due and payable on the second day of May, eighteen hundred and sixty-two, and no provision has been made for the payment thereof.

"That they have conferred with some of the holders of the aforesaid indebtedness, who claim that they are entitled to the money when the same becomes due; but knowing that, from the present condition of State finances, it is impossible to meet this indebtedness with cash, they are willing to accept bonds of the State therefor.

"That your committee recommend, as the best mode of settling the aforesaid indebtedness, that bonds of the State be issued, drawing interest at the rate of seven per centum per annum, payable in ten or twenty years, or out of any appropriation that may be made by the Federal Government before the lapse of said term, and respectfully submit the accompanying Act for that purpose for your consideration."

This report issued by the whole committee of five (5), one of the number being Mr. McCullough, who subsequently became Attorney-General, and another, Mr. Machin, who subsequently became Lieutenant-Governor. A bill was introduced in the senate providing for the funding of the coupons, as recommended by the assembly committee, which bill was referred to the Committee on Finance, who reported unanimously in favor of the bill. Their report concludes as follows (Senate Journal, thirteenth session, page 623):

"The Assembly bill provides for issuing bonds for the bonds and interest due thereon, issued *subsequent* to the first day of January, eighteen hundred and fifty-four, and would leave the bonds and interest due on those issued prior to that date unprovided for. This would be manifest injustice to the holders of the coupons on the old bonds. The State has pledged her faith and credit to pay them if the General Government did not provide for their payment before they fell due. This the General Government has failed to do, and the holders of the coupons look to the State to comply with her obligations. Your committee think the State should not in the first place have taken the course she did in making herself liable for these debts; but having done so, her honor and credit require that she should immediately provide for meeting her obligations.

"Some fault has been found with the Commissioners by some parties for returning the unpaid coupons to the bondholders. These coupons could not be paid by the terms of the Act of Congress, and the amount thereof being due to the holders, and no provision having been made to pay them, they certainly were entitled to have what belonged to them. And had it not been for the second Act of Congress providing for the manner of settlement, a very large portion of these bonds and interest thereon would not have been paid by the congressional appropriation; but the holders would have a just and legal claim for them against the State, which she could not have avoided paying. Therefore, instead of any injury arising from such action to the State, she was saved several hundred thousand dollars. These coupons were long since due. They, of course, draw no interest; but the bonds to which they were attached falling due on the second day of May next, they should be settled. Congress may at some future day provide for their payment; but the holders look first to the State. We therefore recommend the passage of the assembly bill, with several amendments herewith presented."

The Adjutant-General of the State was called on for information by resolution of the Assembly at this same session of the Legislature, and his report can be found in Appendix to Senate and Assembly Journals of the thirteenth session. He gave an opinion adverse to the payment of the coupons by the State, for the reason that the General Government had assumed their payment, and for the further reason that the Commissioners should have calculated the interest up to the time of presentation, and then made a final settlement with the holders by dividing the appropriation pro rata. As answer to these objections, it can very well be replied that whether the Government assumed the debt or not, it certainly has not paid it; and as to the action of the Commissioners, it seems clear from what has gone before that they could not do what General Kibbe says they ought to have done. But suppose they *had* done so, would there not have still resulted a balance in favor of the bondholders, for which the State would have been liable? The Legislature, however, rejected the recommendation of their committees, and the bill to fund the coupons failed to become a law.

In eighteen hundred and sixty-three these claims were again presented (the Governor, Stanford, including them in his annual message, as, indeed, he did the following year, as being a part of the State debt), and were referred to the Senate Committee on Finance. This committee divided, the Chairman, Mr. Perkins, together with Mr. Doll, presenting the most elaborate report that had yet been made on the subject, and Mr. Birdseye and Mr. Gaskill reporting adversely. These reports can be found in Appendix to Senate and Assembly Journals of the fourteenth session. In the report of Senators Birdseye and Gaskill the following paragraph occurs, which we deem well to quote:

"When these Commissioners arrived in Washington, by the consent and through the

influence of the bondholders, they obtained the passage of an Act of Congress, which took the matter entirely out of the control of the State, diverted the money from the State Treasury directly to the bondholders, deprived the State of the right to call in her bonds under sale to the lowest bidders, ignored the State in the premises, set aside her trust, and destroyed her agency."

The reply to this, as your committee think, can be found in the extracts which we have made from the messages of Governors Bigler and Johnson, and from the reports that have been quoted.

If the decision of the Secretary of War in construction of the Act of eighteen hundred and fifty-four had been acted on, and the money had been paid directly into the State Treasury, the State would, very likely, have failed to realize from it the face of her bonds, and for the balance she would have been liable to the bondholders; so that the congressional Act of eighteen hundred and fifty-six was directly in her interests. Her bonds had been regularly issued upon her faith and credit, and she was in honor bound to pay them to the last farthing.

The Commissioners could not have been deemed to act in bad faith or to the prejudice of the interests of the State, for these same commissioners were authorized by the Legislature in eighteen hundred and sixty-one (page 298 of Statutes), to adjust with the General Government the war debt of eighteen hundred and fifty-seven. Indeed, Governor Johnson, in his annual message, dated January first, eighteen hundred and fifty-seven, speaks as follows:

"The Commissioners of the War Debt * * have discharged their duties with fidelity to the interests of the people they represented, and with most agreeable results in the adjustment of this indebtedness."

This endorsement, together with the fact that these same Commissioners were again detailed for a similar duty, and with the further fact, that there is nothing in any of the reports that tends to prove that they acted any otherwise than honestly, demonstrate satisfactorily to your committee that they did what they deemed best for the interests of the State.

Your committee would further state that they have failed to find any evidence of the Commissioners having colluded with the bondholders, as is charged in the extract from the report which has been given above.

In this same year (1863) the Treasurer brought the matter of these unpaid coupons and certificates to the attention of the Governor in his annual report, and after treating the subject at some length, concludes by saying that "the State is in honor bound to pay those detached coupons, and whatever of the bonds remain unpaid" (see Treasurer's Report in Appendix to Senate Journal, fourteenth session).

At the next session of the Legislature (that of 1863-'64) the project was again brought forward to fund this indebtedness, a bill being introduced in the Senate for this purpose, and referred to the Committee on Claims, a majority of whom made the following report. (See Report of committee in Appendix to Senate Journal, fifteenth session.) The minority report can be found in the same place:

"Mr. President: The Committee on Claims, to whom was referred Senate Bill No. 59, 'An act entitled An act to provide for paying certain demands issued on the faith and credit of the State, which became due and payable on the second day of May, A. D. eighteen hundred and sixty-two, and to contract a funded debt for that purpose,' have had the same under consideration and ask leave to report:

"That they find there is now outstanding about two hundred and twenty thousand dollars of the old Indian war debt, evidenced by and consisting of war bonds and coupons, for the payment of which the faith and credit of the State has been pledged, as will fully appear by an act passed May second, eighteen hundred and fifty-two, and other acts supplemental thereto, under which said bonds were issued.

"That said bonds, by the terms of said acts, became due and payable on the second day of May, eighteen hundred and sixty-two, and no provision has been made for the payment thereof. The holders of said bonds and coupons have applied to former Legislatures to provide some way for the settlement of the aforesaid indebtedness, and your committee have carefully examined the proceedings of the various committees to whom the matter has been heretofore referred, and have been unable to discover any well founded objection to any part of this claim; on the contrary, all the arguments which have been adduced based upon facts militate strength in favor of the justice thereof.

"In eighteen hundred and sixty-two the subject was discussed by Governor Downey in his annual message, in which he says, after summing up the total amount of this indebtedness—making it two hundred and eighteen thousand four hundred and sixty-eight dollars and fifty-four cents (\$218,468.54): 'These bonds matured in eighteen hundred and sixty-two; the faith of the State is pledged to their payment, and if Congress should not assume this debt, as it properly should, the State should make provision for its liquidation'—which part of the Governor's message was referred to a select committee of the Assembly, who, after a thorough examination of the subject, reported a bill similar to the one which your committee have considered, and recommended its passage. Said special committee consisted of the present Lieutenant-Gov-

governor of the State, the present Attorney-General, and Messrs. Hillyer, Morrison, and Worthington.

"The holders of these bonds and coupons claim that they are entitled to the money therefor when the same became due, but, owing to the embarrassed condition of the finances of the State, they have been and now are willing to accept bonds of the State therefor, as provided in the bill referred to your committee.

"Your committee is of opinion that the settlement of these claims with the holders cannot longer be delayed without great injury to the credit and a serious violation of the faith of the State, which has been unconditionally and unqualifiedly pledged for their redemption.

"Therefore they report back the bill and recommend its passage."

This report is signed by John P. Jones, W. E. Lovett, and George S. Evans, the latter gentleman being an honored Senator of the now sitting Legislature.

A minority report was also submitted, which recommended the payment of the bonds, but disagreed with the majority report as to the payment of the coupons.

This report speaks of "notorious frauds committed in the issue of these bonds," and yet the gentlemen who sign it recommend the payment of the bonds, but would refuse payment of the coupons.

It seems to your committee that to be consistent they should have reported against the bonds, as they did against the coupons. But really this question of fraud could only be considered when the bonds were in process of issue, and not after they had been put into circulation and had passed through many hands. Under such circumstances, a negotiable instrument is conclusively presumed to have passed for a valuable consideration and to be free from fraud. But if any fraud was ever perpetrated your committee have failed to find evidence of it in the official reports.

As this minority report speaks of the failure of the Congressional appropriation to pay the detached coupons, your committee deem it well to give the true history of this matter, as it is given by Adjutant-General Kibbe, who was himself an actor in the scene. The following extract is taken from his report, attention to which report has already been directed:

"I had the honor of presenting this whole matter to the Committee on Military Affairs of the United States Senate, while in Washington last year, explaining the same to them; in which explanation I satisfied the committee that Congress had virtually assumed this portion of the debt (the interest) by act of August eighteen hundred and fifty-six, and that committee reported, as an amendment to the Army appropriation bill, the following, viz:

"For the payment of the coupons outstanding and now-unpaid accruing between the first day of January, eighteen hundred and fifty-four, and the sixteenth day of August, eighteen hundred and fifty-six, upon the bonds of the State of California, issued for the payment of expenses incurred in the suppression of Indian hostilities prior to the first day of January, eighteen hundred and fifty-four, the redemption of which bonds was authorized by acts of Congress of August fifth, eighteen hundred and fifty-four, August eighteenth, eighteen hundred and fifty-six, and June twenty-third, eighteen hundred and sixty, one hundred and seventy-seven thousand one hundred and ninety-six dollars and twenty-three one-hundredths: said coupons to be certified by the Third Auditor of the Treasury to be those designated by this section to be paid by the Secretary of War to the holders thereof."

"But it being asserted by Senators that many of these coupons had been purchased for a nominal sum, and were mainly held by a banking-house in Washington, the amendment did not prevail."

Whether this assertion of Senators was true or not, and your committee doubt if it was, the fact remains that these detached coupons successfully withstood the scrutiny of a Congressional Committee, and were defeated because of statements very probably made at random. But admitting the statement to have been true, it does not relieve the State, as your committee think, from her obligation to pay. It would certainly be a new doctrine to hold that a debtor should be relieved from his indebtedness because his obligations went begging in the market. Under such circumstances your committee think that the debtor should make all the more effort to satisfy the demands of his creditors.

The bill again failed, and the coupons and certificates were not presented again until the year eighteen hundred and seventy-one, when they were laid before the Board of Examiners, under the provisions of the act which provided for their consideration of claims not otherwise provided for by law. The Board of Examiners recommended that some competent person be appointed, whose business it should be to investigate the whole matter of Indian war bonds and coupons and report to the Governor within ninety days, the Board to use the report as a basis of audit. This recommendation, however, was not concurred in by the Legislature.

The amount of coupons and certificates laid before the Board is as follows:

Coupons and certificates, by voucher	\$42,706 85
Coupons and certificates, by schedule	34,708 55
Total	77,415 43

REASONS FOR PAYING THE CLAIMS.

The claimants give the following reasons, among others, for urging the payment of these claims, and, taken in connection with what has gone before, your committee deem them conclusive:

That the bondholders had good reason to believe when they surrendered their bonds that Congress would make an appropriation to pay the coupons, and not having done so, the State is bound by virtue of her contract with those who took her bonds.

That the principal not having been paid until September first, eighteen hundred and fifty-six, the bondholders were clearly entitled to interest up to that time; instead of that they were only paid up to January first, eighteen hundred and fifty-four, and this not by virtue of any composition on their part, but because of the rigid rule laid down by the War Department in its construction of the acts of Congress of eighteen hundred and fifty-four and eighteen hundred and fifty-six.

That the bonds of eighteen hundred and fifty-one and eighteen hundred and fifty-two were as valid and as negotiable as any bonds could be, for they were issued upon the faith and credit of the State.

That there was no fraudulent collusion of the bondholders and Commissioners, for the State authorities recognized the conduct of the latter as having been wise and honest.

That had the bondholders not surrendered their bonds the State would have been bound to pay not only the interest between January, eighteen hundred and fifty-four, and September, eighteen hundred and fifty-six, but the whole interest to maturity, which latter was saved, and amounted to more than three hundred thousand dollars.

That the bondholders did not waive nor have they ever waived the interest between January, eighteen hundred and fifty-four, and September, eighteen hundred and fifty-six; nor did they yield up this interest in the way of satisfaction; that is, they did not agree to take nor had they any intention of taking the principal of their debt with interest up to January first, eighteen hundred and fifty-four, in satisfaction of their whole debt; that the fact of their coupons having been surrendered to them proves this beyond the possibility of a doubt.

That the last Legislature paid some of the old issue of the bonds of eighteen hundred and fifty-two, with interest in full, and that this, as a precedent, should have great weight, from the fact, that by the surrender in eighteen hundred and fifty-six, over three hundred thousand dollars in interest was saved the State; and that it would be gross injustice to pay those parties in full whose refusal to surrender their bonds in eighteen hundred and fifty-six cost the State increased interest, while depriving others of the interest which their principal indubitably earned, and by whose course the State was saved a very large amount.

That it is idle to say the bonds were fraudulently or improvidently issued, as such instruments after having been put in circulation cannot be affected by such considerations; that granting that the coupons have passed from hand to hand for insufficient consideration (of which there is no proof), this is not to be wondered at when the State has so persistently postponed their liquidation; and that if such is the case, it would not be the only instance in life in which necessity or deferred hope has caused the owner to part with a thing of value for an insufficient consideration; but that some of the bondholders have not parted with their coupons, and still retain them.

That the agent always binds his principal when acting within the scope of his authority; that the Commissioners, acting within the scope of their authority, returned to the bondholders these detached coupons stamped with their stamp, and for others gave certificates of indebtedness; that by so doing they acknowledged these instruments as being an unliquidated and valid demand against the State, and that by such acknowledgment the State (their principal) is bound.

That the State authorities knew of the course the Commissioners were pursuing, and could have repudiated their action; instead of that, they not only assented to it at the time, but applauded the conduct of the Commissioners afterwards; that this is conclusive of the objection that the Commissioners did not adhere to the very letter of their instructions, for it is well settled that when the principal assents to or subsequently confirms the action of his agent the principal is bound.

That the Commissioners deviated from the strict letter of their instructions in but two particulars: first, in not paying interest up to the time of presentation of the bonds; and, secondly, in not advertising for bids for surrender of bonds. That as to the first, they were precluded from allowing interest up to the time of presentation, on account of the ruling of the War Department; and that as to the second, it would have been a useless expense to advertise for bids, for, as the appropriation was more than sufficient to pay the bonds with interest up to January first, eighteen hundred and fifty-four, every holder would have put in a bid at par. It follows, therefore, that the agent was forced to deviate somewhat from the letter, in order that he might preserve the spirit, of his instructions, and that he did so with the knowledge and consent of his principal.

That the Governor is bound to see the laws faithfully executed, and if he saw the Commissioners acting in derogation of the statute defining their duties he could have repudiated their action or removed them, but that the Commissioners were not only sustained by the Governor, but applauded by him. (See Governor Johnson's message of eighteen hundred and fifty-seven, above referred to.)

That the acts of the Commissioners were not only ratified by the Governor, but by the Legislature, as will be seen by the statute empowering the Board of War Debt Commissioners to adjust with the General Government the war indebtedness of eighteen hundred and fifty-seven (Statutes of 1861, page 298); that it will be seen on referring to the first section of this Act that the Legislature acted upon the assumption that the Board were still in existence, and that it is plain that by laying upon the Commissioners further duties of the same kind previously performed, with full knowledge of the manner in which the trust was executed, that the Legislature thereby ratified the previous action of the agent of the State in the execution of such trust.

That the bonds and coupons were issued by the State with the express promise on her part to pay them if the United States Government did not, and that the latter having made default the former is bound.

That every Governor who has spoken officially and every committee to whom the claims have been referred (most of them unanimously, and only in one instance evenly dividing) have urged their liquidation.

That the justice and validity of these claims have been acknowledged by the Legislature of this State, as will be seen by the following concurrent resolution (Statutes of 1859, page 381):

“Resolved by the Senate, the Assembly concurring, That our Senators at Washington be instructed and our Representatives in Congress be requested to urge upon Congress the immediate payment of the Indian war debt due to citizens of this State.

“Resolved, That a copy of these resolutions be forwarded by his Excellency, the Governor, to each of our Senators and Representatives, with as little delay as possible.”

That it follows, as an irresistible conclusion, that to refuse payment of these claims is to repudiate a portion of the State debt.

AMOUNT OF INDEBTEDNESS OUTSTANDING.

As to the amount of indebtedness outstanding, your committee are enabled to give exact official information. From an examination of the Bond Register of the bonds of eighteen hundred and fifty-one and eighteen hundred and fifty-two, in the office of the Treasurer of State, it appears that bonds were issued as follows:

Bonds of 1851	\$200,000
Bonds of 1852	636,350

By the official certified lists from the office of the Third Auditor at Washington, received within the past few weeks, it appears that the General Government has paid the principal of bonds as follows:

Bonds of 1851	\$197,000
Bonds of 1852	598,450

We are enabled, therefore, to construct the following tables:

Issue of 1851	\$200,000
Paid by General Government of principal	197,000
Outstanding of principal	3,000
Issue of 1852	636,350
Paid by General Government of principal	\$598,450
Paid by State 1865-'66, of principal	20,950
Paid by State 1867-'68, of principal	900
Paid by State 1869-'70, of principal	1,350
Outstanding of principal	621,650
Outstanding of principal	14,700

The following is an exhibit of the bonds that were laid before the Board of Examiners. We have tabulated them so that they can be easily understood and readily referred to :

No. of bonds.	Name of claimant.	When issued.	Principal.	Interest to May 2, 1862.	Total principal and interest.
305	E. W. Morse	Jan. 19th, 1854.	\$100	\$57 96	
306	E. W. Morse	Jan. 19th, 1854.	100	57 96	\$315 92
113	Samuel Scott	Feb. 3d, 1854	250	143 18	393 18
347	I. Wormser	Apr. 15th, 1854.	100	56 30	
348	I. Wormser	Apr. 17th, 1854	100	56 30	
349	I. Wormser	Apr. 17th, 1854.	100	56 30	468 90
340	M. S. Latham	Sep. 20th, 1854.	100	53 29½	
396	M. S. Latham	Aug. 26th, 1854	100	53 76½	
374	M. S. Latham	May 13th, 1854	100	55 76½	
373	M. S. Latham	May 13th, 1854	100	55 76½	
372	M. S. Latham	May 13th, 1854	100	55 76½	
141	M. S. Latham	Aug. 26th, 1854	250	134 40½	
143	M. S. Latham	Aug. 26th, 1854	250	134 40½	
142	M. S. Latham	Aug. 26th, 1854	250	134 40½	
146	M. S. Latham	Sep. 14th, 1854	250	133 53½	
416	M. S. Latham	May 13th, 1854	500	278 82½	
145	M. S. Latham	Sep. 14th, 1854	250	133 53½	3, 473 43
128	Jay Cooke & Co.	July 15th, 1854	250	136 40	
129	Jay Cooke & Co.	July 21st, 1854	250	136 10	
130	Jay Cooke & Co.	July 21st, 1854	250	136 10	
134*	Jay Cooke & Co.	July 21st, 1854	250	93 38	
135	Jay Cooke & Co.	July 21st, 1854	250	136 10	
136	Jay Cooke & Co.	July 21st, 1854	250	136 10	
151	Jay Cooke & Co.	Oct. 18th, 1854	250	131 38	
229	Jay Cooke & Co.	Mar. 29th, 1854	100	56 63	
331	Jay Cooke & Co.	Mar. 31st, 1854	100	56 60	
332	Jay Cooke & Co.	Mar. 31st, 1854	100	56 60	
333	Jay Cooke & Co.	Mar. 31st, 1852	100	56 60	
340	Jay Cooke & Co.	Apr. 12th, 1854	100	56 36	
341	Jay Cooke & Co.	Apr. 12th, 1854	100	56 36	
353	Jay Cooke & Co.	Apr. 25th, 1854	100	56 11	
354	Jay Cooke & Co.	Apr. 25th, 1854	100	56 11	
355	Jay Cooke & Co.	Apr. 25th, 1854	100	56 11	
371	Jay Cooke & Co.	May 8th, 1854	100	55 86	
383	Jay Cooke & Co.	June 6th, 1854	100	55 31	
384	Jay Cooke & Co.	July 15th, 1854	100	54 55	
386	Jay Cooke & Co.	July 21st, 1854	100	54 44	
390	Jay Cooke & Co.	Aug. 7th, 1854	100	54 13	
391	Jay Cooke & Co.	Aug. 11th, 1854	100	54 05	
394	Jay Cooke & Co.	Aug. 19th, 1854	100	53 91	
420	Jay Cooke & Co.	July 15th, 1854	500	272 80	
433	Jay Cooke & Co.	June 21st, 1856	100	41 02	6, 059 11
Total principal and interest up to May 2, 1862, when bonds matured					\$10, 710 54

* Some coupons lost from this bond.

The total principal is thus seen to be six thousand nine hundred and fifty dollars, and the total interest up to May second, eighteen hundred and sixty-two (the date of the maturity of the bonds), three thousand seven hundred and sixty dollars and fifty-four cents. We have made a careful comparison of these bonds with the numbers of those paid at Washington and by the State, and are satisfied that none of them have ever been paid, with the exception of bond number three hundred and forty-seven, issued April fifteenth, eighteen hundred and fifty-four. By reference to the official list in appendix, it will be seen that the General Government has redeemed a bond of that number and denomination. We do not know of any duplicate having been authorized by statute for this bond, nor does the register give more than the one number. In fact, the bond here corresponds exactly with that set out in the bond register. Both are for the same number and denomination, and both purport to have been issued to D. B. Kurtz, on the fifteenth of April, eighteen hundred and fifty-four. The question arises, how did this bond get here? Setting aside the improbability of any one counterfeiting the bond and all of its indorsements, including that of Kurtz, and the fact of its never having been in the office of the Third Auditor—for it lacks the indorsement of the War Debt Commissioners—we are driven to the supposition that the number three hundred and forty-seven in the official list is a clerical error. At all events, the bond is here, and bears every evidence of genuineness.

Our examination of bond number four hundred and thirty-three for one hundred

dollars disclosed the following singular state of facts: It appears that two bonds of one hundred dollars each, numbered four hundred and thirty-two and four hundred and thirty-three, were issued to A. W. Bee by act of the legislature approved May fourteenth, eighteen hundred and sixty-two (page 554 of Statutes), in lieu of bonds numbers three hundred and forty-four and three hundred and forty-five that had been issued November twenty-fourth, eighteen hundred and fifty-four, and that there is no record of any bond for one hundred dollars numbered four hundred and thirty-three having been issued on June twenty-first, eighteen hundred and fifty-six. Of course this bond could not be one of those issued to Bee, because his bonds were issued in eighteen hundred and sixty-two, and were to bear the same date, by the terms of the statute, as those bonds which he was to surrender, viz, November twenty-fourth, eighteen hundred and fifty-four. The suspicion attached to this bond is not relieved by the fact of its lacking the seal of the Treasurer, which its fellows exhibit; but as the genuineness of the bond will have to be passed upon in the process of funding, we deem it unnecessary to discuss the matter further.

If payment were made of the bonds above tabulated, there would still be outstanding of the bonds of eighteen hundred and fifty-one, three thousand dollars, being three bonds numbered one hundred and seven, one hundred and eight, and one hundred and forty-two, and of the bonds of eighteen hundred and fifty-two, seven thousand seven hundred and fifty dollars. As one-half of these latter (three thousand eight hundred dollars) belong to the old issue of eighteen hundred and fifty-two, and were not presented to the War Debt Commissioners, and as but one thousand three hundred and fifty dollars of these have ever been presented to the legislature, and none of them were laid before the board of examiners, it is but fair to presume that nearly half of the bonds of eighteen hundred and fifty-two, still outstanding, will never be brought forward for payment.

Deeming the following table may be of some service, we have taken the pains to construct it, premising that the "old issue" of eighteen hundred and fifty-two comprises those bonds that were issued prior to January first, eighteen hundred and fifty-four, and the "new issue," the bonds that were issued after that time:

Old issue of 1852.....		\$595,950
Paid by government of principal.....	\$590,800	
Paid by State, 1868-'70, of principal.....	1,350	
		592,150
Outstanding.....		\$3,800
<hr/>		
New issue of 1852.....		\$40,400
Paid by Government of principal.....	\$7,650	
Paid by State, 1865-'66, of principal.....	20,950	
Paid by State, 1867-'68, of principal.....	900	
		29,500
Outstanding.....		\$10,900

The amount of the detached coupons is given by the Commissioners at one hundred and seventy-two thousand eight hundred and twenty-eight dollars and fifty-four cents, and by Adjutant General Kibbe at one hundred and seventy-seven thousand one hundred and ninety-six dollars and twenty-three cents. How General Kibbe arrives at these latter figures he does not tell us, nor do we deem it material to ascertain, even if we could do so. The Commissioners' figures are adhered to in all of the official reports; and besides, as many years have elapsed since the coupons were detached, your committee doubt if more than three-fourths of them could be presented in shape for payment.

The whole indebtedness may be tabulated as follows:

Bonds of 1851, of principal.....	\$3,000 00
Bonds of 1852 (new issue), of principal.....	10,900 00
Bonds of 1852 (old issue), of principal.....	3,800 00
Detached coupons and certificates of indebtedness.....	172,828 54
	\$190,528 54
Total.....	

This amount will, of course, be somewhat greater when there is added to it the interest on the bonds to their maturity, but for reasons heretofore given we are convinced that many of the evidences of indebtedness will never be presented, and that the sum of one hundred and ninety thousand dollars is considerably more than the State will ever be called upon to pay.

The Redemption Registers in the Treasurer's office we found to be as incomplete as they are stated to be by the Board of Examiners, but it will be an easy matter, by means of the official lists above referred to, to correct and complete them, the want

of that information which these lists furnish seems to have been the motive that determined the conclusion of the Board of Examiners, it being deemed that this information could only be procured on the personal application of an agent of the State. After this determination, however, some of the claimants succeeded, after a delay of some months, in obtaining those official lists of which we have made such good use and which we beg leave to append to this report as an appendix.

RECOMMENDATION.

The committee would therefore recommend, in conclusion, that the whole indebtedness be funded, the funding act to provide for the issue of bonds of the State to the amount of one hundred and ninety thousand dollars, with interest at the rate of seven per cent. per annum. A tax of three-fourths of a cent on each one hundred dollars will be amply sufficient for the purpose; indeed, this rate will doubtless prove to be too high in the course of a few years.

Thus, for an insignificant tax, would the State be finally relieved of an obligatory indebtedness that has vexed her for years, and her people receive yet another illustration of that nice sense of right which is no less necessary to the honor of a commonwealth than it is to that of an individual.

GEORGE C. PERKINS,
JOHN McMURRY,
WILLIAM MINIS,
HENRY LARKIN,
STEPHEN WING,
Senate Committee.

E. B. MOTT, JR.,
JACOB WELTY,
W. N. DE HAVEN,
ROBERT BELL,
J. H. COOPER,
P. B. BACON,
W. A. ALDRICH,
Assembly Committee.

APPENDIX.

List of the California twelve per cent. war bonds paid by the United States, under the Smith and Denver Commission, said bonds being for the amount of one thousand dollars (\$1,000) each, and with interest upon the coupons up to the 1st day of January, 1854.

Number and date of bond.	Number and date of bond.	Number and date of bond.
1 April 1st, 1851.	37 April 1st, 1851.	73 April 1st, 1851.
2 April 1st, 1851.	38 April 1st, 1851.	74* April 1st, 1851.
3 April 1st, 1851.	39 April 1st, 1851.	75 April 1st, 1851.
4 April 1st, 1851.	40 April 1st, 1851.	76 April 1st, 1851.
5 April 1st, 1851.	41 April 1st, 1851.	77 April 1st, 1851.
6 April 1st, 1851.	42* April 1st, 1851.	78 April 1st, 1851.
7 April 1st, 1851.	43 April 1st, 1851.	79 April 1st, 1851.
8 April 1st, 1851.	44 April 1st, 1851.	80 April 1st, 1851.
9 April 1st, 1851.	45 April 1st, 1851.	101 April 9th, 1851.
10 April 1st, 1851.	46 April 1st, 1851.	102 April 9th, 1851.
11 April 1st, 1851.	47 April 1st, 1851.	103 April 9th, 1851.
12 April 1st, 1851.	48 April 1st, 1851.	104 April 9th, 1851.
13 April 1st, 1851.	49 April 1st, 1851.	105 April 9th, 1851.
14 April 1st, 1851.	50 April 1st, 1851.	106 April 9th, 1851.
15 April 1st, 1851.	51 April 1st, 1851.	109 April 9th, 1851.
16 April 1st, 1851.	52 April 1st, 1851.	110 April 9th, 1851.
17 April 1st, 1851.	53 April 1st, 1851.	111 April 9th, 1851.
18 April 1st, 1851.	54 April 1st, 1851.	112 April 9th, 1851.
19 April 1st, 1851.	55 April 1st, 1851.	113 April 9th, 1851.
20 April 1st, 1851.	56 April 1st, 1851.	114 April 9th, 1851.
21 April 1st, 1851.	57 April 1st, 1851.	115 April 9th, 1851.
22 April 1st, 1851.	58 April 1st, 1851.	116 April 9th, 1851.
23 April 1st, 1851.	59 April 1st, 1851.	117 April 9th, 1851.
24 April 1st, 1851.	60 April 1st, 1851.	118 April 9th, 1851.
25 April 1st, 1851.	61 April 1st, 1851.	119 April 9th, 1851.
26 April 1st, 1851.	62 April 1st, 1851.	120 April 11th, 1851.
27 April 1st, 1851.	63 April 1st, 1851.	121 April 21st, 1851.
28 April 1st, 1851.	64 April 1st, 1851.	122 April 21st, 1851.
29 April 1st, 1851.	65 April 1st, 1851.	123 April 21st, 1851.
30 April 1st, 1851.	66 April 1st, 1851.	124 April 21st, 1851.
31 April 1st, 1851.	67* April 1st, 1851.	125 April 21st, 1851.
32 April 1st, 1851.	68 April 1st, 1851.	126 April 21st, 1851.
33 April 1st, 1851.	69 April 1st, 1851.	127 April 21st, 1851.
34* March 26th, 1851.	70 April 1st, 1851.	128 April 21st, 1851.
35 April 1st, 1851.	71 April 1st, 1851.	129 April 21st, 1851.
36 April 1st, 1851.	72 April 1st, 1851.	130 April 21st, 1851.

List of the California twelve per cent. bonds paid by the United States, &c.—Continued.

Number and date of bond.	Number and date of bond.	Number and date of bond.
131 May 24th, 1851.	162 June 10th, 1851.	192 July 25th, 1851.
132 May 24th, 1851.	163 June 10th, 1851.	193 July 25th, 1851.
133 May 24th, 1851.	164 June 10th, 1851.	194 July 25th, 1851.
134 May 24th, 1851.	165 June 10th, 1851.	195 July 25th, 1851.
135 May 24th, 1851.	166 June 10th, 1851.	196 July 25th, 1851.
136 May 24th, 1851.	167 June 10th, 1851.	197 July 25th, 1851.
137 May 24th, 1851.	168 June 10th, 1851.	198 July 25th, 1851.
138 May 25th, 1851.	169 June 10th, 1851.	199 July 25th, 1851.
139 May 24th, 1851.	170 June 10th, 1851.	226 July 25th, 1851.
140 May 24th, 1851.	171 June 10th, 1851.	227 July 25th, 1851.
141 May 24th, 1851.	172 June 10th, 1851.	228 July 25th, 1851.
143 May 24th, 1851.	173 June 10th, 1851.	229 July 25th, 1851.
144 May 24th, 1851.	174 June 10th, 1851.	230 July 25th, 1851.
145 May 24th, 1851.	175 June 10th, 1851.	231 July 25th, 1851.
146 May 24th, 1851.	176 July 25th, 1851.	232 July 25th, 1851.
147 May 24th, 1851.	177 July 25th, 1851.	233 July 25th, 1851.
148 May 24th, 1851.	178 July 25th, 1851.	234 July 25th, 1851.
149 May 24th, 1851.	179 July 25th, 1851.	235 July 25th, 1851.
150 May 24th, 1851.	180 July 25th, 1851.	236 July 25th, 1851.
151 June 10th, 1851.	181 July 25th, 1851.	237 July 25th, 1851.
152 June 10th, 1851.	182 July 25th, 1851.	238 July 25th, 1851.
153 June 10th, 1851.	183 July 25th, 1851.	239 July 25th, 1851.
154 June 10th, 1851.	184 July 25th, 1851.	240 July 25th, 1851.
155 June 10th, 1851.	185 July 25th, 1851.	241 July 25th, 1851.
156 June 10th, 1851.	186 July 25th, 1851.	242 July 25th, 1851.
157 June 10th, 1851.	187 July 25th, 1851.	243 July 25th, 1851.
158 June 10th, 1851.	188 July 25th, 1851.	244 July 25th, 1851.
159 June 10th, 1851.	189 July 25th, 1851.	245 July 25th, 1851.
160 June 10th, 1851.	190 July 25th, 1851.	268 April 8th, 1852
161 June 10th, 1851.	191 July 25th, 1851.	

* These so noted were paid as duplicates in lieu of the original bonds.

Third Auditor's Office, December 21st, 1871.

A true list:

VANDOREN, *Clerk.*

List of seven per cent. California war bonds paid by the United States.

First. Bonds with interest upon the coupons up to the first of January, eighteen hundred and fifty-four:

One thousand dollar bonds: Nos. 1 to 341, inclusive.

Five hundred dollar bonds: Nos. 1 to 90, inclusive.

Five hundred dollar bonds: Nos. 92 to 185, inclusive.

Five hundred dollar bonds: Nos. 187 to 306, inclusive.

Five hundred dollar bonds: Nos. 307 to 399, inclusive.

Two hundred and fifty dollar bonds: Nos. 1 to 68, inclusive.

Two hundred and fifty dollar bonds: Nos. 70 to 105, inclusive.

One hundred dollar bonds: Nos. 1 to 114, inclusive.

One hundred dollar bonds: Nos. 116 to 131, inclusive.

One hundred dollar bonds: Nos. 164 to 218, inclusive.

One hundred dollar bonds: Nos. 220 to 267, inclusive.

One hundred dollar bonds: Nos. 272 to 296, inclusive.

Second. Bonds bearing date subsequent to the first of January, eighteen hundred and fifty-four, with coupons paid to the first of July, eighteen hundred and sixty:

Five hundred dollar bonds: Nos. 403, 409, 410, 411, and 413.

Two hundred and fifty dollar bonds: Nos. 108, 109, 110, 121, and 122.

Two hundred and fifty dollar bonds: Nos. 123, 124, 125, 126, 140, and 149.

One hundred dollar bonds: Nos. 302, 324, 325, 326, 334, 335, 336, 337, 338, 339, 342, 343, 344, 345, 346, 347, 350, 358, 359, 366, 370, 375, and 376.

A true list:

WM. THEO. VANDOREN,
Clerk.

THIRD AUDITOR'S OFFICE, *January 10th, 1872.*

A letter from the Acting Third Auditor of the Treasury Department, under date of February 16, 1882, is filed with the papers, and contains the following information:

I have to state that under acts of August 5, 1854, August 18, 1856, June 23, 1860, and July 25, 1868, the holders of bonds of said State who have presented the same to

this department have been paid the sum of \$914,071.02 for principal and interest which had accrued prior to January 1, 1854; and if there are any unpaid bonds and accrued interest which are considered as properly chargeable to the United States, no good reason appears why they should not be presented to the accounting officers of the Treasury for settlement in the same manner as those heretofore presented and paid, under any statute Congress may deem proper to enact, and the appropriation remain in the Treasury of the United States, to be drawn from as the claims shall be presented and settled, instead of depositing the total amount of the appropriation with the treasurer of the State of California, as expressed in the second section of said bill. If the State of California has paid the bonds and interest or any part thereof, she should present her claim for reimbursement, by filing the bonds and coupons paid in the same manner as individual holders and owners. This would obviate the covering back into the Treasury of the United States any unexpended balance which might be retained in the Treasury of the State for years, as the bill does not fix a time for returning the balance to the Treasury of the United States.

The committee annex hereto report made by the Comptroller of the State of California.

Controller's report, made under and in accordance with assembly joint resolution No. 73, to his excellency the governor. (Twenty-second session of the legislature.)

CONTROLLER'S OFFICE,
Sacramento, May 27, 1878.

To his Excellency WILLIAM IRWIN,
Governor of California:

SIR: In conformity with your request, made under the authority of assembly joint resolution No. 73, adopted March thirtieth, eighteen hundred and seventy-eight, which reads as follows:

"Resolved by the assembly of the State of California, the senate concurring, First, that our Senators be instructed and our Representatives requested, to urge upon Congress the immediate payment of all bonds, coupons, and certificates of coupons issued by the State of California, for expenses incurred in the Indian wars, which have not been paid by the General Government; second, that his excellency the governor be requested to cause a statement of all such bonds, certificates, and coupons, and the circumstances connected therewith, to be prepared by the controller, and, upon such statement being prepared, to cause an application to be made to Congress, in the name of the State of California, for the payment of said bonds, coupons, and certificates; third, and that he forward a copy of these resolutions to each of our Senators and Representatives in Congress."

I have the honor to make the following statement:

I find upon examination of war bond register in State treasurer's office, and other records in controller's office, that, under the act of the legislature of California, approved February fifteenth, eighteen hundred and fifty-one (Statutes 1851, page 520), Indian war bonds were issued by the State of California to the amount of two hundred thousand dollars, bearing interest at the rate of twelve per cent. per annum, and payable in ten years; that under the act of the legislature of May third, eighteen hundred and fifty-two (Statutes of 1852, page 59), Indian war bonds were issued by the State of California to the amount of six hundred and thirty-eight thousand one hundred dollars, bearing interest at the rate of seven per cent. per annum, and payable in ten years.

Of the principal of the above-named bonds of eighteen hundred and fifty-one, amounting to two hundred thousand dollars, I find, according to printed report of William Theodore Van Doren, clerk Third Auditor's Office, Washington, made January tenth, eighteen hundred and seventy-two (see appendix to journal of California senate and assembly, for the nineteenth session, pages 28 and 29,) that the United States Government has paid one hundred and ninety-seven thousand dollars; that of the principal of the above-named bonds of eighteen hundred and fifty-two, amounting to six hundred and thirty-eight thousand one hundred dollars (according to said report of William Theodore Van Doren, above referred to), the United States Government has paid five hundred and ninety-eight thousand four hundred and fifty dollars; that of the principal of the last above-named bonds the State of California (according to controller's books) has paid twenty-two thousand eight hundred and fifty dollars, leaving outstanding of the principal of the bonds of eighteen hundred and fifty-one, three thousand dollars; of the principal of the bonds of eighteen hundred and fifty-two, sixteen thousand eight hundred dollars; making a total amount of said bonds outstanding of nineteen thousand eight hundred dollars, together with interest on the same, which said principal and interest, together with the number and denomination of each of said outstanding bonds, is given in the following table, to wit:

Outstanding seven per cent. war bonds, eighteen hundred and fifty-two.

No.	Date of bond.	Amount.	Interest to May 2, 1862.	Total.
132	October 11, 1852	\$100 00	\$66 91	\$166 91
133	October 11, 1852	100 00	66 91	166 91
134	October 12, 1852	100 00	66 89	166 89
135	October 12, 1852	100 00	66 89	166 89
136	October 12, 1852	100 00	66 89	166 89
137	October 18, 1852	100 00	66 77	166 77
138	October 19, 1852	100 00	66 75	166 75
139	October 23, 1852	100 00	66 67	166 67
140	October 23, 1852	100 00	66 67	166 67
141	October 23, 1852	100 00	66 67	166 67
142	October 25, 1852	100 00	66 63	161 63
143	October 25, 1852	100 00	66 63	166 63
144	October 25, 1852	100 00	66 63	166 63
145	October 25, 1852	100 00	66 63	166 63
146	October 25, 1852	100 00	66 63	166 63
147	October 25, 1852	100 00	66 63	166 63
148	October 27, 1852	100 00	66 59	166 59
149	October 27, 1852	100 00	66 59	166 59
150	October 28, 1852	100 00	66 57	166 57
151	November 1, 1852	100 00	66 51	166 51
152	November 1, 1852	100 00	66 51	166 51
153	November 3, 1852	100 00	66 47	166 47
154	November 13, 1852	100 00	66 28	166 28
155	November 13, 1852	100 00	66 28	166 28
156	November 13, 1852	100 00	66 28	166 28
157	November 16, 1852	100 00	66 22	166 22
158	November 18, 1852	100 00	66 18	166 18
159	November 18, 1852	100 00	66 18	166 18
160	November 22, 1852	100 00	66 10	166 10
161	November 22, 1852	100 00	66 10	166 10
162	November 25, 1852	100 00	66 05	166 05
163	November 25, 1852	100 00	66 05	166 05
219	April 27, 1853	100 00	63 10	163 10
268	August 13, 1853	100 00	61 04	161 04
269	August 13, 1853	100 00	61 04	161 04
270	August 13, 1853	100 00	61 04	161 04
271	August 13, 1853	100 00	61 04	161 04
305	January 19, 1854	100 00	58 20	158 20
306	January 19, 1854	100 00	58 20	158 20
329	March 29, 1854	100 00	56 61	156 61
331	March 31, 1854	100 00	56 60	156 60
332	March 31, 1854	100 00	56 60	156 60
333	March 31, 1854	100 00	56 60	156 60
340	April 12, 1854	100 00	56 39	156 39
341	April 12, 1854	100 00	56 39	156 39
348	April 17, 1854	100 00	56 29	156 29
349	April 17, 1854	100 00	56 29	156 29
353	April 25, 1854	100 00	56 14	156 14
354	April 25, 1854	100 00	56 14	156 14
355	April 25, 1854	100 00	56 14	156 14
356	April 25, 1854	100 00	56 14	156 14
371	May 13, 1854	100 00	55 85	155 85
372	May 13, 1854	100 00	55 85	155 85
373	May 13, 1854	100 00	55 85	155 85
374	May 13, 1854	100 00	55 85	155 85
380	May 26, 1854	100 00	55 53	155 53
381	May 26, 1854	100 00	55 53	155 53
383	June 6, 1854	100 00	55 33	155 33
384	July 10, 1854	100 00	54 67	154 67
386	July 21, 1854	100 00	54 47	154 47
390	August 7, 1854	100 00	54 15	154 15
391	August 11, 1854	100 00	54 07	154 07
394	August 19, 1854	100 00	53 92	153 92
398	September 2, 1854	100 00	53 67	153 67
401	October 23, 1854	100 00	52 68	152 68
402	October 24, 1854	100 00	52 06	152 06
403	November 24, 1854	100 00	52 08	152 08
404	November 24, 1854	100 00	52 08	152 08
405	November 24, 1854	100 00	52 08	152 08
406	November 24, 1854	100 00	52 08	152 08
407	November 24, 1854	100 00	52 08	152 08
409	April 4, 1855	100 00	49 54	149 54
413	July 28, 1855	100 00	47 33	147 33
416	August 1, 1855	100 00	47 27	147 27
417	August 13, 1855	100 00	47 04	147 04
418	August 13, 1855	100 00	47 04	147 04
419	August 13, 1855	100 00	47 04	147 04
420	August 13, 1855	100 00	47 04	147 04
		7, 800 00	4, 641 56	12, 441 56

Outstanding seven per cent. war bonds, eighteen hundred and fifty-two.

No.	Date of bond.	Amount.	Interest.	Total.
69	November 25, 1852	\$250 00	\$165 14	\$415 14
113	February 3, 1854	250 00	144 33	394 33
128	July 10, 1854	250 00	136 70	386 70
129	July 21, 1854	250 00	136 15	386 15
130	July 21, 1854	250 00	136 15	386 15
134	July 21, 1854	250 00	136 15	386 15
135	July 21, 1854	250 00	136 15	386 15
136	July 21, 1854	250 00	136 15	386 15
139	August 24, 1854	250 00	134 55	384 55
141	August 26, 1854	250 00	134 45	384 45
142	August 26, 1854	250 00	134 45	384 45
143	August 26, 1854	250 00	134 45	384 45
145	September 14, 1854	250 00	133 58	383 58
146	September 14, 1854	250 00	133 58	383 58
151	October 18, 1854	250 00	131 93	381 93
152	October 24, 1854	250 00	131 64	381 64
153	October 24, 1854	250 90	131 64	381 64
154	October 24, 1854	250 00	131 64	381 64
155	October 24, 1854	250 00	131 64	381 64
156	October 24, 1854	250 00	131 64	381 64
160	August 1, 1855	250 00	118 17	368 17
161	August 1, 1855	250 00	118 17	368 17
162	August 1, 1855	250 00	118 17	368 17
163	August 15, 1855	250 00	117 50	367 50
164	May 18, 1856	250 00	104 23	354 23
166	May 18, 1856	250 00	104 23	354 23
167	May 18, 1856	250 00	104 23	354 23
168	May 18, 1856	250 00	104 23	354 23
		7,000 00	3,611 04	10,611 04

Outstanding seven per cent. war bonds, eighteen hundred and fifty-two.

No.	Date of bond.	Amount.	Interest.	Total.
186	November 29, 1852	\$500 00	\$329 87	\$829 87
307	May 14, 1853	500 00	313 83	813 83
416	May 13, 1854	500 00	278 92	778 92
420	July 10, 1854	500 00	273 38	773 38
		2,000 00	1,196 00	3,196 00

Interest calculated from date of bond to May 2, 1862.

Outstanding twelve per cent. war bonds, eighteen hundred and fifty-one.

(Act of February fifteenth, eighteen hundred and fifty-one.)

No.	Date of bond.	Amount.	Interest to Feb. 15 1861.	Total.
107	April 9, 1851	\$1,000 00	\$1,182 00	\$2,182 00
108	April 9, 1851	1,000 00	1,182 00	2,182 00
142	May 24, 1851	1,000 00	1,167 00	2,167 00
		3,000 00	3,531 00	6,531 00

Interest calculated from date of bond to February 15, 1861

Interest and principal on bonds of 1852—\$100 each	\$12,441 56
Interest and principal on bonds of 1852—\$250 each	10,611 04
Interest and principal on bonds of 1852—\$500 each	3,196 00
Interest and principal on bonds of 1851—\$1,000 each	6,531 00
Total	32,779 60

On August fifth, eighteen hundred and fifty-four (United States Statutes at Large, volume x, page 583), Congress passed a bill appropriating money to defray expenses incurred by the State of California in suppressing Indian hostilities. Section three of said bill reads as follows:

“SECTION 3. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to examine into and ascertain the amount of expenses incurred by the State of California in the suppression of Indian hostilities within the said State prior to the first day of January, A. D. eighteen hundred and fifty-four, and that the amount of such expenses, when so ascertained, be paid into the treasury of said State; *provided*, that the sum so paid shall not exceed in amount the sum of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents (\$924,259.65), which amount is hereby appropriated out of any moneys in the treasury not otherwise appropriated.”

Could the above appropriation of nine hundred and twenty-four thousand two hundred and fifty-nine dollars and sixty-five cents have been made immediately available, it would have paid up in full, principal and interest, the said bonds under acts of eighteen hundred and fifty-one and eighteen hundred and fifty-two, issued prior to January first, eighteen hundred and fifty-four; but owing to the ruling of the honorable Secretary of War, to the effect that the vouchers upon which the said bonds were issued would have to be presented, for examination, to the War Department at Washington, delay was caused, the result of which was, that before the bondholders received their money some two years and eight months elapsed, and the interest coupons from January first, eighteen hundred and fifty-four (the date to which interest was paid on bonds redeemed by the United States Government, bearing date prior to January first, eighteen hundred and fifty-four), to September first, eighteen hundred and fifty-six, and amounting to one hundred and seventy-three thousand three hundred and twenty-two dollars and sixty-six cents, were cut from the said redeemed bonds and returned to the respective holders of said bonds so presented for redemption; which will more fully and at large appear by reference to reports made to the governor of California, by Samuel B. Smith and J. W. Denver, commissioners California war debt, which reports bear date, respectively, January fifth, eighteen hundred and fifty-seven, and January thirtieth, eighteen hundred and sixty. (See Appendix to Journals of Senate and Assembly, nineteenth session, pages 10, 11, 12, and 13.)

Included in the six hundred and thirty-eight thousand one hundred dollars of the seven per cent. bonds, first herein described, are bonds bearing date after said first day of January, eighteen hundred and fifty-four, which were issued under the said act of eighteen hundred and fifty-two, and acts amendatory thereof—a large number of which, both principal and interest, have been paid in full by the United States Government—said government thus acknowledging, to the fullest extent, the validity of the issue of bonds of later date than January first, eighteen hundred and fifty-four, and the obligation of the General Government to pay the same; all of which will more fully appear by reference to the records of the United States War Department.

The commissioners of California war debt give the amount of the detached interest coupons, above alluded to, as one hundred and seventy-two thousand eight hundred and twenty-eight dollars and fifty-four cents. I make it one hundred and seventy-three thousand three hundred and twenty-two dollars and sixty-six cents, as follows:

Interest on \$197,000, bonds of 1851, for thirty-two months, at twelve per cent. per annum	\$63,040 00
Interest on \$590,800, bonds of 1852, for thirty-two months, at seven per cent. per annum	110,282 66
Total	173,322 66

The joint committee of senate and assembly, nineteenth session, in a report made February twenty-first, eighteen hundred and seventy-two, make the principal of bonds outstanding as follows:

Outstanding principal of bonds under act of 1851	\$3,000 00
Outstanding principal of bonds under act of 1852	14,700 00
Total	17,700 00

Which is not the true amount. The committee fell into an error by assuming the whole issue under act of eighteen hundred and fifty-two to be six hundred and thirty-six thousand three hundred and fifty dollars, when it should have been six hundred and thirty-eight thousand one hundred dollars—thus ignoring an issue of one thousand seven hundred and fifty dollars made in eighteen hundred and fifty-five and eighteen hundred and fifty-seven, under said act of May second, eighteen hundred and fifty-two; and then they say the State paid of said bonds, principal, twenty-three

thousand two hundred dollars, when, in fact, the State only paid as principal on said bonds the sum of twenty-two thousand eight hundred and fifty dollars; the balance paid by the State as principal was three hundred and fifty dollars (making twenty-three thousand two hundred dollars paid as principal on said bonds by the State, as appears by record in controller's office), which was paid to redeem bond number thirty-nine, for two hundred and fifty dollars, and bond number three hundred and forty-three, for one hundred dollars, both of which had been previously paid by the General Government, which latter amount of three hundred and fifty dollars, of course, did not diminish the amount of bonds outstanding. And as we have seen that bonds were issued to the amount of one thousand seven hundred and fifty dollars in excess of the amount given by said joint committee, and three hundred and fifty dollars less was used by the State to pay principal of said bonds than was stated by said joint committee, consequently there were less bonds redeemed by the State, by the amount of three hundred and fifty dollars, than stated by said joint committee, and more issued by the State, by one thousand seven hundred and fifty dollars (than stated by said committee); and, therefore, there are bonds outstanding, issued under the act of May second, eighteen hundred and fifty-two, amounting to two thousand one hundred dollars more than said joint committee report; or, in other words, there are of said bonds of eighteen hundred and fifty-two, outstanding (principal) sixteen thousand eight hundred dollars, instead of fourteen thousand seven hundred dollars, making, with the bonds of eighteen hundred and fifty-one, nineteen thousand eight hundred dollars now outstanding, which said bonds by numbers, date, and denomination, are given in another part of this communication.

To sum up, the account in tabular form is as follows:

Bonds of 1851 outstanding (principal).....	\$3,000 00
Interest on same from date to maturity.....	3,531 00
Bonds under act of 1852 outstanding (principal).....	16,800 00
Interest on the same from date of bond to May 2, 1862, time of maturity..	9,448 60
Coupons outstanding, cut from bonds of 1851, redeemed by United States Government, said coupons being for interest on said bonds from January 1st, 1854, to September 1st, 1856	63,040 00
Coupons outstanding, cut from bonds of 1852, redeemed by United States Government, said coupons being for interest on said bonds from January 1st, 1854, to September 1st, 1856	110,282 66
Total amount of bonds, principal and interest, outstanding.....	206,102 26

To which amount is to be added the amount of principal and interest of said bonds under act of May, eighteen hundred and fifty-two, paid by the State of California—thirty-five thousand five hundred and twenty-three dollars and fifty-six cents—making the sum of two hundred and forty-one thousand six hundred and twenty-five dollars and eighty-two cents for which the General Government is justly liable to the State.

All of which is respectfully submitted.

W. B. C. BROWN, *Controller*.

In view of the foregoing statement of facts, your committee are of opinion that the relief should be granted. We therefore report the accompanying bill as a substitute for the bill referred to the committee, and recommend its passage.

H. Rep. 1847—3