

L. M. PEARLMAN.

JULY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 8464.]

The Committee on War Claims, to whom was referred the claim of L. M. Pearlman, having considered the same, herewith submit the following report:

This is a claim for supplies and transport animals furnished to volunteer troops in the year 1860, at the time of the outbreak of the Pah-Ute tribe of Indians in the western portions of the State of Nevada.

The necessity for action was urgent. The savages were in arms over the entire region. A most important industry was threatened with extinction in its infancy. The lives of thousands of men and women, attracted to the vicinity of Virginia City by the marvelous wealth of the Comstock mines, were in imminent danger. The Territorial government was 600 miles distant, at Salt Lake, and was in hostile and Mormon hands. There were no United States troops within hundreds of miles. The nearest depot of supplies was at Sacramento, 150 miles distant, over mountain trails still encumbered with the winter snows. Moved by the common danger the entire community responded. Nearly a thousand men volunteered; there was little or no money to procure supplies; there was no time to send to California, and the citizens were called upon for supplies in kind. They were furnished unstintingly, and in a brief campaign of thirty days the savages were not only conquered but effectually tamed. There has never since been even a threat of an Indian outbreak in that region.

The claimant was the largest merchant in the community. He was carrying a stock of goods valued at over \$100,000. He threw open his doors to the officers selected to command and furnished provisions, clothing, munitions of war of all kinds, and a large train of valuable transport animals. In the course of active war his animals were either killed or lost. He claims of the United States \$32,994.50, as by the bill of items appearing on file with this committee.

The above statements of fact are supported by many depositions of eminent and respectable citizens of the Pacific coast, who were present at the time and speak of their own knowledge as to the amount of material furnished by L. M. Pearlman. There is no question as to the justice of the claim and the responsibility of the Government. The act of Congress of June 17, 1874, directed the payment to John M. McPike of some \$19,000 for supplies at this time. The prices charged by McPike

were in excess of those claimed by Pearlman. Had Pearlman claimed the prices already allowed by law to McPike his account would be some \$6,000 or \$7,000 greater. Reference is made to the exhaustive report of the Senate committee of the first session of the Forty-third Congress, Report No. 155, now on file with this committee.

The claimant has not slept on his rights. In the intervals of business he, for many years, sought general legislation for the auditing of claims of this character. Such an act was passed June 27, 1882, but its effect was confined to the time since April 15, 1861. He, of course, has no relief thereunder, and he now presents his claim as a private bill.

At a trying period, on an important frontier, he freely rendered of his substance in the cause of civilization against a savage foe. It is in evidence (see depositions on file) that in this case, as in the adjudicated McPike case, the officers in charge of the volunteers contracted with the claimant that they would endeavor to get his claim allowed by the General Government. Those officers are all dead, one killed in action at the time.

Your committee do not find that the animals were worth \$300 per head as claimed in claimant's petition, but do find \$150 per head to be a fair price, and therefore allow the sum of \$7,500 instead of \$15,000 as claimed in petition.

Your committee also strike out the amount of \$3,000 claimed to have been lost by the raids made by the volunteers and other troops. The Government has never assumed and ought not to assume payment for pillage or the wanton depredations of soldiers.

Your committee are of the opinion that there is justly due Mr. Pearlman the sum of \$22,494.50, and therefore report the accompanying bill (H. R. 8464) with the following amendment: In line 3 strike out the words "thirty" and "nine" and insert the words "twenty" and "four," with recommendation that as amended it do pass.

VIEWS OF THE MINORITY.

The undersigned, members of the Committee on War Claims, cannot join in recommending the payment of the above claim or any part thereof. The exhibits and testimony submitted entirely fail to establish the justice of the claim. The evidence in the case is of the most unsatisfactory nature, being too vague and indefinite to lead our minds to a favorable conclusion. No witness is able to state the items of property, or quantity furnished, and only undertake to express a very vague opinion on the subject.

The claim is presented at a time and under circumstances to excite serious doubt as to whether it has any substantial foundation. It is of twenty-six years' standing, and it is now attempted to establish it by ex parte affidavits of persons who had but little means of knowing the facts about which they now undertake to give a mere guess. Even the claimant himself makes a very indefinite and unsatisfactory statement of his claim, and does not pretend to give any apology, explanation, or excuse for his delay to present his claim to any one for payment.

He allowed about a quarter of a century to pass without presenting his claim to any State or national authority for payment.

The circumstances under which the property is alleged to have been furnished, according to the claimant's own claim, and the circumstances stated by him excite a strong suspicion that the lapse of time and the death of parties who had the best means of knowing the facts at the time may have been considered advantageous to the claimant, but is certainly a loss to the Government. All of the affidavits filed in the case to establish the claim were taken in the year 1885, more than a quarter of a century after the transaction to which they relate, and the claimant states that he has no books or writings of any kind or any thing but human memory to aid him in stating the items of his claim or the quantity of property furnished. The claim as now presented is, that the claimant, L. M. Pearlman, in the year 1860 was a resident of and doing business in Virginia City, in what is at present the State of Nevada; that his business was that of general merchandising, and that in the month of May, 1860, certain Indians of the section of country near said Virginia City inaugurated hostilities against the white residents, and that to suppress said Indian outbreak a military force was organized, and the property constituting the claim in this case was furnished by claimant as necessary supplies for said military force used in suppressing said Indian outbreak.

Several affidavits have been filed showing the manner in which the citizens of Virginia City and surrounding country organized and gathered together the means and supplies necessary for the campaign against the Indians, and as the affidavits are all substantially in the same language any one will sufficiently illustrate the whole on that subject.

William M. Stewart, in his affidavit on page 9 of the evidence, says:

The place of business of the said L. M. Pearlman was, to my recollection, the headquarters of those engaged in obtaining said supplies. A committee was organized by the citizens to attend to said business. Large quantities of said supplies were taken from the store of the said Pearlman. At this lapse of time I am not prepared to say to what extent supplies were furnished by said Pearlman, but large quantities were necessary, and Pearlman's appeared, as I have before said, to be the principal place,

or the headquarters for the furnishing of the same. The said supplies were required in large amounts, and my recollection and belief is that the amount of available moneys for the purpose were not nearly sufficient to have paid for them, and that large quantities were furnished by citizens in kind, and from the extent of said Pearlman's business my belief is that a great part was furnished by him for which he received no compensation.

No one of the witnesses in any affidavit filed undertakes to be any more definite or specific as to the items or quantity of property furnished than the witness above quoted. The claimant undertakes to furnish an excuse for not being able to state the amount of the supplies furnished. In his affidavit he says :

Of course, at this distance of time, quite a quarter of a century having elapsed since the occurrence herein referred to, I do not pretend or wish to be understood as stating the exact amount of supplies furnished by me, but I do swear that I furnished at least that amount as hereinafter is set out and itemized. I have made and caused to be made due and diligent search for the books of account kept by me at the time of these transactions, but have been unable to find them. Said books were turned over to my successors in business, who are since dead, and from their successors I have been unable to obtain any information as to the whereabouts of said books, and my belief is that they have long since been destroyed, perhaps burned in some of the fires that have since destroyed Virginia City.

This is a remarkable statement. Here is a man who now claims that he had record evidence in a book of accounts, showing a claim amounting to the sum of \$32,994.50, which he permitted with the coolest indifference to pass into the hands of strangers without even attempting to take or preserve a copy, and now, after the lapse of over a quarter of a century, he as coolly appeals to your committee and to Congress to allow him to establish his claim by the kind of evidence submitted.

An act was passed by the legislature of the State of Nevada, entitled "An act relative to the proving of Indian war claims," approved February 27, 1885. Said act provided for a State board of examiners, composed of the governor, secretary of state, and attorney-general, and authorizing said board to examine into all claims for services rendered, moneys expended, indebtedness incurred, and supplies and necessaries furnished between the 1st day of January, 1860, and the date of the approval of said act, in repelling invasions and suppressing Indian outbreaks and hostilities within the territorial limits of the present State of Nevada. The said board duly organized and investigated the claim of this claimant and others, and as a result of said investigation made the following report in regard to this claim:

CARSON CITY, June 16, 1885.

In accordance with an act of the legislature of the State of Nevada, entitled "An act relative to the proving of Indian war claims," approved February 27, 1885, a copy of which is transmitted herewith, we, the undersigned, members of the board of examiners of the State of Nevada, having examined the claim of L. M. Pearlman against the General Government of the United States, incurred on account of suppressing invasions and repelling Indian outbreaks between the 1st day of January, 1860, and the 27th day of February, 1885, hereby certify that we believe the same to be a just and valid claim, all matters being impartially considered, in the amount of \$8,575.

As the statute is mandatory in requiring this board to "approve" or "disapprove" all claims presented under its provisions, this certificate is therefore given, and is intended to be a notification to Congress, the officers of the General Government, and all parties interested, that the claim herein specified is by this board deemed genuine and reasonable.

In witness whereof we have hereunto set our hands the day and year in this certificate first above written.

J. W. ADAMS,
JOHN M. DORMER,
A. H. DAVENPORT,
State Board of Examiners.

The action of said board was thereafter certified and transmitted to the Secretary of the Treasury, as follows:

EXECUTIVE DEPARTMENT, GOVERNOR'S OFFICE,
Carson City, Nev. February 13, 1886.

To Hon. DANIEL MANNING, *Secretary of the Treasury Washington, D. C.:*

SIR: In compliance with the provisions of section 5 of an act of the legislature of this State, entitled "An act relative to the proving of Indian war claims, approved February 27, 1885, I have the honor to transmit herewith the claim of L. M. Pearlman for the sum of \$3,575, an respectfully urge the payment thereof at the earliest practicable day.

I have the honor to remain your obedient servant,

CHARLES E. LAUGHTON,
Lieutenant and Acting Governor.

In reply the Secretary of the Treasury returns said claim to the governor of Nevada, with the following communication:

TREASURY DEPARTMENT,
March 5, 1886.

The honorable GOVERNOR OF NEVADA:

SIR: I have the honor to acknowledge the receipt of your communication of the 13th ultimo, transmitting to this Department, in compliance with an act of the legislature of Nevada, February 27, 1885, fifty-five claims for compensation for military service in, or supplies, &c., furnished to militia of the State engaged in suppressing Indian hostilities in 1860, with the exception of the claim of Mary M. Stites (formerly McDowall), which is for boarding and lodging officers and soldiers of the United States in 1863 and 1864.

In reply thereto, I have to state that no provision has been made by Congress for the adjudication of these claims. They do not come within the terms of the act of June 27, 1882 (22 St., 111), being "An act to authorize the Secretary of the Treasury to examine and report to Congress the amount of all claims of the States of * * * and Nevada * * * for money expended and indebtedness assumed by said State * * * in repelling invasions and suppressing Indian hostilities, and for other purposes," and are returned herewith as a class of claims which cannot be entertained without legislation by Congress.

A copy of the Third Auditor's report in the matter is inclosed for your information, and the papers of the case of Mrs. Stiles have been forwarded to the Secretary of War, as recommended by the Auditor.

Respectfully, yours,

D. MANNING, *Secretary.*

The claimant claims the price and value of fifty mules, amounting to \$15,000, and although the majority of the committee in their report allow the sum of \$7,500 for said mules, being \$150 per head, instead of \$300 per head, as charged, there is absolutely no evidence upon which to base any allowance for mules. In the affidavit of Albert S. Pearlman he, on page 19 of the evidence, says:

I, at that time, knew L. M. Pearlman, the petitioner herein. He is my nephew. He was a part owner of the pack mules used by me in said business. I left with said L. M. Pearlman fifty of the said mules, and being the best of the train, to be used by said Pearlman in packing wood into Virginia City. About one week after my departure I received advice from L. M. Pearlman of the outbreak of Indian hostilities, and also advice that the said mules so left with him had been taken by the forces engaged for the suppression of said hostilities for their use.

This witness does not state what interest the claimant had in said mules, or how the account as between themselves was settled. Nor does the claimant state the nature or amount of his interest at the time in said mules, or how the matter was adjusted between the owners of them. After a careful review of the evidence submitted in this case the undersigned have felt constrained to dissent from the report filed in this case. If it has any merit in it, it would be exceedingly liberal

to recommend a removal of the bar of the statute of limitations applicable in this case, and to recommend a reference of the case to the Court of Claims for adjudication. Any other action would be manifestly dangerous and unjust to the Government. Certainly no court could be found willing to render a judgment in favor of any citizen against another based upon such testimony as that presented in this case. We therefore recommend that the bill in this case do not pass.

GEO. W. GEDDES.
JAS. S. JOHNSTON.
J. LYMAN.

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