

## WAR CLAIMS OF CALIFORNIA, OREGON, AND NEVADA.

JUNE 25, 1890.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

### REPORT:

[To accompany H. R. 7430.]

The Committee on War Claims, to whom was referred the bill (H. R. 7430) to reimburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion, report as follows:

The facts out of which this bill for relief arises will be found stated in Senate Report No. 644, from the Committee on Military Affairs of the present Congress, which report is hereto annexed and made part of this report. Your committee adopt the said report as their own, and report back the bill (H. R. 7430) with an amendment, to wit: Strike out lines 8 to 18, inclusive, and in lieu thereof insert as follows, to wit:

To the State of California, the sum of two million four hundred and fifty-one thousand three hundred and sixty-nine dollars and fifty-six cents.

To the State of Oregon, the sum of two hundred and twenty-four thousand five hundred and twenty-six dollars and fifty-three cents.

To the State of Nevada, the sum of four hundred and four thousand forty dollars and seventy cents, being the sums of money shown by the reports of the Secretary of War to have been paid by said States in the suppression of the rebellion.

When so amended, your committee recommend the passage of said bill.

Senate Report No. 644, Fifty-first Congress, first session.

---

IN THE SENATE OF THE UNITED STATES.

---

APRIL 10, 1890.—Ordered to be printed.

---

Mr. STEWART, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany S. 2416.]

The Committee on Military Affairs, to whom was referred the bill (S. 2416) to re-imburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion, having duly considered the same, respectfully report as follows:

The larger portions of the claims of these States are for extra pay and bounty paid by them during the war of the rebellion.

The circumstances under which the expenditures provided for in this bill were made by these States being exceptional, and their re-imbursement not being provided for by any existing law, general or special, prior to June 27, 1882, Senator Grover, of Oregon, on December 12, 1881, introduced Senate joint resolution No. 10, and Senator Fair, of Nevada, on December 13, 1881, introduced Senate joint resolution No. 13, providing for the equitable adjustment of these State war claims of Oregon and Nevada, which resolutions were referred to the Senate Committee on Military Affairs.

That committee, instead of reporting back said joint resolutions, reported back, May 12, 1882, in lieu thereof a substitute in the form of a bill to wit: S. 1673, Forty-seventh Congress, first session, providing for the payment of certain war claims, to wit, those only of Texas, Oregon, and Nevada, and of the Territories of Idaho and Washington, and which bill, after having been amended in the Senate so as to include the State war claims of Colorado, Nebraska, and California; and amended in the House so as to include the State war claims of Kansas, finally resulted in the passage of the act approved June 27, 1882. (22 U. S. Stats., 111.)

It was then no doubt the intention of Congress to equitably provide for the re-imbursement of all moneys which California, Oregon, and Nevada, and Nevada when a Territory, had actually expended during the war of the rebellion, on account of the several matters recited in S. bill 3420, Fiftieth Congress, first session. This bill (S. 1673, Forty-seventh Congress, first session) was accompanied by a report (S. No. 575, Forty-seventh Congress, first session) made by Senator Grover May 12, 1882, from which the following is quoted; and which renders said intention of Congress quite evident.

## OREGON.

It appears by the report of the Adjutant-General U. S. Army, of April 3, 1882, that one regiment of calvary, one regiment of infantry, and one independent company of cavalry were raised in the State of Oregon during the late war of the rebellion, and that the expenses incident thereto have never been re-imbursed said State by the United States: and that the claims therefor have never been heretofore presented by said State for audit and payment by the United States, as per report of the Secretary of War of April 15, 1882, and of the Third Auditor of the Treasury of April 8, 1882. Under section 3489 of the Revised Statutes, the claim for expenditures so incurred by said State can not now be presented for audit and payment without legislation by Congress. In addition thereto there are some unadjusted claims of said State growing out of the Bannock and Umatilla Indian hostilities therein in 1877 and 1878, evidenced by a communication of the Secretary of War of date last aforesaid, and some unadjusted balances pertaining to the Modoc war, not presented for audit to General James A. Hardie, approximating the sum of \$5,000.

## NEVADA.

It appears by the report of the Adjutant-General, U. S. Army, of February 25, 1882, that one regiment of cavalry and one battalion of infantry were raised in the late Territory of Nevada during the late war of the rebellion, and that the expenses of raising, organizing, and placing in the field said forces were never paid by said Territory, but were assumed and paid by the State of Nevada, and that none of said expenses so incurred by said Territory, and assumed and paid by said State, have ever been re-imbursed the State of Nevada by the United States, and that no claims therefor have ever been heretofore presented by either said Territory or said State for audit and payment by the United States. Under section 3489 of the Revised Statutes, heretofore referred to, the payment of these claims is barred by limitation.

These forces were raised to guard the overland mail route and emigrant road to California, east of Carson City, and to do other military service in Nevada, and were called out by the governor of the late Territory of Nevada, upon requisitions therefor by the commanding general of the Department of the Pacific, and under authority of the War Department, as appears by copies of official correspondence furnished to your committee by the Secretary of War and the general commanding the Division of the Pacific. \* \* \*

The Senate Committee on Military Affairs did not at that time make any report in relation to the State war claims of the State of California, but when this substitute bill (S. 1673, Forty-seventh Congress, first session) reported from that committee was under consideration in the Senate, Senator Miller, of California, called attention to the fact that California had war claims unprovided for, and on his motion this bill (S. 1673, Forty-seventh Congress, first session) was amended in the Senate so as to include these State war claims of the State of California. It is alleged by California, Oregon, and Nevada that this act of June 27, 1882, which they believed was intended by Congress to be an act for their relief and benefit and an equitable statute to be liberally construed, has been found to be an act "so well and carefully and closely guarded by restrictions" that, when construed by those who have been called upon to execute it, has proven to be completely inoperative as an equitable relief measure, so much so as to amount to a practical denial of justice so far as the present State war claims of these States now provided for in this bill were or are concerned.

## PRESENTATION BY CALIFORNIA, OREGON, AND NEVADA OF THEIR STATE WAR CLAIMS TO THE UNITED STATES.

The aforesaid bill (S. 1673, Forty-seventh Congress, first session) having become a law June 27, 1882, the State war claims of California, Oregon, and Nevada were thereafter duly transmitted for presentation to the proper authorities of the United States, those of Oregon by Hon. R. P. Earhart, and Hon. George W. McBride, secretary of state for Oregon and *ex officio* adjutant-general. Those for Nevada by Hon. J. F. Hallock, controller of Nevada. Those for California by Hon. John

Dunn, controller, assisted by his deputy, Hon. M. J. O'Reilly, and by Hon. D. I. Oullahan and Hon. Adam Herold, State treasurers, and General George B. Crosby, adjutant-general of California, aided therein by Hon. George Stoneman, Governor of California, and his private secretary, Hon. W. W. Moreland, and by Hon. W. C. Hendricks, secretary, and General H. B. Davidson, assistant secretary of state of California.

These State war claims of these three States, accompanied with proper original vouchers and evidence in support thereof, in each case were thereafter duly delivered by the aforesaid State authorities of California, Oregon, and Nevada, or by those duly authorized therein, to Capt. John Mullan, the duly appointed agent and authorized special counsel for each of said three States, by whom they were put in abstracts and proper shape and thereafter submitted by him to the Secretary of the Treasury and Secretary of War, as provided for in said act of Congress approved June 27, 1882.

#### DELAY OF THE UNITED STATES IN THE EXAMINATION OF CALIFORNIA, OREGON, AND NEVADA STATE WAR CLAIMS AND THE CAUSES THEREOF.

These State war claims, with said vouchers and evidence, so originally presented to the Secretary of the Treasury and Secretary of War for examination, remained of record in the Treasury and War Department unacted on up to and after August 4, 1886, because, as was stated to Congress by Hon. Robert T. Lincoln, the Secretary of War, required the aid of at least three army officers to assist his Department in making a proper examination thereof, and he requested Congress to make an appropriation of \$25,000 to defray the expenses of such examination of these State and Territorial war claims presented and others to be presented under said act of June 27, 1882. Congress delayed action upon these repeated requests of the Secretary of War until August 4, 1886, on which date acts were passed by Congress providing for a board of three army officers, as asked for, and also appropriating \$10,000 to defray the expenses of a full and exhaustive examination (see vol. 24. Stats. at Large, pages 217 and 249) of these State war claims.

#### SECRETARY LINCOLN'S CONSTRUCTION OF THIS ACT OF JUNE 27, 1882, FOR THE RELIEF OF NEVADA, ETC.

Prior to any action by the War Department on these State war claims of the States of California, Oregon, and Nevada, and prior to any action by Congress on said request of the Secretary of War for a board of army officers to aid him to examine said claims, a bill, S. 657, Forty-eighth Congress, first session, was introduced in Congress by Senator Jones, of Nevada, providing for the payment of certain individual claims of citizens of Nevada on account of Indian hostilities in Nevada in 1860, and was referred by the Senate Committee on Military Affairs to the Secretary of War and of the Treasury for reports, and upon which the Secretary of War reported as follows:

WAR DEPARTMENT,  
*Washington City, January 26, 1884.*

SIR: In response to so much of your communication of the 22d ultimo as requests information concerning Senate bill 657, "to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada," I have the honor to invite your attention to the following report of the Third Auditor of the Treasury, to whom your request was duly referred:

"The State of Nevada has filed in the office abstracts and vouchers for expenses in-

curred on account of raising volunteers for the United States to aid in suppressing the late rebellion, amounting to \$349,697.49, and for expenses on account of her militia in the 'White Pine Indian war' of 1875, \$17,650.98. Also, expenses of her militia in the 'Elko Indian war' of 1878, amounting to \$4,654.64, presented under act of Congress approved June 27, 1882 (22 Statutes 111, 112).

"These abstracts and vouchers will be sent to your Department for examination and report as soon as they can be stamped, as that statute requires a report from the Secretary of War as to the necessity and reasonableness of the expenses incurred. This statute is deemed sufficiently broad enough to embrace all proper claims of said State and Territory of Nevada."

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,  
Secretary of War.

Hon. S. B. MAXEY,  
*Of Committee on Military Affairs, United States Senate.*

In accordance with this report and opinion of the Secretary of War the Senate Committee on Military Affairs reported back this bill so referred to (S. 657, Forty-eighth Congress, first session), and asked that it be indefinitely postponed, and because of the explanation made to the Senate by said committee, and based upon said report and construction of said act and said opinion of the then Secretary of War, Hon. Robert T. Lincoln, as follows, to wit:

It will be observed that it is deemed by the War Department that the act approved June 27, 1882, is sufficiently broad to embrace all proper claims of Nevada, whether as State or Territory.

For convenience of reference the above act accompanies this report, and an examination thereof, and of the construction thereon, satisfies the committee that no additional legislation is necessary.

The State of Kansas presented her State war claim to Secretary Lincoln under this very act, which claim was by him examined, audited, and allowed for almost exactly the sum that Kansas had actually expended for the use and benefit of the United States, and all of which allowance has since been paid to Kansas by the United States, and aggregating the sum of \$322,308.13 (23 U. S. Stats., 474) as allowed and paid to said State by the United States. So, too, the State of Nebraska under similar circumstances was allowed and paid the sum of \$18,081.23 under this same act of June 27, 1882.

**AFTER OVER FOUR YEARS' DELAY, SUBSEQUENT TO THE PASSAGE OF THE ACT OF JUNE 27, 1882, THE UNITED STATES TAKES UP NEVADA'S STATE WAR CLAIM FOR EXAMINATION, WHEN THE VERY FIRST QUESTION RAISED IS ONE OF JURISDICTION, AND WHICH IS DECIDED AGAINST NEVADA.**

After the passage of said act of August 4, 1886, the War Department detailed a board of three Army officers under Special Orders No. 232, dated October 6, 1886, to proceed to examine the claims provided for under said act of June 27, 1882, and in the manner contemplated in said act. The State war claims of the State of Nevada were the first examined by said board. This board being in doubt whether, under the terms of said act of June 27, 1882, they could allow a re-imbursement to Nevada of the amount of money by her expended for interest and extra pay to her troops while in the military service of the United States, duly referred these two questions to the Secretary of War for his decision. On February 8, 1887, after argument was submitted to said Secretary in support of these two elements of Nevada's State war claims against the United States, that officer decided "that, after a careful consideration of the subject, he was of opinion that neither the extra pay nor the interest can, under the provisions of the act, be allowed," meaning the act of June 27, 1882, and refused the same, as appears from the correspondence following, to wit:

DECISION OF THE SECRETARY OF WAR DISALLOWING THE STATE WAR CLAIM OF NEVADA FOR INTEREST AND EXTRA PAY TO NEVADA VOLUNTEERS.

WAR DEPARTMENT,  
Washington City, February 8, 1887.

SIR: The Department has received your communications of December 31, 1886, and January 28, 1887, submitting arguments in the claim of the State of Nevada, under the act of June 27, 1882, for re-imbursement of amounts paid by the State for "extra pay" and for interest. Also, your communication of 2d instant, inclosing a resolution of the senate and assembly of Nevada, requesting favorable and early action on said claim.

In reply, I have the honor to inform you that after a careful consideration of the subject I am of opinion that neither the extra pay nor the interest can, under the provisions of the act, be allowed.

Very respectfully,

WILLIAM C. ENDICOTT,  
*Secretary of War.*

JOHN MULLAN, Esq.,  
*Agent of the State of Nevada, 1101 G street, N. W., City.*

It therefore fully appears that on January 26, 1884, Secretary Lincoln, when construing said act of June 27, 1882, was of opinion that it was sufficiently broad to embrace all proper war claims of the State of Nevada; whereupon the Senate Committee on Military Affairs, in consequence thereof, reported to the Senate that said committee was satisfied that no additional legislation was necessary in regard thereto, while Secretary Endicott, on February 8, 1887, construing this same act and deciding thereunder, held that these war claims of the States and Territories named in said act for expenditure for interest and extra pay to their troops while in the service of the United States could not be allowed by him under said act.

This decision of Secretary Endicott in the case of the State of Nevada, to the effect that "under the provisions of the act of June 27, 1882, he had no jurisdiction to allow interest paid by that State upon the principal by her expended, nor the extra pay made by her to the State troops while they were in the service of the United States," became practically a decision in the case of the State war claims of the State of California, and effectually disposed of these two similar items in the war claims of that State. In addition thereto the Secretary of War, Mr. Endicott, on November 8, 1887, upon a statement made to him by the chief of said board of war claims examiners, also decided that he had no jurisdiction to adjudicate Oregon's State war claim, which claim also contained similar items for interest and extra pay, and thus Secretary Endicott's aforesaid decision in the Nevada case also practically disposed of these two similar items in Oregon's claim so far as his Department was concerned.

In consequence, therefore, of these conflicting decisions of two Secretaries of War upon one and the same act of June 27, 1882, rendering it absolutely nugatory so far as the adjustment of these State war claims of these three States were concerned, made and makes additional remedial legislation by Congress absolutely necessary in order to deal equitably with these States and their claims for re-imbursement of money by them expended in good faith for the common defense during a period of war and at the instance of the authorities of the United States.

The Senate Committee on Military Affairs, therefore, during the Fiftyeth Congress, first session, had first under consideration a bill (S. 2918) "to re-imburse the State of Nevada for moneys expended on obligations incurred by said State and the Territory of Nevada, and afterwards assumed and paid by said State, in the suppression of the war of the

rebellion, and for guarding the overland mail and emigrant route," and a majority of the committee made a favorable report thereon. (S. R. No. 1286, Fiftieth Congress, first session.)

Your committee thereafter, having under due consideration similar claims for California and Oregon, reported a general bill, to wit, S. 3420, Fiftieth Congress, first session, accompanied by Senate Report No. 2014, Fiftieth Congress, first session, made August 10, 1888, for the investigation of all the war claims of California, Oregon, and Nevada substantially in the same language as recited in the resolution afterwards passed by the Senate and hereinafter set forth. A full statement of these war claims was made and submitted to your committee, but not reported to the Senate at the same time that said resolution for investigation was approved by your committee. That statement is printed in the report of the war claims examiners on the claims of the State of California, commencing after the report and after page 95 of Ex. Doc. No. 11, Fifty-first Congress, first session, and also in Senate Ex. Docs. Nos. 10 and 17, Fifty-first Congress, first session. Senate Report No. 2014, Fiftieth Congress, first session, does not seem to appear in said reports, Senate Ex. Docs. 10, 11, 17, although said bill S. 3420 passed the Senate and was favorably reported in the House September 4, 1888, in House Report No. 3396, Fiftieth Congress, first session, as follows, to wit:

Mr. Stone, of Kentucky, from the Committee on War Claims, submitted the following report (to accompany bill S. 3420).

The Committee on War Claims, to whom was referred the bill (S. 3420) authorizing the Secretary of War to ascertain what amount of money has been expended by the States of California, Oregon, and Nevada for military purposes in aid of the Government of the United States during the war of the rebellion, report as follows:

The facts out of which this bill for relief arises will be found stated in Senate report from the Committee on Military Affairs of the present Congress, which report is hereto annexed and made a part of this report. Your committee adopt the said report as their own, and report back the bill and recommend its passage.

---

[Senate Report No. 2014, Fiftieth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 3420) authorizing the Secretary of War to ascertain what amount of money has been expended by the States of California, Oregon, and Nevada for military purposes in aid of the Government of the United States during the war of the rebellion, having considered the same, report as follows:

During the war of the rebellion the States of California, Oregon, and Nevada were separated from the Atlantic States by over 1,500 miles of almost uninhabited country. Much apprehension was felt on account of the exposed condition of those distant States, and the Government called upon them to assist in guarding the overland mail and emigrant routes, in preventing Indian outbreaks in the States, and to aid the United States in various ways during the war of the rebellion.

At the beginning of the war Nevada was a Territory, and was admitted into the Union as a State in 1864; but for the purposes of this report Nevada will hereafter be referred to as a State.

These States complied promptly with all the requirements of the General Government, and volunteered all the aid in their power to assist the United States. On the Pacific coast during this time, and particularly in Nevada, prices of all commodities (and also the price of labor) were exceedingly high, and as a mining excitement existed in these States it became necessary to extend aid in many ways in organizing, arming, equipping, furnishing, and maintaining volunteer soldiers and militia beyond the amount required for those purposes in the Eastern States. California, Oregon, and Nevada passed numerous acts to organize and equip soldiers in compliance with the requests of the Government, for which they were compelled to expend large sums of money. They were also compelled to borrow money, upon which a large amount of interest has been paid.

An examination of all the facts connected with these claims, a statement of accounts showing for what the money was paid and under what authority, involves too

much detail for a committee of Congress to investigate. They therefore recommend the passage of the accompanying bill, which simply provides for an examination and report upon the facts of the claims of each of these States, so as to enable Congress to take such action as may be just and proper in the premises.

The bill does not commit Congress to the payment of these claims in advance, nor a settlement upon any particular theory. It does not commit Congress in advance to re-imburse these States for bounty or extra money expended by them in furnishing troops to assist the United States in suppressing the war of the rebellion, nor to the payment of interest on moneys borrowed. It simply provides for an ascertainment of such facts so as to enable Congress to legislate intelligently.

A bill for the payment of the claims of Nevada has already been reported by a majority of your committee and is now on the Calendar of the Senate. The report in that case is very elaborate, and some members of your committee desire, before action is taken on it, a more authoritative statement of the case, which will be obtained by the examination now proposed. The claims of California and Oregon are of a similar character to those of Nevada. All these States were differently situated during the rebellion from the other States of the Union, and your committee therefore thought proper to have the same investigation and report made in each case and have them all incorporated in one bill. The writer of this report has prepared an elaborate statement of the claims of California and Oregon, which has been printed by order of the Senate for the use of the committee.

The report on the Nevada claim, known as Senate Report No. 1286, and dated May 14, 1888, and the statement with regard to the claims of California and Oregon will assist the War Department in collecting the laws and orders under which these States expended the money in question, and your committee desire to call the attention of the Secretary of War to these documents in case this bill should become a law.

The laws that have been passed for the investigation of claims of other States are not applicable to the peculiar conditions of these States during the war of the rebellion, and there is no authority under them for the ascertainment of the necessary facts to enable Congress to determine what allowances should be made under the peculiar circumstances which surrounded these States at the time in question.

Your committee report the bill back with an amendment, and when so amended recommend that it do pass.

No action having been taken in the House on said Senate bill 3420 after said House Report No. 3396 was made, and it being deemed important that Congress at its present session should have before it in an official form all the data, facts, and the results of a full, exhaustive, and official examination of these State war claims to be made by the War Department, which then had and now has official custody of all these claims, and of all evidence relating thereto filed in support thereof, and in order that the Secretary of War should have the full benefit and aid of said Board of Army Officers, which was then still in session at Washington, D. C., and which Board Congress had specially created in said act of August 4, 1886 (24 U. S. Stats., 217), to aid the Secretary of War to make a full, exhaustive, and official examination of these State war claims of these three States, so that the Secretary of War could officially and intelligently report upon the same to Congress, or to either branch thereof, for its information and action, as contemplated in said Senate bill 3420, Fiftieth Congress, first session, the Senate therefore, on the 27th of February, 1889, passed the following resolution:

*Resolved*, That the Secretary of War, through the board of war claims examiners appointed under section 2 of the act of Congress entitled "An act for the benefit of the States of Texas, Colorado, Oregon, Nebraska, California, Kansas, and Nevada, and the Territories of Washington and Idaho, and Nevada, when a Territory," approved August 4, 1886, be, and he is hereby, authorized and directed to examine all accounts, papers, and evidence which heretofore have been, or which hereafter may be, submitted to him in support of the war claims of the States of California, Oregon, and Nevada, and Nevada when a Territory, growing out of the war of the rebellion, and in suppressing Indian hostilities and disturbances during the war of the rebellion, and in guarding the overland mail and emigrant routes during and subsequent to the war of the rebellion, and to ascertain and state what amount of money each of said States, and Nevada when a Territory, actually expended, and what obligations they incurred for the purposes aforesaid, whether such expenditures were made or obligations incurred in actual warfare or in recruiting, enlisting, enrolling, organizing, arming, equipping, supplying, clothing, subsisting, drilling, furnishing, transporting,

and paying their volunteers, militia, and home guards, and for bounty, extra pay, and relief paid to their volunteers, militia, and home guards, and in preparing their volunteers, militia, and home guards in camp and field to perform military service for the United States.

The Secretary of War is also directed to ascertain what amount of interest has been paid by each of said States, and Nevada when a Territory, on obligations incurred for purposes above enumerated. The Secretary of War shall report to Congress the amount of money which may be thus ascertained to have been actually paid by each of said States, and Nevada when a Territory, on account of the matters above enumerated, and also the amount of interest actually paid or assumed by each of said States, and Nevada when a Territory, on moneys borrowed for the purposes above enumerated. And the Secretary of War shall also report the circumstances and exigencies under which, and the authority by which, such expenditures were made, and what payments have been made on account thereof by the United States.

In response to this resolution the honorable Secretary of War, having theretofore fully completed, with the aid of said Army Board, a thorough, and exhaustive official examination of all these war claims of said three States, transmitted in December, 1889, his report to the Senate in each of the cases of California, Oregon, and Nevada, as required by said resolution, and which reports are as follows, to wit: Senate Ex. Docs. Nos. 10, 11, 17, Fifty-first Congress, first session. These reports and the exhibits attached thereto, respectively, are in great detail, and contain a very full history of the important part taken by the Pacific States and Territories during the rebellion in defense of the Union. These reports are in full compliance with said Senate resolution, showing the actual amount of money expended by each of said States, and of Nevada when a Territory, during the war of the rebellion in aid of the United States, and the authority, State, Territorial, and national, and also the special circumstances and exigencies under which the expenditures reported upon by said Secretary and said board therein respectively were made. The following tables, taken from the reports of said war claims examiners, show the several sums of money actually expended and paid out as principal and interest by each of said States:

## CALIFORNIA.

[Senate Ex. Doc. No. 11, Fifty-first Congress, first session, page 27.]

Amount expended in recruiting California volunteers (Abstract F)....	\$24,260.00
Amount expended in payment of adjutant-general, etc. (Abstract H)...	38,083.17
Amount expended in organizing volunteers (Abstract M).....	5,639.34
Amount expended in pay of volunteer officers (Abstract N).....	23,277.34
Amount expended in extra pay to enlisted men of California volunteers (Abstract P).....	1,459,270.21
Amount expended in bounty to enlisted men (Abstract Q).....	900,839.50
Total expense of volunteers, and not repaid the State by the United States.....	2,451,369.56
Amount expended in payment of interest on moneys borrowed to carry out the provisions of the acts of April 27, 1863, and April 4, 1864.....	1,500,545.86
Aggregate expenses incurred on account of volunteers, principal and interest.....	3,951,915.42
Amount expended on account of militia.....	468,976.54
Grand total of expenses on account of volunteers and militia....	4,420,891.96

## OREGON.

[Senate Ex. Doc. No. 17, Fifty-first Congress, first session, page 20.]

Amount expended in payment of adjutant-general, etc. (Abstract E)...	\$3,973.49
Amount expended in extra pay to enlisted men (Abstract G).....	90,476.32
Amount expended in bounty to enlisted men (Abstract H).....	129,241.02
Amount expended for advertising calls for redemption of bonds (Abstract K) .....	835.70

# 10 WAR CLAIMS OF CALIFORNIA, OREGON, AND NEVADA.

Amount expended in payment of interest on moneys borrowed to carry out the provisions of the acts of October 24, 1864 (Abstract L).....	\$110,626.35
Total amount expended on account of volunteers and not repaid	
State by United States .....	335,152.88
Amount expended on account of militia.....	21,118.73
Aggregate expenses incurred on account of militia and volunteers.....	356,271.61

## NEVADA.

[Senate Ex. Doc. No. 10, Fifty-first Congress, first session, page 8.]

Amount actually paid out on account of volunteers raised in Nevada....	\$118,667.49
Amount of interest paid on moneys borrowed and so expended.....	289,655.59
Amount of liabilities assumed on account of volunteers raised in Nevada..	1,133.92
Amount of interest paid on liabilities assumed .....	3,113.31
Total amount expended or assumed.....	412,600.31
Amount already paid to Nevada by the United States upon an examination under the provisions of the act of June 27, 1862.....	8,559.61
Amount expended or assumed and not repaid by the United States..	404,040.70

## INTEREST.

In said Ex. Doc. No. 10, Fifty-first Congress, first session, page 15, it is declared that—

Interest paid by California, Oregon, and Nevada is in reality, in justice, in reason, and in law a proper part of the debt due them by the United States, the payment of which, together with that of the principal, is necessary to a complete indemnity.

The United States has generally refused to pay interest on claims against the Government. This rule sometimes works great hardship and wrong; but the inconveniences that might arise from a departure from it may be very great. There is one exception, however, to this rule which has been uniformly recognized and acted upon; that is, when a State has claims against the Government for expenditures made for the United States, and a part of such claims consists of interest paid out or assumed by the State, the interest so paid out or assumed has been treated eventually so far as the adjustment thereof was concerned as if it had been originally presented as a part of the principal, although Congress has always treated the interest as a separate, independent, and distinct claim apart from the principal, which sometimes is adjusted when adjusting the principal, depending no doubt in part upon the special circumstances of the cases presented to Congress and at other times adjusted after the principal is paid, but always adjusting it some time in all proper cases. The rule is well stated in the Decisions of the Second Comptroller for 1869, page 137, as follows:

Interest can in no case be allowed by the accounting officers upon claims against the Government, either in favor of a State or an individual. But in cases where the claimant has been compelled to pay interest for the benefit of the Government it then becomes a part of the principal of the claim, and as such is allowable.

Such is the case of a State which has been obliged to raise money upon interest for the suppression of hostilities against which the United States should protect her.

In such cases the amount of interest actually and necessarily paid will be allowed, without reference to the rate of it.

There are many cases to sustain this ruling of the Second Comptroller, of which the following are cited as precedents where Congress first authorized the adjustment and payment of the principal and then subsequently adjusted and thereafter paid the interest:

1. By an act approved April 2, 1830, the Secretary of the Treasury was authorized to cause to be paid to the mayor and city council of Baltimore the sum of \$7,434.53 in full for their claim against the United States for money borrowed and expended by

them in defense of said city in the war of 1812, and by the second section of said act the Secretary of the Treasury was directed to cause to be paid interest on said sum according to the provisions and regulations of "the act to authorize payment of interest due the city of Baltimore," approved May 20, 1826.

2. By an act approved May 31, 1830, the proper accounting officers of the Treasury, under the superintendence of the Secretary of War, were authorized and directed to audit and settle the claims of the State of Massachusetts against the United States for services of her militia during the war of 1812, in the following cases:

(1) Where the militia of said State were called out to repel actual invasion, or under a well-founded apprehension of invasion, provided their numbers were not in undue proportion to the exigency.

(2) Where they were called out by the authority of the State and afterwards recognized by the Federal Government.

(3) Where they were called out by and served under the requisition of the President of the United States or of any officer thereof.

3. By a joint resolution approved May 14, 1836, entitled "A resolution to authorize the Secretary of War to receive additional evidence in support of claims of Massachusetts and other States of the United States for disbursements, services," etc., during the war of 1812, the Secretary was authorized, in preparing his report pursuant to the resolution of House of Representatives agreed to the 24th of February, 1832, without regard to existing rules and requirements to receive such evidence as was on file, and any further proofs which might be offered tending to establish the validity of the claims of Massachusetts upon the United States, or any part thereof, for services, disbursements, and expenditures during the war with Great Britain; and in all cases where such evidence should, in his judgment, prove the truth of the items of the claim, or any part thereof, to act on the same in like manner as if the proof consisted of such vouchers and evidence as was required by existing rules and regulations touching the allowance of such claims; and it was provided that in the settlement of claims of other States upon the United States for services, disbursements, and expenditures during the war with Great Britain, the same kind of evidence, vouchers, and proof should be received as therein provided for in relation to the claim of Massachusetts.

4. By the sixth section of an act approved March 31, 1837, an appropriation was made for paying the claims of the State of Connecticut for the services of her militia during the war of 1812, to be audited and settled by the proper accounting officers of the Treasury under the superintendence of the Secretary of War in the following cases:

(1) Where the militia of said State were called out to repel actual invasion or under a well-founded apprehension of invasion, provided their numbers were not in undue proportion to the exigency.

(2) Where they were called out by the authorities of the State and afterwards recognized by the Federal Government, and

(3) Where they were called out and served under the requisition of the President of the United States or of any officer thereof.

5. By an act approved August 14, 1848, the proper accounting officers of the Treasury were directed to settle the claims for one month's service of the officers and soldiers of the Fourth Regiment in the Second Brigade of the Third Division of the militia of the State of Vermont, who served at the battle of Plattsburgh on the 11th of September, 1814, for their military services on that occasion.

6. By act approved March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854, an appropriation of \$10,334.31 was made for arrearages of pay, subsistence, and clothing due to Capt. Richard McRae's Company of Virginia Volunteers, which served in the war with Great Britain in 1812-'13 to be paid to the officers and soldiers of said company or their legal representatives, under the order of the Secretary of War, upon the production of proof as to the identity of said officers and soldiers, and that they have not been paid.

7. By an act approved August 31, 1852 (Army appropriation), the Secretary of War was required to pay to the State of South Carolina such sums of money as were paid by said State in 1838, 1839, and 1840 for services, losses, and damages sustained by her volunteers in the Florida war of 1836, 1837, and 1838, while in the service of the United States, and on their return from said service, as were ascertained and allowed by the board of commissioners appointed for that purpose by the act of the legislature of said State in 1837, with the proviso that no interest should be allowed upon moneys paid to the State of South Carolina under the provisions of said act. And it was by said act further provided that in the settlement of the claims of the State of Georgia, under the act of August 11, 1842, providing for the settlement of the claims of that State for the service of her militia, which had theretofore been suspended or disallowed, the accounting officers of the Treasury Department should allow and pay, upon proof that the State had allowed and paid the same, all accounts for forage, subsistence, hospital stores, medical service, and transportation which had not there

tofore been allowed by the United States. And it was further provided by said act that in the adjustment of the accounts of the State of Maine, under the act of June 13, 1842, the proper accounting officers of the Treasury should include and allow the claims which had theretofore been presented under said act, provided it should be satisfactorily shown that said claims had been actually allowed and paid by said State.

8. By an act approved March 3, 1853, second section, the proper accounting officers of the Treasury Department were authorized to settle the claims of the State of Florida for services of her troops under the act of February 27, 1851, by the provision stated for the settlement of the claims of the State of Georgia for like services, under the act approved August 31, 1851 (Army appropriation bill).

9. By the eighth section of an act approved March 3, 1853, the Secretary of the Treasury was directed to pay to the State of Georgia her claims remaining unpaid for moneys paid by the State in suppressing hostilities of the Cherokee, Creek, and Seminole Indians in the year 1835 and since, upon proof that the same was paid by the State, and that the provisions of the act relative to the settlement of the claims of Georgia for military service, approved March 3, 1851, should be extended to payments under said act.

The Secretary of the Treasury was also by said act required to pay the State of Alabama, under the provisions of the acts of Congress of August 16, 1842, and January 26, 1849, the balance due said State, growing out of the Creek Indian hostilities of 1836 and 1837; and by the twelfth section of said act it was provided that in the adjustment of the accounts of the State of Virginia under the twelfth section of the act of August 31, 1852, the Secretary of War should follow the provisions of the act of June 2, 1848, providing for refunding to the several States the amounts expended by them in raising regiments of volunteers for the Mexican war.

10. By an act approved January 26, 1849, the Secretary of War was directed to pay interest upon the advances made by the State of Alabama for the use of the United States Government in the suppression of hostilities by the Creek Indians in 1836 and 1837, at the rate of 6 per cent. per annum from the time of the advances until the principal of the same was paid by the United States to the State. And in ascertaining the amount of interest it was provided that interest should not be computed on any sum which Alabama had not expended for the use and benefit of the United States, as evidenced by the amount refunded to the State of Alabama by the United States, and that no interest should be paid on any sum on which the State of Alabama did not either pay or lose interest as aforesaid.

11. By an act approved March 3, 1851, the Secretary of War was authorized to allow to the State of Georgia for advances made to the United States for the suppression of hostilities of the Creek, Seminole, and Cherokee Indians in the years 1835, 1836, 1837, and 1838, with interest at the rate of 6 per cent. per annum on all sums allowed and paid to the State of Georgia and that might thereafter be allowed and paid for any moneys advanced by the State for the purposes aforesaid, from the date of such advances until the principal sums were or might be paid by the United States, with the proviso that no interest should be paid on any sum on which Georgia did not either pay or lose interest.

12. By an act passed the same day as the above act, the proper accounting officers of the Treasury were directed to settle the claim of the State of Maine against the United States, being for interest on money borrowed and actually expended by her for the protection of the northeastern frontier of said State during the years 1839, 1840, and 1841, the amount of such interest to be ascertained under the following rules:

"(1) Interest not to be computed on any sum not expended by the State for the use and benefit of the United States, as evidenced by the amount refunded or paid to the State by the United States.

"(2) No interest to be paid on any sum on which the State did not either pay or lose interest."

13. By act approved July 21, 1852, making appropriations to supply deficiencies in the appropriations for the year ending June 30, 1852, the sum of \$c0,741 was appropriated for pay of five companies of Texas mounted volunteers.

14. By act approved March 3, 1859, for the purpose of executing the resolution of May 14, 1836, the Secretary of the Treasury was directed to pay to Massachusetts \$227,176.48, reported to be due said State by Secretary of War J. R. Poinsett, in report dated December 23, 1837, made to the House of Representatives December 27, 1837, and it was provided that in lieu of payment in money the Secretary of the Treasury might, at his discretion, issue to said State United States stock bearing 5 per cent. per annum, and redeemable at the end of ten years, or sooner, at the pleasure of the President.

15. By act approved March 3, 1825, the accounting officers of the Treasury Department were authorized and directed to settle the claim of the State of Virginia against the United States for interest upon loans on moneys borrowed and actually expended by her for the use and benefit of the United States during the war of 1812.

§ 16. By this act it was provided that, in ascertaining the amount of interest, as aforesaid, due to the State of Virginia, the following rules should be understood as applicable to and governing the case, to wit: First, that interest should not be computed on any sum which Virginia had not expended for the use and benefit of the United States, as evidenced by the amount refunded or repaid to Virginia by the United States. Second, that no interest should be paid on any sum on which she had not paid interest. Third, that when the principal, or any part of it, had been paid, or refunded by the United States, or money placed in the hands of Virginia for that purpose, the interest on the sum or sums so paid or refunded should cease, and not be considered as chargeable to the United States any longer than up to the repayment, as aforesaid.

The mode of computing interest provided by the above act appears to have been satisfactory at the time to all the States, and their claims against the General Government were authorized to be adjusted, and were adjusted under the same rules for computing interest.

17. By an act approved May 13, 1826, entitled "An act authorizing the payment of interest due to the State of Maryland," the accounting officers of the Treasury Department were authorized and directed to liquidate and settle the claim of the State of Maryland against the United States, for interest upon loans on moneys borrowed and actually expended by her for the use and benefit of the United States, during the late war with Great Britain, and the same rules for computing the interest was provided by the act as in the case of the State of Virginia.

18. By an act approved May 20, 1826, entitled "An act authorizing the payment of interest due to the State of Delaware," the accounting officers of the Treasury Department were authorized and directed to take similar action in regard to the settlement of the claim of the State of Delaware against the United States as that directed to be taken in the case of the claim of Maryland, and to be governed by the same rules.

19. By act approved May 20, 1826, the proper accounting officers of the Treasury Department were directed to settle the claim of the city of Baltimore against the United States, for interest on money borrowed and actually expended by the city in its defense during the war of 1812; and the act further provided that the amount due should be ascertained under rules which were the same as those provided by the foregoing act for the adjustment of the accounts in the cases of Virginia, Maryland, and Delaware.

20. By an act approved May 22, 1826, entitled "An act authorizing the payment of interest due to the State of New York," the accounting officers of the Treasury Department were authorized and directed to take similar action and to be governed by the same rules as in the cases of Virginia, Maryland, and Delaware.

21. By an act approved March 3, 1827, the accounting officers of the Treasury Department were authorized and directed to settle the claim of the State of Pennsylvania in the same manner as in the cases of Maryland, Delaware, and New York.

22. By an act approved March 22, 1832, entitled "An act for the adjustment and settlement of the claims of the State of South Carolina against the United States," the accounting officers of the Treasury were authorized and directed to liquidate and settle the claim of the State of South Carolina against the United States for interest upon money actually expended by her for military stores for the use and benefit of the United States, and on account of her militia, whilst in the service of the United States, during the late war with Great Britain, the money so expended having been drawn by the State from a fund upon which she was then receiving interest. The act designates upon what sums interest shall be paid, and recites in detail other claims of the State theretofore disallowed, which shall be adjusted and settled, such as claims for cannon-balls, transportation of troops and supplies, pay to certain staff officers, blankets (\$7,500 being the amount of this item), and muskets.

23. By an act approved March 3, 1857, a re-examination and re-adjustment of the account of the State of Maryland was directed to be made, and it was provided that in the calculation of interest the following rules should be observed:

"Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceeds the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed on such sums only on which the State either paid interest or lost interest by the transfer of an interest-bearing fund."

Under this act Maryland received the additional sum of \$275,770.23.

24. By section 7 of said act (March 1, 1837), an appropriation was made to pay all the claims of North Carolina for the services of her militia during the war of 1812 with Great Britain in the cases enumerated in the act approved May 31, 1830, entitled "An act to authorize the payment of the claims of the State of Massachusetts for certain services of her militia during the war of 1812," and also the claims of said State for disbursements in the purchase of munitions or other supplies on account of the war and expended therein.

25. On the 8th day of July, 1870, an act was passed directing the account between the United States and Massachusetts and Maine to be re-opened and re-adjusted, and Massachusetts received the sum of \$678,362.42, of which one-third was allotted to the State of Maine as an integral part of Massachusetts when the advances were made.

In the foregoing cases the principal was first re-imbursed, and subsequently the interest was adjusted and then paid by the United States. The following cases are cited as precedents, where both the principal and interest were authorized by Congress to be paid at one and the same time and in and under one and the same act:

1. By a joint resolution approved March 3, 1847 (Stats. at Large, vol. 9, p. —), the Secretary of War was authorized and required to cause to be refunded to the several States or to individuals for services rendered, acting under the authority of any State, the amount of expenses incurred by them in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the service of the United States for the war with Mexico, and for subsisting troops in the service of the United States.

2. By an act approved June 2, 1848, the provisions of said joint resolution were extended so as to embrace all cases of expenses theretofore incurred in organizing, subsisting, and transporting volunteers previous to their being mustered and received into the United States for the war with Mexico, whether by States, counties, corporations, or individuals, either acting with or without the authority of any State, and that in refunding moneys under said act and said joint resolution it should be lawful to pay interest at the rate of 6 per cent. per annum on all sums advanced by States, corporations, or individuals in all cases where the State, corporation, or individual paid or lost the interest or was liable to pay it.

3. By act approved August 5, 1854, the sum of \$924,259.65 was appropriated to reimburse the State of California for expenditures "in the suppression of Indian hostilities within the State prior to the 1st day of January, 1854." (See U. S. Stats. at Large for 1853 and 1854.)

4. By act approved August 18, 1856 (section 8), the Secretary of War was 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] 5, 1854, in payment of expenses incurred and actually paid by the State of California for the suppression of Indian hostilities within the said State prior to the 1st day of January, 1854, under the following restrictions and regulations:

Before any bonds were redeemed by the Secretary of War they were required to be presented to the board of commissioners appointed under an act of the legislature of said State, approved April 19, 1856, and the amount due and payable upon each bond indorsed thereon by said commissioners; the amounts in the aggregate not to exceed the amount appropriated by act of August 5, 1854.

All the States, except California, Oregon, and Nevada, have been re-imbursed by the United States all or nearly all of the principal of the moneys expended by them in the suppression of the rebellion. None of them have as yet been re-imbursed for interest which they paid to obtain said principal.

The following table shows the amount of money already paid by the United States as principal to the several States for the suppression of the rebellion, as shown by the books of the Treasury Department:

[Senate Ex. Doc. No. 11, Fifty-first Congress, first session, p. 63.]

States.	Amount.	States.	Amount.
Connecticut .....	\$2, 006, 950. 46	Minnesota .....	\$71, 075. 20
Massachusetts .....	3, 608, 091. 95	Kansas .....	384, 138. 15
Rhode Island .....	723, 530. 15	Nebraska .....	485. 00
Maine .....	1, 027, 185. 00	Colorado .....	55, 238. 84
New Hampshire .....	976, 531. 92	Missouri .....	7, 580, 421. 43
Vermont .....	832, 557. 40	Michigan .....	844, 262. 53
New York .....	4, 156, 935. 50	Delaware .....	31, 988. 96
New Jersey .....	1, 517, 026. 79	Maryland .....	133, 140. 99
Pennsylvania .....	3, 871, 710. 59	Virginia .....	48, 469. 97
Ohio .....	3, 245, 319. 58	West Virginia .....	471, 063. 94
Wisconsin .....	1, 035, 059. 17	Kentucky .....	3, 504, 466. 57
Iowa .....	1, 039, 769. 45		
Illinois .....	3, 080, 442. 51	Total .....	44, 137, 590. 34
Indiana .....	3, 741, 738. 29		

In addition to the payment of said war claims to the several States on account of the war of the rebellion, as shown by the foregoing table, the claims of the following-named States for expenses in the suppression of Indian hostilities, etc., have been settled by the Third Auditor of the Treasury under the said act of June 27, 1882, and all of which have heretofore been paid by the United States:

States.	Amount.
Kansas.....	\$332,308.13
Nebraska.....	18,081.23
Nevada.....	8,550.61
California.....	11,723.64
Texas.....	927,177.40
Total.....	1,297,850.01

An additional sum of \$148,615.97 has been allowed the State of Texas by the Third Auditor, and the settlement is now pending before the Second Comptroller of the Treasury, under said act of June 27, 1882.

The said State war claims of California, Oregon, and Nevada during the war of the rebellion reported on by the honorable Secretary of War and said board of war claims examiners under said resolution of the Senate of February 27, 1889, were never before properly or fully considered for want of jurisdiction, as hereinbefore shown, until they were so reported upon by the present Secretary of War, Hon. Redfield Proctor, aided by said Army board in said Senate Ex. Docs. 10, 11, 17.

Your committee recognize and approve the precedents which treat interest paid by a State on money borrowed or advanced for suppressing rebellion or repelling invasion in aid of the United States as a legitimate charge against the Government in every case where the Government is equitably liable for the principal; but inasmuch as none of the States have as yet been re-imbursed for any claim for interest paid out by them on money borrowed or advanced and expended by them on account of the war of the rebellion, your committee recommend that this bill be amended so as to omit at this time the claim for interest presented by California and Oregon in the two cases examined herein and reported upon in Senate Ex. Docs., Nos. 11 and 17, Fifty-first Congress, first session.

The claim of Nevada, however, for the re-imbursement of the interest actually paid out by her on the principal by her borrowed and in good faith expended for the common defense, and at the behest of the authorities of the United States, presents a question different from that of the other States. Nevada was a Territory at the time when the greater part of these expenditures were made. The necessity for these expenditures was imperative. The settlements in Nevada were isolated and separated from California by the Sierra Nevada Mountains, which cut off all means of transportation for several consecutive months in each year. There were no railroads. Transportation of freights was confined to teams and pack animals. The Indians along the overland route became hostile and cut off communication between the Atlantic and Pacific States. It was under these circumstances that the Territory of Nevada was called upon by the United States authorities to raise volunteer troops and furnish supplies for them. Labor was excessively high on account of the new mines, and supplies scarce and exceedingly dear. This Territory had no money to comply with these demands made upon her by the United States military authorities, and was forced to borrow money as best she could.

When the Territory of Nevada became a State the State of Nevada assumed the indebtedness of the Territory, including these war claims, and inserted a provision in her constitution in the following language:

All debts and liabilities of the Territory of Nevada lawfully incurred, and which remain unpaid at the time of the admission of this State into the Union, shall be assumed by and become the debt of the State of Nevada. (Compiled Laws of Nevada, vol. 1, page 133.)

Under these exceptional circumstances your committee recommend the payment of both principal and interest in the case of Nevada.

#### EXTRA PAY AND BOUNTIES.

As we have already seen, the larger portion of the claims of each of the States of California, Oregon, and Nevada were expended for extra pay and bounties. This was an absolute necessity for two reasons: First, the expenses of living and wages of labor in the Pacific coast States were during the rebellion at least 50 per cent., and in many cases 200 per cent., higher than in the Atlantic States; second, the Pacific States and Territories maintained the gold standard continuously throughout the war. The United States paid said volunteer troops in Treasury notes, although they had on deposit at the sub-treasury at San Francisco at all times a large amount of gold. The discount which the soldiers were compelled to pay to convert their greenbacks into gold was from 30 to 60 per cent.

This added largely to the cost of living.

Extra pay was found necessary to provide for the support of the families of the soldiers. This extra allowance, however, in the shape of extra pay and bounty did not exceed the extra compensation which the Government had theretofore paid the officers of the Army and Navy and the enlisted soldiers and sailors stationed on the Pacific coast between the dates of the acquisition of California and the breaking out of the rebellion. The Pacific coast States and Territories had a right to assume that the United States would continue or resume such extra pay and compensation during the war of the rebellion. Certainly the necessity for it was much greater in war than in peace, and, as a matter of fact, it was imperative.

On the 17th of June, 1850, an act was passed, the third section of which reads as follows:

SEC. 3. *And be it further enacted*, That whenever enlistments are made at, or in the vicinity of, the said military posts, and remote and distant stations, a bounty equal in amount to the cost of transporting and subsisting a soldier from the principal recruiting depot in the harbor of New York, to the place of such enlistment, be, and the same is hereby, allowed to each recruit so enlisted, to be paid in unequal installments at the end of each year's service, so that the several amounts shall annually increase, and the largest be paid at the expiration of each enlistment. (U. S. Stat., vol. 9, p. 439.)

On the 23d of September, 1850, the following provision was inserted in the Army appropriation bill:

For extra pay to the commissioned officers and enlisted men of the Army of the United States, serving in Oregon or California, three hundred and twenty-five thousand eight hundred and fifty-four dollars, on the following basis, to wit: That there shall be allowed to each commissioned officer as aforesaid, whilst serving as aforesaid, a per diem, in addition to their regular pay and allowances, of two dollars each, to each enlisted man as aforesaid, whilst serving as aforesaid, a per diem, in addition to their present pay and allowances, equal to the pay proper of each as established by existing laws, said extra pay of the enlisted men to be retained until honorably discharged. This additional pay to continue until the first of March, eighteen hundred and fifty-two, or until otherwise provided. (U. S. Stat., vol. 9, p. 504.)

The first of these acts was continued in force until August 3, 1861 (U. S. Stat., vol. 12, p. 288, sec. 9), on which date it was repealed. During the time when the last of said acts was in existence the United States soldiers and sailors on the Pacific coast received nearly double pay.

During the five years immediately prior to the rebellion the United States Army serving in the Pacific coast States and Territories was composed, first, of men transported from New York, via the Isthmus of Panama, at an aggregate cost to the United States of not less than \$390,103, or at an average cost for each officer of \$293, and for each enlisted man of \$151 when landed in Oregon; or \$275 for each officer and \$115 for each enlisted man, when landed in California; and when discharged, all said enlisted men were entitled to an amount of money equal to the actual cost of their traveling expenses and subsistence back to New York; estimated by the War Department to be \$142, making a total aggregate cost for each enlisted man of \$293 and \$256, respectively; or second, said army was composed of men enlisted in the Pacific coast States and Territories, at an expense to the United States of \$142 per capita, paid to each enlisted man as a bounty under said act of Congress approved June 17, 1850 (9 U. S. Stat., 439), which payments were made continuously from June 17, 1850, to August 3, 1861. (U. S. Stat., vol. 12, p. 288.)

During the first year of the war of the rebellion the larger portion of this United States military force was transported from the Pacific coast States and Territories back to New York, via the Isthmus of Panama, at an aggregate cost to the United States of not less than \$303,380, or at an average cost for each enlisted man of \$145 from Oregon and of \$125 from California.

Details of these various items of cost to the United States for thus transporting said military force to and from New York to the Pacific coast States and Territories are set forth in a table, prepared under the direction of the honorable Secretary of War as follows, to wit:

*Statement of number of officers and enlisted men of the United States Army transported at the expense of the United States from New York City to various points in California and Washington Territory via the Isthmus of Panama, in the years 1856, 1857, 1858, 1859, and 1860; also the amount paid for similar services from April 15, 1861, to December, 1861, between Oregon, Washington, California, and Nevada to New York, via the Isthmus of Panama, showing the total and the average cost per capita of each, so far as shown by the records of this office.*

Destination.	Year.	Offi- cers.	Cost.	Enlisted men.	Cost.	Total cost.	Average cost per officer.	Average cost per man.
New York City to San Francisco, Cal., via the isthmus.....	1856	3	\$750	396	\$39,600	\$40,350	} 267.66	} 109.83
Do.....	1857	9	2,700	470	58,750	61,450		
Do.....	1858	2	600	34	493	1,093		
Do.....	1859*							
Do.....	1860	21	5,325	441	44,000	49,325		
Total .....		35	9,375	1,341	142,843	152,218		
New York City to Benicia, Cal., via the isthmus .....	1857	18	5,000	689	79,525	84,525	} 284.00	} 121.16
Do.....	1858	7	2,100	445	57,875	59,975		
Total .....		25	7,100	1,134	137,400	144,400		
New York City to Fort Vancou- ver, Wash., and near Portland, Oregon, via the isthmus.....	1858	15	4,500	400	61,500	66,000	} 293.12	} 151.09
Do.....	1859	1	190	14	1,050	1,240		
Total .....		16	4,690	414	62,550	67,240		
Fort Vancouver, Wash., to Be- nicia, Cal.....	1856	1	60	50	1,750	1,810	60.00	35.00
San Francisco, Cal., to Fort Van- couver, Wash.....	1858	18	1,000	787	23,345	24,345	55.56	29.64
San Francisco, Cal., to New York City, via the isthmus.....	1861	49	12,250	1,495	186,875	199,125	250.00	125.00
San Pedro, Cal., to New York City, via the isthmus.....	1861	15	3,750	500	62,500	66,250	250.00	125.00
San Francisco, Cal., to Fort Van- couver, Wash.....	1861	30	1,200	775	15,500	16,700	40.00	20.00
Fort Vancouver, Wash., to San Francisco, Cal.....	1861	34	1,400	960	19,900	21,300	40.00	20.73

\* None found.

QUARTERMASTER-GENERAL'S OFFICE,  
Washington, D. C., January 8, 1890.

In consequence of this withdrawal in 1861 of said military forces from the Pacific coast, in order that they might perform military services in the East, and in view of the circumstances and exigencies existing in the Pacific Coast States and Territories during the rebellion period, requisitions were duly made from time to time by the President of the United States and by the Secretary of War upon the proper State authorities of California, Oregon, and Nevada for volunteers to perform military service for the United States in said States and Territories, as are fully and in detail set forth in said Senate Ex. Docs., Nos. 10, 11, 17, Fifty-first Congress, first session. In compliance with the several calls so made between 1861 and 1866, inclusive,

	Volunteers'
The State of California furnished .....	15,725
The State of Nevada furnished .....	1,180
The State of Oregon furnished .....	1,810

Making a total aggregate of .....

18,715

men who enlisted and were duly mustered into the military service of the United States as volunteers in said States. The same number of

troops if organized and transported from New York City to the Pacific coast States and Territories in the same manner as was done by the United States War Department from June 17, 1850, to August 3, 1861, would have cost the United States at that time the sum of about \$5,483,385 for transportation alone.

The reports of said war claims examiners upon extra pay in Nevada, California, and Oregon are as follows, to-wit:

[Senate Ex. Doc. No. 10, Fifty-first Congress, first session, p. 7.]

#### NEVADA.

##### *Extra monthly pay—liabilities assumed.*

It appears from the affidavit of the State comptroller (herewith, marked Exhibit No. 2), that liabilities to the amount of \$1,153.75 were assumed by the State of Nevada as successor to the Territory of Nevada on account of "costs, charges, and expenses for monthly pay to volunteers and military forces in the Territory and State of Nevada in the service of the United States," and that State warrants fully covering such liabilities were duly issued. It is also shown in the affidavit that of said warrants two for the sums of \$11.33 and \$8.50 respectively have been paid, such payment reducing said liabilities to \$1,133.92.

The circumstances and exigencies under which the Nevada legislature allowed this extra compensation to its citizens serving as volunteers in the United States Army are believed to have been substantially the same as those that impelled the legislatures of California and Oregon to a similar course of action for the relief of the contingent of troops raised in each of these States. Prices of commodities of every kind were extravagantly high during the war period in Nevada, which depended for the transportation of its supplies upon wagon roads across mountain ranges that were impassable for six months of every year; and at certain times at least during the said period, the rich yields of newly-opened mines produced an extraordinary demand for labor, largely increasing wages and salaries. These high prices of commodities and services were co-existent with, though in their causes independent of, the depreciation of the Treasury notes, which did not pass current in that section of the country, though accepted through necessity by the troops serving there; and it is safe to say that in Nevada, as in California and Oregon, the soldier could buy no more with a gold dollar than could the soldier serving in the Eastern States with the greenback or paper dollar.

On the whole, therefore, we are decided in the conviction that in granting them this extra compensation the legislature was mainly instigated by a desire to do a plain act of justice to the United States volunteers raised in the State and performing an arduous frontier service, by placing them on the same footing, as regards compensation, with the great mass of the officers and soldiers of the United States Army, serving east of the Rocky Mountains. It is true that the seven companies of infantry that were called for on October 19, 1864, had not been organized; and that on March 8, 1865, three days before the approval of the State law above noticed, the commanding general Department of the Pacific wrote as follows from his headquarters at San Francisco to the governor of Nevada (see page 287, Senate Ex. Doc. 70, Fiftieth Congress, second session):

"What progress is making in recruiting the Nevada volunteers? I will need them for the protection of the State, and trust that you may meet with success in your efforts to raise them. I hope the legislature may assist you by some such means as have been adopted by California and Oregon."

But the fact remains that the declared purpose of the monthly allowance was to give a compensation to the Nevada volunteers (see section 1 of the act last referred to), and that when measured by the current prices of the country in which they were serving, their compensation from all sources did not exceed, if indeed it was equal to, the value of the money received as pay by the troops stationed elsewhere, *i. e.*, outside of the Department of the Pacific.

[Senate Ex. Doc. No. 11, Fifty-first Congress, first session, p. 23.]

#### CALIFORNIA.

##### *Extra pay to enlisted men.*

By an act approved April 27, 1863, the legislature appropriated and set apart "as a soldiers' relief fund" the sum of \$600,000, from which every enlisted soldier of the companies of California volunteers raised or thereafter to be raised for the service of the United States was to be paid, in addition to the pay and allowances granted him

by the United States, a "compensation" of \$5 per month from the time of his enlistment to the time of his discharge. Drafted men, substitutes for drafted men, soldiers dishonorably discharged or discharged for disability existing at time of enlistment, were not to share in the benefits of the act, and, except in cases of married men having families dependent upon them for support, payment was not to be made until after discharge. Seven per cent. interest bearing bonds to the amount of \$600,000, in sums of \$500, with coupons for interest attached to each bond, were authorized to be issued on July 1, 1863. (Pages 349-351, Statement for Senate Military Committee.)

A few unimportant changes respecting the mode of payment in certain cases was made by act of March 15, 1864, and on March 31, 1866, the additional sum of \$550,000 was appropriated for the payment of claims arising under its provisions, such sum to be transferred from the general fund of the State to the "Soldiers' Relief Fund."

Fearing that the total amount of \$1,150,000 specifically appropriated might still prove insufficient to pay all the claims accruing under the act of April 27, 1863, above mentioned, the legislature directed, by an act which also took effect March 31, 1866 (page 604, Stats. of California, 1865-66), that the remainder of such claims should be audited and allowed out of the appropriation and fund made and created by the act granting bounties to the volunteers of California approved April 4, 1864, and more fully referred to on page 19 of this report.

Upon the certificate of the adjutant-general of the State that the amounts were due under the provisions of the act and of the board of State examiners, warrants amounting to \$1,459,270.21 were paid by the State treasurer, as shown by the receipts of the payees indorsed on said warrants.

It is worthy of note here that on July 16, 1863, the governor of California, replying to a communication from the headquarters Department of the Pacific, dated July 5, 1863, advising him that under a resolution of Congress adopted March 9, 1862, the payments provided for by the State law of April 27, 1863, might be made through the officers of the Pay Department of the U. S. Army, stated that the provisions of said law were such as to preclude him from availing himself of the offer.

Some information as to the circumstances and exigencies under which this money was expended may be derived from the following extract from the annual report of the adjutant-general of the State for the year 1862, dated December 15, 1862:

"The rank and file of the California contingent is made up of material of which any State might be proud, and the sacrifices they have made should be duly appreciated, and their services rewarded by the State. I do most earnestly recommend therefore that the precedent established by many of the Atlantic Coast States of paying their troops in the service of the United States an additional amount monthly should be adopted by California, and that a bill appropriating, say, \$10 per month to each enlisted man of the troops raised or to be raised in this State be passed. \* \* \* This would be a most tangible method of recognizing the patriotic efforts of our soldiers, relieve many of their families from actual destitution and want, and hold out a fitting encouragement for honorable service." (Page 58; Statement for Senate Committee on Military Affairs.)

Your examiners are of the opinion that the favorable action which was taken on the above recommendation of the Adjutant-General can not be justly ascribed to any desire on the part of the legislature to avoid resort to a conscription, although the exclusion of drafted men from the benefits of the act indicates that they realized and deemed it proper to call attention to the possibility of a draft. Unlike the law of April 4, 1864, the benefits of which were confined to men who should enlist after the date of its passage and be credited to the quota of the State, the provisions of the act now under consideration extended alike to the volunteers who had already entered or *had actually* completed their enlistment contract and to those who were to enlist in the future. There is every reason for the belief that the predominating if not the only reason of the State authorities in enacting this measure was to allow their volunteers in the United States service such a stipend as would, together with the pay received by them from the General Government, amount to a fair and just compensation. In fact, as has already been stated, this was expressly declared to be the purpose of the act.

It appears that up to December 31, 1862, those of the United States troops serving in the Department of the Pacific who were paid at all—in some cases attachments had not been paid for a year or more—were generally paid in coin, but on February 9, 1863, instructions were issued from the Treasury Department to the Assistant Treasurer of the United States at San Francisco that "checks of disbursing officers must be paid in United States notes." (Letter of Deputy Paymaster-General George H. Ringgold, dated February 13, 1863, to Paymaster-General; copy herewith marked Exhibit No. 10.)

Before this, greenbacks had become the current medium of exchange in all ordinary business transactions in the Eastern States, but in the Pacific Coast States and the adjoining Territories, gold continued to be the basis of circulation throughout

the war. At this time the paper currency had become greatly depreciated, and on February 28, 1863, the price of gold in Treasury notes touched 170. This action of the Government in compelling troops to accept such notes as an equivalent of gold in payment for services rendered by them in a section where coin alone was current, gave rise to much dissatisfaction. For although gold could be bought in San Francisco at nearly the same price in Treasury notes as in New York, it must be remembered that the troops in the Department of the Pacific were largely stationed at remote and isolated points.

When paying in greenbacks for articles purchased by, or for services rendered to, them in these out-of-the-way places, they were obliged to submit not only to the current discount in San Francisco but also to a further loss occasioned by the desire of the persons who sold the articles, or rendered the service, to protect themselves against possible further depreciation. It admits of little doubt that by reason of his inability to realize the full value of paper money, as quoted in the money centers; and of the fact that wages and the cost of living and of commodities of every kind were abnormally high (owing in great part to the development of newly discovered mines in that region) the purchasing power of the greenback dollar in the hands of the average soldier serving in the Department of the Pacific was from the latter part of 1862 onward from 25 to 50 per cent. less than that of the same dollar paid to his fellow soldier in the East.

Representation of the great hardship the Treasury Department's instructions entailed upon the troops were promptly made. On March 10, 1863, the legislature telegraphed to Washington a resolution adopted on that date instructing the State's delegation in Congress to impress upon the Executive "the necessity which exists of having officers and soldiers of the U. S. Army, officers, seamen, and marines of the U. S. Navy, and all citizen employes in the service of the Government of the United States serving west of the Rocky Mountains and on the Pacific coast paid their salaries and pay in gold and silver currency of the United States, provided the same be paid in as revenue on this coast." (Page 46, Statement for Senate Committee on Military Affairs.)

And on March 16, 1863, Brig. Gen. G. Wright, the commander of the Department of the Pacific (comprising besides California, the State of Oregon and the Territories of Nevada, Utah, and Arizona), transmitted to the Adjutant General of the U. S. Army a letter of Maj. C. S. Drew, First Oregon Cavalry, commandant at Camp Baker, Oregon, containing an explicit statement of the effects of and a formal protest against paying his men in greenbacks. In his letter of transmittal (page 154, Ex. Doc. 70), General Wright remarked as follows:

"The difficulties and embarrassments enumerated in the major's communication are common to all the troops in this department, and I most respectfully ask the serious consideration of the General-in-Chief and the War Department to this subject. Most of the troops would prefer waiting for their pay to receiving notes worth but little more than half their face; but even at this ruinous discount, officers, unless they have private means, are compelled to receive the notes. Knowing the difficulties experienced by the Government in procuring coin to pay the Army, I feel great reluctance in submitting any grievances from this remote department, but justice to the officers and soldiers demands that a fair statement should be made to the War Department."

It was under circumstances and exigencies such as these that the legislature themselves—all appeals to the General Government having proved futile—provided the necessary relief by the law of April 27, 1863. They did not even after that relax their efforts on behalf of United States troops, other than their own volunteers, serving among them, but on April 1, 1864, adopted a resolution requesting their representatives in Congress to "use their influence in procuring the passage of a law giving to the officers and soldiers of the regular Army stationed on the Pacific coast an increase of their pay, amounting to 30 per cent. on the amount now allowed by law."

[S. Ex. Doc. No. 17, Fifty-first Congress, first session, p. 14.]

#### OREGON.

##### *Extra monthly compensation to officers and enlisted men of volunteers.*

The certificate of the State treasurer, duly authenticated, by the secretary of state under the seal of the State, sets forth that the amounts severally paid out for the redemption of relief bonds, as shown by the books of the treasurer's office, as reported by the treasurer to the several legislative assemblies and as verified by the several joint committees (investigating commissions) of said assembly under the provisions

of a joint resolution thereof, aggregate \$90,476.32. The following books, papers, etc., are also submitted in evidence of payment:

- (1) The canceled bonds.
- (2) A copy of the relief bond register, the correctness of which is certified by the secretary of state and State treasurer, showing number of bond, to whom issued, date of issue, and amount of bond; also showing the date and rate of redemption. The reports of the joint committees of the legislature above mentioned, to the effect that they compared the record kept by the State treasurer with the bonds redeemed and found the amounts correct and agreeing with the amounts reported by the State treasurer to the legislative assembly, are entered in said bond register.
- (3) Certificates of service given to the several Oregon volunteers upon which warrants were given entitling the holders to bonds. These certificates cover service for which the sum of \$86,639.85 was due. The remainder of the certificates, the State authorities report, were not found and are probably lost or destroyed.
- (4) Copies of the muster-rolls of the Oregon volunteers, certified to by the secretary of state, setting forth the entire service of each officer and enlisted man.

In all, bonds amounting to \$93,637 were issued. As has been stated but \$90,476.32 is found to have been expended in the redemption of these bonds, some of which were redeemed at less than their face value. Five bonds, valued at \$731, have not been redeemed.

The authority by which these bonds were issued is contained in an act of the legislature, which was approved on October 24, 1864 (copy herewith), appropriating a sum not exceeding \$100,000 to constitute and be known as the "commissioned officers' and soldiers' relief fund," out of which was to be paid to each commissioned officer and enlisted soldier of the companies of Oregon volunteers raised in the State for the service of the United States to aid in repelling invasion, etc., from the time of their enlistment to the time of their discharge, \$5 per month in addition to the pay allowed them by the United States. Enlisted men not receiving an honorable discharge from the service, or volunteers discharged for disability existing at the time of enlistment, were not to be entitled to the benefits of the act, nor was payment under the provisions thereof to be made to an enlisted soldier until he should be honorably discharged the service; but enlisted married men having families dependent upon them were authorized to allot the whole or any portion of the monthly pay accruing to them for the support of such dependents. A bond bearing interest, payable semi-annually, at 7 per cent. per annum, redeemable July 1, 1875, with coupons for the interest attached, was to be issued by the secretary of state for such amount as the adjutant-general should certify to be due under the provisions of the act to each man, whose receipt for the amount so paid him was to be taken by the secretary of state. Said bonds were to be paid to the recipient or order.

The circumstances and exigencies that led to the enactment of the above-cited law and to the expenditures incurred under its provisions were substantially the same as those which brought about the adoption of similar measures of relief in California and Nevada. It must have been patent to every one fully acquainted with the circumstances of the case that the volunteers, that had been raised in Oregon, at this time (October 24, 1864) consisting only of the seven companies of the First Oregon Cavalry and the independent detachment of four months' men, a majority of whom had then nearly completed their term, had been greatly underpaid, considering the nature of the service performed by them and the current rate of salaries and wages realized in other pursuits of life. At the time of the enrollment and muster in of the First Oregon Cavalry and up to the latter part of 1862 the Government paid those of its troops in the Department of the Pacific, that were paid at all, in specie; but as often happened during the war a number of the companies of the regiment named, occupying remote stations, remained unpaid for a long time and were finally paid in Treasury notes, some of the members having more than a year's pay due them.

During the remainder of the war the Government paid its troops in the Department of the Pacific, as elsewhere, in greenbacks. Referring to this condition of things and to the fact that coin continued to be the ordinary medium of exchange in Oregon in private business transactions, Maj. C. S. Drew, First Oregon Cavalry, in a letter to his department commander, dated March 4, 1863 (page 154, Ex.-Doc. 70), called attention to the fact that at his station (Camp Baker) Treasury notes were worth "not more than 50 or 55 cents per dollar;" that each officer and soldier of his command was serving for less than half pay, and had done so, some of them, for sixteen months past; that while capital protected itself from loss and perhaps realized better profits than under the old and better system of payment in coin, "the soldier did not have that power, and if paid in notes must necessarily receipt in full for what is equivalent to him of half pay or less for the service he has rendered, and must continue to fulfill his part of the contract with the Government for the same reduced rate of pay until his period of service shall have terminated; and that "good men will not enlist for \$6 or \$7 a month while \$13 is the regular pay, and, moreover, being realized by every soldier

in every other department than the Pacific." In forwarding this letter to the Adjutant-General, U. S. Army, the department commander remarked that the embarrassments enumerated in the major's communication were common to all the troops in the department, and he therefore asked "the serious consideration of the General-in-Chief and the War Department to this subject." Some months later (August 18, 1863) General Alvord, while reporting to the department commander the location of a new military post at Fort Boise, referred to the difficulties encountered by the garrison "charged with the duty of establishing it, as follows:

"Some difficulty is experienced in building the post in consequence of the low rates of legal-tender notes. In that country they bear merely nominal value. The depreciation of the Government currency not only embarrasses the Quartermaster's Department, but also tends greatly to disaffect the men. The differences between their pay and the promises held out by the richest mines, perhaps, on the coast, the proximity of which makes them all the more tempting, is so great that many desertions occur." (Ex. Doc. 70, page 183.)

About the same time (September 1, 1863) the adjutant-general of the State complained of the inadequacy of the soldiers' pay, resulting from the depreciation of the paper currency with which they were paid. Referring to the fact that after the expiration of eight months from the date of the requisition of the United States military authorities for six additional companies for the First Oregon Cavalry but one had been raised, he said:

"And yet we are not prepared to say that it is for the want of patriotism on the part of the people of Oregon, but from other causes, partly from the deficiency in the pay of the volunteer in comparison with the wages given in the civil pursuits of life, as well as with the nature of the currency with which they are paid, the depreciation of which renders it hardly possible for the soldier to enlist from any other motive save pure patriotism. And I would here suggest that the attention of our legislature be called to this defect, and that additional pay, either in land, money, or something else, be allowed to those who have volunteered. Justice demands that this should be done."

In enacting the relief law of October 24, 1864, it is fair to presume that the legislature was largely influenced by the following statements and recommendations of the governor contained in his annual message, dated September 15, 1864:

"The Snake and other tribes of Indians in eastern Oregon have been hostile and constantly committing depredations. The regiment has spent two summers on the plains, furnishing protection to the immigration and to the trade and travel in that region of the country. During the past summer the regiment has traveled over twelve hundred miles, and the officers and men are still out on duty. The officers and most, if not all, the men joined the regiment through patriotic motives, and, while some of the time they have been traveling over rich gold fields, where laborers' wages are from \$3 to \$5 per day, there have been very few desertions, and that, too, while they were being paid in depreciated currency, making their wages only about \$5 per month. A great many of these men have no pecuniary interest in keeping open the lines of travel, protecting mining districts and merchants and traders. The benefit of their service thus insures [inures] to the benefit of others, who should help these faithful soldiers in bearing these burdens. Oregon, in proportion to her population and wealth, has paid far less than other States for military purposes. California pays her volunteers \$5 per month extra in coin. It would be but an act of simple justice for this State to make good to the members of this regiment their losses by depreciated currency." (Page 87, Statement for Senate Military Committee.)

It is to be noted here that while the officers and men who became the beneficiaries of this law had been paid in a depreciated currency, which in Oregon does not appear to have had more than two-thirds of the purchasing power it had in the East, the Government provided them with clothing, subsistence, shelter, and all their absolutely necessary wants. On the other hand, it is to be borne in mind that the legislature must have been aware of the fact noted, and that it granted the extra compensation from a sense of justice and without any purpose calculated to benefit the State at large, such as might be reasonably inferred from the granting of bounties to men "who should hereafter enlist." As has been already mentioned, the terms of the Oregon Volunteers were drawing to a close and the benefits of the law were restricted to the volunteers "raised," and did not therefore include those "to be raised."

California, as shown by the report (Senate Ex. Doc. No. 11, Fifty-first Congress, first session) of said war claims examiners, expended \$468,976.54 on account of her militia during the war of the rebellion. The circumstances under which this expenditure was made present a strong case of equity for reimbursement, but inasmuch as the militia of

Although the First Oregon Cavalry did not form a part of this garrison, three companies of it were at this time scouting against hostile Indians in the vicinity of the post.

California did not serve under the direct or immediate authority of the United States during the war of the rebellion, your committee do not allow it at this time, although they do not reject it for want of merit.

Oregon expended on account of her militia, as shown by the report of said war claims examiners, \$21,118.73, and your committee make a similar recommendation in regard to that claim.

Some of the circumstances under which the present war claim of the State of Nevada was created are set forth in the report of the majority of the Committee on Military Affairs made in the Fiftieth Congress, first session (Senate Report No. 1286), which, without the appendix, is as follows, to wit:

**Senate Report No. 1286, Fiftieth Congress, first session.**

MAY 14, 1888.

Mr. STEWART, from the Committee on Military Affairs, submitted the following report:

[To accompany bill S. 2918]

**OBJECT OF THIS BILL.**

The object of this bill is to re-imburse the State of Nevada for moneys paid and contracted to be paid by the Territory of Nevada and afterward assumed and paid by that State, and also for moneys actually expended by Nevada after becoming a State for the common defense and in furnishing troops to the United States during the suppression of the war of the rebellion, and for guarding the overland mail and emigrant route between the Missouri River and California, and for suppressing Indian hostilities under circumstances hereinafter set forth.

**APPEAL OF PRESIDENT LINCOLN, THROUGH SECRETARY SEWARD, TO THE NATION FOR AID.**

On October 14, 1861, Mr. Seward, Secretary of State, addressed a circular letter to the governors of the loyal States and Territories, calling for assistance for the General Government in suppressing hostilities in the so-called Confederate States, and for the improvement and perfection of the defenses of the loyal States respectively. A copy of this letter is printed in the appendix hereto, marked Exhibit No. 1, page 23.

**ACTION TAKEN BY NEVADA IN RESPONSE TO THE FOREGOING APPEAL OF SECRETARY SEWARD.**

Upon the receipt of this letter the legislative assembly of Nevada Territory at its first session passed appropriate resolutions pledging the support of the people of that Territory to the Union cause to the extent of their means, which resolutions are printed in the appendix, marked Exhibit No. 2, page 24.

On the 28th day of November, 1861, three days after the passage of the resolutions above mentioned, the legislative assembly of Nevada also passed an elaborate law for the enrollment and organization of a militia force to aid the United States when called upon in the suppression of the rebellion, and to carry out the spirit and intent of the aforesaid circular letter of Secretary Seward. This law will be found on

pages 106 to 125 of the Laws of Nevada Territory, 1861. This act provided that the militia of the Territory organized under its provisions should be subject to be called into the military service of the United States by the President, or any officer of the United States Army commanding a division or a department. A militia force was immediately organized under its provisions. H. P. Russell was appointed adjutant-general, and was succeeded by Col. John Cradlebaugh, who is mentioned in the resolutions above referred to and printed in the appendix as Exhibit No. 2, page 24.

It will thus be seen that Nevada made the necessary preparations, organized her militia, and was ready to answer any call that might be thereafter made upon her by the General Government, and also to protect the Territory against a large portion of its inhabitants who desired to join the Confederacy.

#### CONDITION OF AFFAIRS THAT RENDERED A CALL FOR NEVADA VOLUNTEERS NECESSARY.

The Territory of Nevada was organized by Congress on March 2, 1861, (12 U. S. Stats., 209). At the breaking out of the rebellion it became a serious question what attitude Nevada would occupy, and home guards were immediately organized. These guards afterwards formed a portion of the militia of the Territory as provided for in the aforesaid militia law, and protected the inhabitants from violence, without any expense to the Government of the United States.

In the early part of April, 1863, the overland mail and emigrant route was attacked by Indians and communication was closed between the Atlantic States and the Pacific coast. This route extended from the Missouri River to California via the Platte River, Salt Lake City, through Nevada to Sacramento, in California, and was the only means at that date of direct overland communication between the Missouri River and California. At this time the gold discoveries in California continued to invite a large immigration, the interest in which was more or less intensified by the continued extensive silver discoveries in Nevada Territory, and principally on the Comstock lode in the western part of the Territory. The routes via Cape Horn, and especially that via the Isthmus of Panama, were rendered extremely doubtful, dangerous, and expensive, on account of Confederate privateer cruisers hovering around the West India Islands and along both these sea routes, and in anticipation of other Confederate cruisers infesting the waters of the Pacific (which soon thereafter became the theater of the operations and extensive depredations of the Confederate privateer cruiser *Shenandoah*) the overland route, therefore, although in itself both dangerous and difficult, was yet considered the better and preferable route by which to reach the Pacific.

On account of a general uprising of the Indians along the entire overland route, and especially that portion between Salt Lake City, in the Territory of Utah, and the Sierra Nevada Mountains, and because of the doubts as to the loyalty of the Mormons to the Government of the United States, the maintenance and protection of the mail and emigrant route through that section of the country and along the aforesaid line was regarded by the Government as a military necessity. Apparently in anticipation of no immediate danger of attack on the Pacific coast, nearly all the troops of the regular Army at this time had been withdrawn from service throughout this entire region of country and transferred East to other fields of military operations. This left the entire coun-

try between Salt Lake City and the Sierra Nevada Mountains without adequate and efficient military protection. The Government thus having but few troops of its regular Army in that region, was therefore compelled to call upon the inhabitants of Nevada Territory to raise and organize volunteer military companies to suppress Indian disturbances which threatened the entire suspension of all mail facilities and emigration from the East, as will be hereafter shown.

At the time of the calls upon Nevada for troops the prices of labor and supplies of all descriptions in Nevada were extremely high. There were then no railroads, and the snow on the Sierra Nevada Mountains formed an almost impassable barrier against teams from about the 1st of December until about June. The average cost of freight from San Francisco, the main source of supply for western Nevada, was about \$80 a ton, and it was necessary to lay in supplies during the summer and fall for the remainder of the year. A great mining excitement prevailed at this time, occasioned by the marvelous development of the great Comstock lode, and wages were from \$4 to \$10 a day in gold. The people who had emigrated to the new gold and silver fields went there for the purpose of mining and prospecting for mines, and were generally reluctant to enter the irregular military service of guarding the overland mail and emigrant route. Besides, on account of the extraordinary high price of supplies of every description, and also of wages and services of every kind, it was impossible for them to maintain themselves and families without involving much more expense than any compensation which could be paid them as volunteer troops under the laws of the United States, and, as will be seen by the letters of General Wright, hereafter quoted, they were expected, as volunteer troops, to furnish themselves with horses and equipments, in addition to what could be furnished by the Government.

The military authorities of the United States well knew at that time the exact condition of the country and of the roads across the mountains leading thereto and of the cost of transportation and of the prices of labor and of supplies and of their own inability to furnish either horses or equipments for a military service that required mounted troops.

#### FIRST CALL BY THE UNITED STATES FOR NEVADA VOLUNTEERS.

In view of the necessities of the situation, and with all the facts fully known to the military authorities of the United States, General Wright, commanding the Department of the Pacific, was authorized by the War Department to raise volunteer military companies in Nevada Territory for the protection of said overland mail and emigrant route, and on April 2, 1863, he addressed the following requisition for troops to the Governor of the Territory:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,  
San Francisco, Cal., April 2, 1863.

His Excellency O. CLEMENS,  
Governor of Nevada Territory, Carson City, Nev.:

SIR: I have been authorized by the War Department to raise volunteer companies in Nevada Territory for the purpose of moving east on the overland mail route in the direction of Great Salt Lake City. If it is possible to raise three or four companies in the Territory for this service I have to request your excellency may be pleased to have them organized. I should be glad to get two companies of cavalry and two of infantry. The mounted troops to furnish their own horses and equipments. Arms, ammunition, etc., will be furnished by the United States. Should your excellency consider it improbable that this volunteer force can be raised, even one company will be

accepted. I will send you a plan of organization, and an officer with the necessary instructions for mustering them into the service.

With great respect, I have the honor to be, your most obedient servant,  
G. WRIGHT,  
*Brigadier-General, U. S. Army, Commanding.*

Official copy.

J. C. KELTON,  
*Colonel, A. A. G.*

While correspondence was being conducted between the Governor of Nevada and General Wright as to the method of organizing Nevada's troops, the following telegram was dispatched by General H. W. Halleck, general-in-chief of the U. S. Army, to General Wright:

HEADQUARTERS OF THE ARMY,  
*Washington, D. C., April 15, 1863.*

Brig. Gen. G. WRIGHT,  
*San Francisco, Cal.:*

The Secretary of War authorizes you to raise additional regiments in California and Nevada to re-enforce General Conner and protect overland route. Can not companies be raised in Nevada and pushed forward immediately? General Conner may be able to raise some companies in Utah or out of emigrant trains.

H. W. HALLECK,  
*General-in-Chief.*

Whereupon General Wright addressed the governor of Nevada Territory the following communication:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,  
*San Francisco, Cal., April 16, 1863.*

His Excellency ORION CLEMENS,  
*Governor of Nevada Territory, Carson City, Nev.:*

SIR: I have the honor to acknowledge the receipt of your excellency's communication of the 9th instant.

The Indian disturbances along the line of the overland mail route, east of Carson City, threaten the entire suspension of our mail facilities, as well as preventing any portion of the vast immigration approaching from the east reaching Nevada. The interest and prosperity of your Territory depend much upon maintaining free and safe access to it from all directions. My force immediately available for operation on that line is small. A company of cavalry stationed at Fort Churchill, and under orders to move towards Ruby Valley, I was compelled to divert for temporary service to assist in quelling an Indian outbreak in the Owen's Lake district. As soon as the services of this company can be dispensed with there, it will operate on the mail and emigrant line. Some infantry companies will also be thrown forward from this side of the mountains as soon as transportation can be prepared and the roads are in order. In the mean time it is of such importance to keep the mail and emigrant route east of you open, that I would earnestly recommend that one or two companies of cavalry be promptly organized and prepared for muster into the service of the United States. It is impossible for us at this moment to purchase horses and equipments. Each man would have to furnish his own.

I can furnish arms, ammunition, forage, clothing, provisions, etc.; in fact, everything except horses and equipments.

The organization of a company or troop of cavalry is: one captain, one first lieutenant, one second lieutenant, one first sergeant, one quartermaster-sergeant, one commissary sergeant, five sergeants, eight corporals, two teamsters, two farriers or blacksmiths, one saddler, one wagoner, and seventy-eight privates.

This is the first appeal that has been made to Nevada Territory, a Territory soon to add another star to that glorious galaxy which adorns our beautiful banner, and I doubt not this call will be nobly responded to by the loyal and patriotic citizens of the Territory.

With great respect, your excellency's most obedient servant,

G. WRIGHT,  
*Brigadier-General U. S. Army, Commanding.*

Official copy.

J. C. KELTON,  
*Colonel, A. A. G.*

## NEVADA'S RESPONSE TO THE FOREGOING CALL FOR TROOPS BY THE UNITED STATES.

Immediately upon the receipt of the foregoing requisition for troops the governor of Nevada issued the following proclamation:

## PROCLAMATION.

EXECUTIVE DEPARTMENT,  
Carson City, April 24, 1863.

Whereas Brigadier-General George Wright, United States Army, commanding officer of the Department of the Pacific, has, by authority of the War Department called upon me for two companies of infantry and two companies of cavalry to serve three years, or during the war: .

Now, therefore, I, Orion Clemens, governor of the Territory of Nevada and commander-in-chief of the militia thereof, do hereby authorize and call upon the citizens of the Territory, as many as shall be necessary to fill up the preceding requisition, to immediately organize themselves into companies as required hereby.

In witness whereof I have hereunto set my hand and affixed the great seal of the Territory.

Done at Carson City, Territory of Nevada, this 24th day of April, in the year of our Lord one thousand eight hundred and sixty-three.

ORION CLEMENS,  
Secretary and Acting Governor.

In answer to these calls and requisitions of General Wright and said proclamation of the governor of Nevada four companies of cavalry were completely organized, two of which were sent to Camp Douglas, Utah Territory, for military service, and the remaining two were sent to station Fort Churchill, Nev.

## SECOND CALL AND REQUISITION OF THE UNITED STATES FOR NEVADA VOLUNTEERS.

Thereafter General Wright made a further requisition upon the governor of Nevada for two additional companies of cavalry and a regiment of infantry, as will appear from the following:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,  
San Francisco, December 22, 1863.

SIR: The four companies of cavalry called for from the Territory of Nevada have completed their organization; two of the companies have reached Camp Douglas, Utah, and the remaining two are at Fort Churchill, Nev. On the representations of Governor Nye that additional troops can be raised in Nevada, I have, under the authority conferred upon me by the War Department, called upon the governor for a regiment of infantry and two more companies of cavalry.

Very respectfully, your obedient servant,

G. WRIGHT,  
Brig. Gen., U. S. Army, Commanding.

ADJUTANT-GENERAL, U. S. ARMY,  
Washington, D. C.

## WHAT WAS DONE BY NEVADA UNDER THE SECOND CALL AND REQUISITION BY THE UNITED STATES FOR NEVADA VOLUNTEERS.

In response to General Wright's second requisition for troops made in the latter part of November, 1863, the governor of Nevada issued the following proclamation:

## PROCLAMATION.

Whereas a requisition having been made upon me by Brig. Gen. George Wright, U. S. Army, commanding the Department of the Pacific, for one regiment of volunteer infantry and two companies of cavalry, for service in the employ of the General Government of the United States;

Now, therefore, I, James W. Nye, governor of the Territory of Nevada and com-

Commander-in-chief of the militia thereof, by virtue of the authority in me vested, do issue this my proclamation, calling upon the people of this Territory to forthwith proceed to organize a regiment of infantry, consisting of ten companies, and two companies of cavalry, in full compliance of said requisition.

All applicants for line officers will present themselves before the Army examining board for examination, and report to me with certificate of such examination as soon as practicable.

Given under my hand and seal at Carson, Nev., this 4th day of December, A. D. 1863.

JAMES W. NYE,  
*Governor of the Territory of Nevada.*

Attest:

ORION CLEMENS,  
*Secretary of the Territory.*

Under this last requisition of General Wright and last proclamation of the governor of Nevada two additional cavalry companies and the First Battalion Nevada Infantry Volunteers, composed of four companies, were raised and assigned to duty to such fields of military service in Utah and Nevada as were determined upon by General Wright, as will appear from the correspondence printed in the appendix, marked "Exhibit 3, pages 24 to 29.

It will thus be seen that the people of the Territory of Nevada responded promptly to and complied fully with the appeals of the United States Government for troops and in accordance with the requisitions and calls of the War Department. The action of the people of Nevada was reported to Mr. Seward, Secretary of State, by the governor of Nevada on March 25, 1864. He wrote to Mr. Seward the condition of affairs in the Territory, which letter was transmitted to the Senate by President Lincoln on April 29, 1864 (see Senate Ex. Doc. No. 41, 38th Cong., 1st sess.). In his report Governor Nye said:

We have raised in the Territory within the last two years one company of infantry, now attached to a California regiment, a battalion of cavalry, consisting of six companies, four of which are in the field; the remaining two will be there also as soon as they can be mounted. In addition we are raising a regiment of infantry, now in a good state of forwardness, and we can raise a brigade easily if necessary.

#### SOME OF THE DUTIES OF THE TROOPS CALLED TO AID THE UNITED STATES AT THIS TIME.

The first duty of these troops was to open and guard the overland mail and emigrant route from the Sierra Nevada Mountains to Utah. The campaign in which this was accomplished was under the command of General Conner. The volunteer troops under this gallant officer had already conducted a most successful campaign against the Indians of eastern Nevada, Utah, and Idaho, in the region where the Mormon influence was most potential, conquered many Indian tribes, and secured lasting peace.

The Secretary of War, in reporting to Congress the condition of things in that region of country, then under the military command of General Conner, said as follows, to wit:

#### DEPARTMENT OF THE PACIFIC.

This department has been most signally exempt from the evils of civil war, and consequently has enjoyed unexampled prosperity. Some thefts and robberies having been committed by roving bands of Indians on the overland stage route in January last, General Conner marched with a small force to Bear River, Idaho, where, on the 26th, he overtook and completely defeated them in a severe battle, in which he killed 224 of the 300 and captured 175 of their horses. His own loss in killed and wounded was 63 out of 200. Many of his men were severely injured by the frost. Since this severe punishment the Indians in that quarter have ceased to commit depredations on the whites. (Secretary of War's report, first session Thirty-eighth Congress.)

**ADDITIONAL CAUSES THAT LED TO A THIRD CALL AND REQUISITION  
BY THE UNITED STATES FOR NEVADA VOLUNTEERS.**

Congress having on July 1, 1862, chartered the Union Pacific Railroad Company, to which, and also to the Central Pacific Railroad Company, aid was given to build one continuous line of railroad from the Missouri River to the Pacific Ocean through this region of country, did, on July 2, 1864, still further foster these enterprises by additional grants. These two companies thereupon placed in the field numerous corps of surveyors, civil engineers, and employes to explore said country in the effort to discover the most practicable and economical railroad route from the Missouri River to the Pacific, and to run trial lines and definitely locate the lines of the two subdivisions of said railroad route. In regard to these roads the Secretary of War, in his annual report for 1864-'65, page 144, said:

It is, in a military sense, of the utmost importance that the Pacific Railroad should be pressed to the earliest possible completion.

The exploration and location for a Pacific railroad through that region of country then mostly uninhabited except by large tribes and roving bands of hostile Indians, called for additional military protection and rendered it necessary for the United States to again call upon Nevada to raise additional troops. Accordingly General McDowell, commanding the Department of the Pacific, made the following call on October 13, 1864, upon the Governor of Nevada Territory:

HEADQUARTERS DEPARTMENT OF THE PACIFIC,  
*Virginia City, October 13, 1864.*

SIR: I have the honor to acquaint you that I have received authority from the War Department to call on you, from time to time, as the circumstances of the service may require, for not to exceed in all, at any one time, one regiment of volunteer infantry and one regiment of volunteer cavalry, to be mustered into service of the United States as other volunteer regiments, under existing laws and regulations.

Under this authority I have to request you will please raise, as soon as possible, enough companies of infantry to complete, with those already in service from Nevada, a full regiment of infantry.

Brigadier-General Wason will confer with you and give all the information necessary to details for this service.

I have the honor to be, governor, very respectfully, your most obedient servant,

IRWIN MCDOWELL,  
*Major-General, Commanding Department.*

His Excellency JAMES W. NYE,  
*Governor of Nevada Territory.*

**WHAT WAS DONE BY NEVADA IN RESPONSE TO THIS CALL.**

The governor of Nevada responded to this call by issuing the following proclamation:

**PROCLAMATION.**

TERRITORY OF NEVADA, EXECUTIVE DEPARTMENT,  
*Carson City, October 19, 1864.*

Whereas I have received a requisition from Maj. Gen. Irwin McDowell, commanding Department of the Pacific, the same having been made under authority from the War Department, to raise, as soon as possible, enough companies of infantry to complete, with those already in service from Nevada, a full regiment of infantry:

Now, therefore, I, James W. Nye, governor of the Territory of Nevada, and commander-in-chief of the militia thereof, do hereby call upon the citizens of this Territory to organize themselves into seven companies, sufficient to fill the battalion of infantry now in service from this Territory, and the requirements of said requisition.

In witness whereof I have hereunto set my hand and caused the great seal of the

Territory of Nevada to be affixed. Done at Carson City this 19th day of October, 1864.

JAMES W. NYE,

*Governor and Commander-in-Chief of the Territory of Nevada.*

Attest:

ORION CLEMENS,

*Secretary of the Territory.*

Afterward the Indians became troublesome between Utah and the Missouri River. During the years 1865-'66 the Nevada cavalry were actively engaged in Colorado, Wyoming, Kansas, and Nebraska in the Indian wars in that region. The writer of this report crossed the continent in the summer of 1865, and met several small detachments of Nevada cavalry in active service against the Indians, and was much gratified to learn that they were quite celebrated for their gallantry and faithful services in that kind of warfare, which subjects the soldier to the severest test of endurance, and requires individual exertion and watchfulness unknown in civilized war.

**METHOD RECOGNIZED BY NEVADA FOR THE ENROLLMENT OF HER TROOPS CALLED INTO THE MILITARY SERVICE OF THE UNITED STATES AND HER MODE OF DEFRAYING THE EXPENSES OF SUCH ENROLLMENT FOR SUCH SERVICE.**

The citizens of Nevada were never drafted, nor did they ever hire substitutes, but were organized into military companies by commanding officers, most of whom had undergone an examination for commission before military boards instituted for that purpose and satisfactory to the general of the United States Army commanding the military Department of the Pacific.

As a compensation to and a reimbursement intended for all the costs by them incurred for raising and organizing said volunteer military companies, and in lieu of all other kinds of expenses necessarily incident to enrolling and enlisting the members of said companies for the military service of the United States, the legislature of Nevada passed an act providing for the payment to the commanding officers of said companies of \$10 per capita for each volunteer soldier by them for said purposes enrolled and enlisted, aggregating the sum of \$11,840. This provision in said statute was improperly called a "bounty;" but this expenditure was not in any sense whatsoever a "bounty," but, on the contrary, it was an actual disbursement by Nevada to cover all the legitimate expenses of every kind incident to enrolling and enlisting Nevada's troops to perform military service for the United States.

The history of this expenditure and of this mode of enrollment of troops by the Territory of Nevada, and the economy and reasons therefor, are all fully set forth in a memorial to Congress signed by all the State officers of Nevada, which is printed in the appendix, marked Exhibit No. 4, page 29.

**METHOD ADOPTED BY NEVADA TO PAY THE TROOPS CALLED INTO THE MILITARY SERVICE OF THE UNITED STATES BY THE TERRITORY OF NEVADA, AND THE EXTENT TO WHICH THE STATE OF NEVADA PLEDGED HER FAITH TO PAY THE OBLIGATIONS CONTRACTED BY THE TERRITORY OF NEVADA TO AID THE UNITED STATES.**

This same act of the legislature of Nevada, among other things, provided that each citizen of Nevada so volunteering and enlisting as a private soldier for the military service of the United States, not being

drafted or acting as a substitute for another, should, during each and every month while honorably serving the United States, be paid out of the treasury of Nevada the sum of \$5 per month, gold coin. It further provided that, in the case of an enlisted married man, an allotment of the whole or a portion of the extra monthly pay could be drawn by his family dependent upon him for support (see Laws of Nevada Territory, 1864, page 81, or appendix, Exhibit No. 5, page 31).

On March 11, 1865, after Nevada became a State, an act similar to this Territorial act, but more liberal in its provisions, was passed, to take the place of the Territorial law. The State legislature having deemed the situation so important to maintain the good faith of the Territory, that had been pledged to aid the United States, it passed this act *over the veto of Governor Blasdel*, who alleged in his veto message his fear that the expense might exceed the constitutional limit, etc.

This act provided for the assumption and payment by the State of Nevada of all obligations of every kind that had been incurred and contracted to be paid by the Territory for the enlistments, enrollments, bounties, extra pay, etc., of volunteer soldiers that had been theretofore called into the military service of the United States. The bonds now outstanding and still due by Nevada, though at a smaller rate of interest than that named in the original issue and still drawing interest, were issued under the provisions of this latter act (see Statutes, Nevada, 1864-'65, page 389, or appendix, Exhibit No. 6, page 34).

#### RESULTS OF THE FOREGOING LEGISLATION BY NEVADA.

By these legislative enactments of Nevada substantial and effectual aid was given and guaranteed by Nevada, both as a Territory and State, to the Government of the United States in guarding its overland mail and emigrant route and the line of the proposed transcontinental railroad in furnishing troops during the war of the rebellion and for suppressing Indian hostilities and maintaining peace in the country inhabited by the Mormons, and for the common defense as contemplated in said circular letter of Secretary Seward along an exposed, difficult, and hostile Indian frontier, and then but sparsely populated. These enactments were fully known to the authorities of the United States and to Congress; they have ever been acquiesced in and met with the sanction and practical indorsement of the United States, in whose interest and for whose benefit they were made. As a partial compensation to these volunteers for this irregular, hazardous, and exposed service in the mountains and on the desert plains, and to aid them to a small extent to maintain families dependent upon them for support, first the Territory and afterwards the State of Nevada offered and paid this small stipend, never suspecting that the United States would not promptly and willingly respond when asked to re-imburse the same. These citizens of Nevada who volunteered and enlisted and did military service for the United States were compelled in many cases to abandon their employments, in which their wages were always lucrative and service continuous, so that nothing less than the individual patriotism of these volunteers enabled the Territory and State of Nevada to cheerfully and promptly respond to every call and requisition made upon them for troops by the United States.

The records of the War Department, in addition to what is already quoted and referred to in substantiation of the facts herein stated, are printed in the appendix, marked Exhibit No. 3, pages 24 to 29.

## THE BASIS AND AUTHORITY OF NEVADA'S CLAIM AGAINST THE UNITED STATES AND THE PRECEDENTS IN SUPPORT THEREOF.

These enactments of Nevada both as a Territory and a State, and various acts done under them in and execution thereof, when complying according to her own methods with the various calls and requisitions of the United States for troops, have resulted in the expenditure of a large sum of money which constitutes the present claim of Nevada against the United States. The authority upon which this claim rests is found in the fourth section of the fourth article of the Constitution of the United States, which provides that—

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

And upon the latter part of the tenth section of the first article of the Constitution; which is as follows:

No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

And also upon the act of July 28, 1795, chapter 36, section 1, page 424, now section No. 1642, U. S. Revised Statutes, which provides that—

Whenever the United States are invaded or are in imminent danger of invasion from any foreign nation or Indian tribe, or of rebellion against the authority of the Government of the United States, it shall be lawful for the President to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may deem necessary to repel such invasion or to suppress such rebellion, and to issue his orders for that purpose to such officer of the militia as he may think proper.\*

In reference to the foregoing the courts have held that—

When a particular authority is confided to a public officer, to be exercised by him in his discretion, upon an examination of the facts of which he is made the appropriate judge, his decision upon the facts in the absence of any controlling provision, is absolutely conclusive as to the existence of those facts (*Allen vs. Blunt*, 3 Story, U. S. Circuit Court Reports, 745).\*

And again the supreme court of the State of New York (Hon. Chancellor Kent presiding as chief justice) held in the case of *Vanderheyden vs. Young*, 11 Johnson's New York Reports, 157, that—

It is a general and sound principle that when the law vests any person with a power to do an act, and constitutes him a judge of the evidence on which that act may be done, and at the same time contemplates that the act is to be carried into effect through the instrumentality of agents, the person thus clothed with power is invested with discretion and is *quoad hoc* a judge.

His mandates to his legal agents on his declaring the event to have happened will be a protection to those agents, and it is not their duty or business to investigate the facts thus referred to their superior, and to rejudge his determination.\*

The United States Supreme Court in *Martin vs. Mott*, 12 Wheaton, 19, unanimously held—

That the authority to decide upon what occasions and upon what emergencies Federal calls should be made and Federal assistance given, "belongs exclusively to the President, and that his decision is conclusive upon all other persons."\*

And Chief Justice Taney, in *Luther vs. Borden*, 7 Howard, referred approvingly to the opinion of the United States Supreme Court in *Martin vs. Mott*, as expressed in these words:

That whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of those facts.\*

\* NOTE.—The acts of heads of Departments of the Government are in law the acts of the President (*Wilcox vs. Jackson*, 13 Peters., 498).

The obligations arising under these provisions of the Constitution and laws and decisions have been recognized by the Government from its foundation, as will fully appear from the authorities cited by Senator Dolph in a report made by him from the Senate Committee on Claims on February 25, 1885 (Forty-eighth Congress, second session), Report No. 1438. These authorities are printed in the appendix, marked Exhibit No. 7, page 37 *et sequiter*.

#### NEVADA'S DILIGENCE IN THESE PREMISES.

The State of Nevada has not slept upon her rights in any of these premises nor been guilty of any *laches*; on the contrary, at all proper times she has respectfully brought the same to the attention of Congress by memorials of her legislature and of her State authorities, and through her representatives in Congress. On March 29, 1867, her legislature first asked for the payment of the claims of the State by a joint resolution, which is printed in the appendix, marked Exhibit No. 8, page 64. And again, on February 1, 1869, the legislature of Nevada passed a memorial and joint resolution renewing her prayer in these premises, which is also so printed in the appendix, marked Exhibit No. 9, page 65.

The Journals of the United States Senate show that on March 10, 1868, the writer of this report presented the first-mentioned memorial and resolution to the Senate, accompanied with an official statement of the amount of the claims of the State referred to therein. These papers were referred to the Committee on Claims, but the records fail to show that any action was ever taken upon them. On May 29 of the same year the writer of this report introduced a joint resolution (S. 138) providing for the appointment of a board of examiners to examine the claims of the State of Nevada against the United States, and on June 18 of the same year the Committee on Claims, to whom this joint resolution was referred, was discharged from its further consideration. The official statement of the moneys expended by the State of Nevada on account of the United States, and presented to the Senate on March 10, 1868, can not now be found on the files of the Senate.

On February 11, 1885, and January 26, 1887, the legislature of Nevada, renewing its prayer for a re-imbursement of the money by her expended for the use and benefit of the United States, further memorialized Congress, asking for the settlement of her claims, which are printed in the appendix and marked Exhibits Nos. 10 and 11, pages 65 and 66.

#### PROCEEDINGS IN CONGRESS TO REDEEM THE OBLIGATIONS OF THE UNITED STATES DUE TO NEVADA IN THIS CASE.

The circumstances under which these expenditures were made by the Territory and State of Nevada being exceptional, and their re-imbursement not being provided for by any existing law, general or special, Senator Fair, of Nevada, on December 13, 1881, introduced a joint resolution in the Senate providing for the equitable adjustment of these claims of Nevada now under consideration, which was referred to the Committee on Military Affairs. A copy of said resolution will be found in the appendix, marked Exhibit 12, page 67.

This committee, instead of reporting back this joint resolution, reported back a substitute in the form of a bill providing for the payment of the claims of several States and Territories, including the State of Nevada, and which bill finally resulted in the act of June 27, 1882. This bill was reported on May 12, 1882, by Hon. L. F. Grover, and

Nevada believed then and believes now that it was then the intention of Congress to equitably and explicitly provide for the re-imbursement to her of the amount of money which she had actually and in good faith expended in these premises. This bill was accompanied by a report in which the following statement is made in relation to the claims of the State of Nevada:

#### NEVADA.

It appears by the report of the Adjutant-General U. S. Army, of February 25, 1882, that one regiment of cavalry and one battalion of infantry were raised in the late Territory of Nevada during the late war of the rebellion, and that the expenses of raising, organizing, and placing in the field said forces were never paid by said Territory, but were assumed and paid by the State of Nevada, and that none of said expenses so incurred by said Territory, and assumed and paid by said State, have ever been re-imbursed the State of Nevada by the United States, and that no claims therefor have ever been heretofore presented by either said Territory or said State for audit and payment by the United States. Under section 3489 of the Revised Statutes, hereinbefore referred to, the payment of these claims is barred by limitation.

These forces were raised to guard the overland mail route and emigrant road to California, east of Carson City, and to do other military service in Nevada, and were called out by the governor of the late Territory of Nevada upon requisitions therefor by the commanding general of the Department of the Pacific, and under authority of the War Department, as appears by copies of official correspondence furnished to your committee by the Secretary of War and the general commanding the Division of the Pacific. \* \* \*

#### PRESENTATION BY NEVADA TO THE UNITED STATES OF HER CLAIM.

This bill reported from this committee having become a law in an amended form on June 27, 1882, thereupon the governor and controller of the State of Nevada transmitted to the Secretary of the Treasury and Secretary of War a detailed account of the moneys actually expended and actual indebtedness assumed and paid by the State of Nevada on account of the volunteer military forces enrolled by the Territory and State of Nevada, as shown by the books of the State controller.

This statement of the claim of Nevada against the United States was prepared with great care by the proper officers of the State of Nevada, being first submitted by them to the legislature thereof in printed form at the expense of the State, and thereafter transmitted, as above stated, with proper original vouchers and evidence of every kind then in her possession, to the authorities of the Government of the United States and as provided for in said act of June 27, 1882. This statement is printed in the appendix, marked Exhibit No. 13, page 67.

#### DELAY OF THE UNITED STATES IN THE EXAMINATION OF NEVADA'S CLAIM AND THE CAUSES THEREOF.

This claim, with said vouchers and evidence, was first presented to the Secretary of the Treasury in 1883, where, being properly stamped, it was duly transmitted to the Secretary of War for examination and action thereon. It remained of record in the War Department unacted on up to and after August 4, 1886, because, as was stated to Congress by Hon. Robert T. Lincoln, Secretary of War, he required the aid of a board of at least three army officers to assist his Department in such examination, and he requested Congress to make an appropriation of \$25,000 to defray the expenses of the examination of the different State and Territorial claims presented under the act of June 27, 1882. Congress delayed action upon these requests of the Secretary of War until August 4, 1886, on which date acts were passed providing for said board of

army officers, as asked for, and also appropriated \$10,000 to defray the expenses of said examinations (see vol. 24, Stats. at Large, pages 217 and 249.)

SECRETARY LINCOLN'S CONSTRUCTION OF THIS ACT OF JUNE 27, 1882,  
FOR THE RELIEF OF NEVADA, ETC.

Prior to any action by the War Department on this claim of the State of Nevada, and prior to any action by Congress on the request of the Secretary of War for a board of Army officers to examine said claim, a bill was introduced in Congress by Senator Jones, of Nevada, and referred to the Secretary of War for report, providing for the payment of certain individual claims of citizens of Nevada on account of Indian hostilities in Nevada in 1860, upon which the Secretary of War reported as follows:

WAR DEPARTMENT,  
Washington City, January 26, 1884.

SIR: In response to so much of your communication of the 22d ultimo as requests information concerning Senate bill 657, "to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada," I have the honor to invite your attention to the following report of the Third Auditor of the Treasury, to whom your request was duly referred:

"The State of Nevada has filed in the office abstracts and vouchers for expenses incurred on account of raising volunteers for the United States to aid in suppressing the late rebellion amounting to \$349,697.49, and for expenses on account of her militia in the 'White Pine Indian war' of 1875, \$17,650.98. Also, expenses of her militia in the 'Elko Indian war' of 1878, amounting to \$4,654.64, presented under act of Congress approved June 27, 1882 (22 Statutes, 111, 112).

"These abstracts and vouchers will be sent to your Department for examination and report as soon as they can be stamped, as that statute requires a report from the Secretary of War as to the necessity and reasonableness of the expenses incurred. This statute is deemed sufficiently broad enough to embrace all proper claims of said State and Territory of Nevada."

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,  
Secretary of War.

Hon. S. B. MAXEY,  
*Of Committee on Military Affairs, United States Senate.*

In accordance with this letter the Committee on Military Affairs reported back the bill referred to (S. 657), and asked that it be indefinitely postponed, and because of the explanation made by said committee, as follows, to wit:

It will be observed that it is deemed by the War Department that the act approved June 27, 1882, is sufficiently broad to embrace all proper claims of Nevada, whether as State or Territory.

For convenience of reference the above act accompanies this report, and an examination thereof, and of the construction thereon, satisfies the committee that no additional legislation is necessary.

The State of Kansas presented her claim to Secretary Lincoln under this act, which claim was by him examined, audited, and allowed for almost exactly the sum that Kansas had actually expended for the use and benefit of the United States, and all of which allowance has since been paid to Kansas by the United States, and aggregating the sum of \$332,308.13 (23 U. S. Stats., 474).

AFTER OVER FOUR YEARS DELAY, SUBSEQUENT TO THE PASSAGE OF THE ACT OF JUNE 27, 1882, THE UNITED STATES TAKES UP NEVADA'S CLAIM FOR EXAMINATION, WHEN THE VERY FIRST QUESTION RAISED IS ONE OF JURISDICTION, AND WHICH IS DECIDED AGAINST NEVADA.

After the passage of said act of August 4, 1886, the War Department detailed a board of three Army officers under Special Orders No. 232,

dated October 6, 1886, to proceed to examine the claims arising under the act of June 27, 1882, and in the manner contemplated and as provided for in said acts. The claim of the State of Nevada was the first claim submitted to and examined by said board. This board being in doubt whether, under the terms of said act of June 27, 1882, they could allow a re-imbursement to Nevada of the amount by her expended for interest and extra pay to her troops while in the military service of the United States, referred these two questions to the Secretary of War for his decision. On February 8, 1887, after argument was submitted to him in support of these two elements of Nevada's claim against the United States, the Secretary of War decided "that after a careful consideration of the subject" he was "of opinion that neither the extra pay nor the interest can, under the provisions of the act, be allowed," meaning the act of June 27, 1882, and refused the same (see appendix, Exhibit No. 14, page 83).

TWO SEPARATE REPORTS (A MAJORITY AND MINORITY) MADE BY THE ARMY BOARD OF WAR CLAIMS EXAMINERS, THE MINORITY REPORT ALLOWING ONLY ABOUT 2½ PER CENT. OF THE AMOUNT ACTUALLY EXPENDED BY NEVADA, AND WHICH MINORITY REPORT IS APPROVED BY THE SECRETARY OF WAR.

It will be borne in mind that on January 26, 1884, Secretary Lincoln was of opinion that the act of June 27, 1882, was sufficiently broad to embrace all proper claims of the State of Nevada, and the Committee on Military Affairs, in consequence thereof, reported to the Senate that that committee was satisfied that no additional legislation was necessary in regard thereto, while Secretary Endicott, on February 8, 1887, decided that the claims for expenditure for interest and extra pay to said troops while in the service of the United States could not be allowed by him under said act, and further, by approving the award made by the minority examiner, and, as will hereinafter be more particularly referred to, also disallowed the amount expended by Nevada and by her paid as her costs for the enrollment of those very troops so called into the service of the United States.

The day following the decision of the Secretary of War, to wit, February 9, 1887, and contrary to a practice usual in similar cases, said board of Army officers, instead of submitting one report to the Secretary of War, submitted two separate and independent reports, one signed by the majority of said board and the other in the nature of a minority report. These two reports are submitted herewith, and printed in the Appendix, marked Exhibits Nos. 15, 16, and 17, pages 89 to 90.

The total of this particular claim of the State of Nevada so presented to said board amounted to \$349,697.49. The amount thereof that was allowed in said minority report was only \$8,559.61. This minority report was approved by the Secretary of War, thereby disallowing or suspending all of Nevada's claim except the paltry sum of about 2½ per cent. of the money actually expended by Nevada for troops called into the service of the United States and at the urgent solicitation of the Government of the United States in its hour of need, while this same board allowed nearly \$1,000,000 of the claim of Texas, to wit, \$927,242.30, being about 50 per cent. of the claim of that State of \$1,867,259.13, as presented for re-imbursement for the expenses of her Indian wars, which occurred since the rebellion, and prosecuted chiefly, if not solely, for the protection of the inhabitants of the State of Texas. It is worthy of remark that no minority report was submitted in the case of Texas.

It will be observed by a perusal of the reports of the board of war claims examiners that the great mass of this claim of the State of Nevada for re-imbursement for moneys, expended under very extraordinary circumstances, was rejected by the board of examiners on either purely technical grounds or for an alleged want of jurisdiction to make an award under what has since been admitted and found to be the most restrictive act that was ever drawn since 1789 intended as an "act of relief."

*Only \$8,559.61 was finally awarded to Nevada by the Secretary of War.*

The want of specific information on the part of the officer making the minority report which reduced the amount of the claim to the sum named may be shown in part by the mistakes made in reference to the statutes of Nevada, which are in several public libraries here, and could have been easily examined. For example, he seems to have inferred that the act of the Nevada legislature of March 4, 1865, was the first act of the Territory providing for the organization of its militia, whereas, as we have already shown, there was an elaborate act for that purpose passed by the Territorial legislature as early as November 28, 1861, and apparently on the assumption that there was no law creating the office of adjutant-general prior to 1865, and upon the fact that no evidence was furnished that Nevada previous to April 2, 1863, had soldiers, that therefore the salary of that officer ought not to commence prior to the time when the volunteers were actually called for service into the Army. But it will be observed that he was mistaken as to the time the law was passed creating the office of adjutant-general. The second section of the act of November 28, 1861, provides that—

The adjutant-general shall be appointed by the commander-in-chief, and shall hold his office for the term of two years. He shall be *ex officio* chief of staff, quartermaster-general, commissary-general, inspector-general, and chief of ordnance. He shall receive a salary of \$1,000 annually, to be paid out of moneys appropriated for that purpose. He shall reside at the seat of government, and shall keep his office open for the transaction of business every day (Sundays excepted) from 10 o'clock a. m. to 3 o'clock p. m.

The minority examiner is again mistaken if he assumed that the secretary of state of Nevada became *ex officio* adjutant-general on March 3, 1866. It is true that an act devolving the duties of adjutant-general upon the secretary of state was passed on that date, but the second section of said act provides that—

This act shall take effect and be in force from and after the first day of January, 1867 (Stats. Nev., 1866, p. 206).

Thus it appears that the secretary of state did not in fact or in law become *ex officio* adjutant-general until January 1, 1867. The original section of the militia law of 1861 in regard to the office of adjutant-general was afterward amended, changing the length of time that officer was to hold office and increasing his salary to \$2,000 per annum, but the abolishment of the office did not take effect until January, 1867.

#### PROBABLY CONFOUNDING THE ACT OF JUNE 27, 1882, WITH THE ACT OF JULY 27, 1861.

The minority examiner in terminating the salary of adjutant-general on August 20, 1866, undoubtedly had in mind the act of July 27, 1861, and not the act of June 27, 1882, under which last act alone said board was authorized to make an examination and award; otherwise he would not have limited the salary to August 20, 1866, the end of the war of the rebellion, as heretofore officially declared, but would have certainly al-

lowed Nevada a re-imbursement for the money actually paid by her as salary to that officer until his services terminated, and the Indian wars on the plains were actually suppressed and the office of adjutant-general abolished, which was done on December 31, 1866, since which time either the secretary of state or lieutenant-governor has acted as *ex officio* adjutant-general.

Attention is called to these discrepancies simply to show that the minority examiner apparently fell into error, unintentionally, of course, in his examination of the statutes of Nevada, or failed to consider all the circumstances under which this claim of the State arose. The majority of the board who made the same award and allowance as the minority, with the exception of \$1,233.50 for salary of adjutant-general prior to the time when the troops were mustered in the service, made a very thorough examination of all the vouchers showing each item of expenditure made by the State, and this examination may be assumed as correct and as establishing the fact that the State expended all the moneys for which this claim is made, leaving the question as to the liability of the Government to re-imburse the State to the discretion of Congress. There is but one item stated in the account by the board of examiners which appears to have been charged by mistake. It was undoubtedly paid by the State, but if the board are correct, it was such a palpable mistake of the State officers that the State ought to lose it. It was a double charge for rent, amounting to \$38.33. This amount, together with the \$8,559.61 allowed by the minority of the board of examiners, and already paid to the State, making a total of \$8,597.94, should be deducted from the claim now presented by the State. The State, however, should have the benefit of the fact that no other error in the accounts was discovered. All the other disallowed claims were rejected, not because the State did not pay the money, but because the board of examiners thought they were not authorized to allow the same under the act of June 27, 1882. We print in the appendix, Exhibit No. 17, page 92, the table accompanying report of the majority of the board of war claims examiners showing the amounts allowed and disallowed, together with the reasons therefor.

The question is now presented in this case whether it is the duty of the Government to re-imburse the State for moneys honestly expended, at the request of the United States, under circumstances which rendered it impossible for the Territory and State of Nevada to comply with such request without making the expenditures in question. It must be conceded that if the State or Territory made larger expenditures than would have been required to secure like services in any other section of the country, the services secured by these expenditures at the time, place, and under the circumstances were a necessity and could not have been furnished by the State on more favorable terms, and it seems that the State and Territory did not make any expenditure that appeared at the time unnecessary.

WHAT NEVADA THOUGHT WAS INTENDED BY CONGRESS TO BE AN ACT FOR HER RELIEF AND BENEFIT IS NOW FOUND TO BE AN ACT "SO WELL AND CAREFULLY AND CLOSELY GUARDED" BY RESTRICTIONS THAT WHEN CONSTRUED BY THOSE CALLED UPON TO EXECUTE IT, IS FOUND TO BE INOPERATIVE AS A RELIEF MEASURE, AND A PRACTICAL DENIAL OF JUSTICE.

We fully concur with the officer who made the minority report, that "the restrictions imposed in the second section of the act of June 27,

1882, have been complied with as far as was possible," whatever question there may be as to his complying with the provisions of the act itself. The argument that the Government might have bought supplies cheaper under its contract system than were furnished in Nevada is one which your committee are unwilling to urge under the circumstances. The Government was not situated so as to obtain troops or supplies by contract or otherwise, but was compelled to call upon the Territory to furnish both troops and supplies. All prices of all supplies, and also of all services, at that time in Nevada were on a gold basis, and coin was the only circulating medium. The roads over the mountains were blocked by snow and no considerable amount of supplies could be transported over them. The supplies in the Territory had been carried there during the previous summer for the use of the inhabitants, and the troops had to be furnished from the limited stock of individuals found in the Territory, and at a moment's notice. The Government could not wait to advertise. The overland mail route was closed and immediate action was required. The cheapest, most effective, and in fact the only immediate relief that could be had was furnished by the militia and volunteer troops of Nevada, who, leaving their workshops and employments of every character, and the high wages for their services, were organized and marched immediately in the direction of Salt Lake City to open the mail and emigrant route. They subsequently joined General Conner's forces from California, subdued the Indians, fortified Camp Douglas, overlooking Salt Lake City, and were in the field, subject to call, to go wherever ordered or needed.

PAYMENT BY THE UNITED STATES OF ABOUT 2½ PER CENT. OF THIS CLAIM ON ACCOUNT IS NOT A VALID BASIS FOR THE UNITED STATES TO REPUDIATE THE BALANCE THEREOF, OR TO REFUSE TO PAY THE SAME, AND SHOULD NOT, IN GOOD CONSCIENCE, BE EVER PLEADED BY AN HONEST DEBTOR, FOR WHOSE RELIEF AND AT WHOSE URGENT SOLICITATION SUCH DEBT WAS INCURRED.

The fact that a small fraction only of this claim has been allowed and paid on account, to wit, about 2½ per cent., and the great bulk thereof rejected for want of jurisdiction only, is no valid objection to an authorization by Congress for the payment of what is honestly due the State of Nevada, and for this there are numerous precedents, some of which are cited in the appendix in Exhibit No. 18, pages 96 to 98.

"INTEREST" PAID IN THIS CASE BY NEVADA IS IN REALITY, IN JUSTICE, IN REASON, AND IN LAW A PROPER PART OF THE DEBT DUE NEVADA BY THE UNITED STATES, THE PAYMENT OF WHICH, TOGETHER WITH THAT OF THE PRINCIPAL IS NECESSARY TO A COMPLETE INDEMNITY.

The embarrassments under which Nevada paid the principal of the money involved in this claim is shown by the enormous rates of interest which the Territory and State were compelled to pay in order to raise money to fully comply with these calls and requisitions made for troops and as hereinbefore recited. The rates of interest which were actually paid by Nevada are shown by the official statement of her controller and as furnished to the Secretary of the Treasury and the Secretary of War, as before stated, as follows:

**ABSTRACT G.**—*Showing the amount actually paid by the State of Nevada and as successor to the Territory of Nevada on account of interest money on disbursements and liabilities for Nevada volunteers in the service of the United States, and employed in the defense of the United States during the war of the rebellion.*

	Amount.
First—Interest paid on \$46,950.12 from February 10, 1865, to March 3, 1866, at 2 per cent. per month [See acts legislature of Nevada for 1864-'65, page 82, act January 4, 1865.]	\$11, 925. 33
Second—Interest paid on \$46,950.12 from March 3, 1866, to May 30, 1867, at 15 per cent. per annum [See acts legislature of Nevada for 1866, page 47, act January 19, 1866.]	8,744. 46
Third—Interest paid on \$119,800.12 from May 30, 1867, to March 28, 1872, at 15 per cent. per annum [See acts legislature of Nevada for 1867, pages 50 and 65, act February 6, 1867.]	86, 755. 25
Fourth—Interest paid on \$119,800.12 from March 28, 1872, to January 1, 1883, at 9½ per cent. per annum [See acts legislature of Nevada for 1871, page 84, act February 27, 1871.]	122, 472. 33
	229, 897. 37

Your committee, however, deem it unwise to establish a precedent under any circumstances, however extraordinary, and they admit that the recitals in support of this claim render it one extraordinary in character, of refunding interest to the full extent as paid by the Territory and State of Nevada, and as shown by the foregoing statement. The legal rate of interest of the Territory and State of Nevada was, at all the times herein stated, 10 per cent. per annum where no different rate was fixed by contract.

Your committee therefore do not feel warranted in recommending re-imbursing the State of Nevada for a higher rate of interest than the legal rate fixed by her own statutes during the period of time in which these disbursements were made, and including the period up to the date of the re-imbursement of the principal by the United States, and for that reason they have incorporated in this bill, herewith reported, a provision that the aggregate of interest accruing to Nevada between the date of the expenditure by her of the principal and of the date of the re-imbursement of such principal by the United States shall not exceed the actual amount of interest paid by the State and Territory, nor the amount of interest which would accrue to her on said principal if interest thereon were calculated during said period at the legal rate as established by the statutes of the Territory and State of Nevada. In support of the proposition that interest and principal are simply but two elements of one and the same unit and constituting a complete indemnity, your committee cite Senate Report 1069, made by Senator Spooner during the first session of the Forty-ninth Congress from the Committee on Claims (see appendix, Exhibit No. 19, pages 98 to 109.)

**PRECEDENTS FOR THE PAYMENT TO STATES OF INTEREST ON THE PRINCIPAL BY THEM EXPENDED FOR THE USE AND BENEFIT OF THE UNITED STATES UNDER SIMILAR CIRCUMSTANCES.**

The United States has in all cases, where the question has been properly presented, re-imbursed States for interest paid by such States on moneys by them borrowed and expended for the purpose of either enrolling, subsisting, clothing, supplying, arming, equipping, paying, furnishing, or transporting volunteer and militia forces called into the service of the United States. If it be suggested that the bill under consideration providing for the payment of both principal and interest is against precedent, we answer that, in the opinion of your committee, it is the better

practice to deal with a case in its entirety in a single act, and your committee state that there are abundant precedents for this practice, some of which your committee cite in the appendix, Exhibit 20 on page 109.

We call particular attention to the precedents collected in the appendix, authorizing the payment of claims of States for interest on moneys by them expended for the use and benefit of the United States (see appendix, Exhibits Nos. 18, 19, 20, and 21, pages 96 to 149).

In addition to the authorities cited in the appendix in support of Nevada's claim for interest, your committee also refer to the case before the Second Comptroller of the Treasury in 1869, in which that officer made the following decision:

Interest can in no case be allowed by the accounting officer upon claims against the Government either in favor of a State or an individual. But in cases where the claimant has been compelled to pay interest for the benefit of the Government, it then becomes a part of the principal of his claim, and as such is allowable. Such is the case of a State which has been obliged to raise money upon interest for the suppression of hostilities against which the United States should protect her. In such cases the amount of interest actually and necessarily paid will be allowed, without reference to the rate of it (section 997, Dec. 2, Comp. Ed. 1869, p. 137).

This ruling is in harmony with a long line of precedents established by Congress, beginning in 1812, and printed in the appendix hereto attached and marked Exhibit Nos. 18 to 21, inclusive, pages 96 to 145.

In addition to the foregoing, your committee cite in support of Nevada's claim for interest the following, to wit:

1. Forty-eighth Congress, first session, House Report No. 1670, from Committee on Judiciary (see appendix, Exhibit 21, page 112).
2. Forty-eighth Congress, second session, House Report No. 1102, from Committee on War Claims (published in Exhibit No. 14, page 86).
3. Forty-ninth Congress, first session, Senate Report No. 183, from the Committee on Military Affairs (see appendix, Exhibit 21, page 135).
4. Forty-ninth Congress, first session, Senate Report No. 2, from the Committee on Claims (published in Exhibit No. 14, page 85).
5. Forty-ninth Congress, first session, House Report No. 303, from Committee on Claims (see appendix, Exhibit 21, page 119).
6. Forty-ninth Congress, first session, House Report No. 3126, from Committee on Claims (see appendix, Exhibit 21, page 120).
7. Fiftieth Congress, first session, Senate Report No. 518, from the Committee on Military Affairs (see appendix, Exhibit 21, page 138).
8. Fiftieth Congress, first session, House Report No. 309, from the Committee on War Claims (see appendix, Exhibit 21, page 137).
9. Fiftieth Congress, first session, House Report No. 1179, from the Committee on Claims (see appendix, Exhibit 21, page 145).
10. Fiftieth Congress, first session, House Report No. 2198, from the Committee on War Claims (see appendix, Exhibit 21, page 144).

The precedents cited or referred to in the appendix herewith abundantly establish the fact that the United States has paid the claims of States incurred under circumstances such as those in which Nevada ex-

pended her money for the benefit of the United States, and that in all cases properly presented to Congress, where the States were compelled to borrow money and pay interest thereon and expended the same for the use and benefit of the United States, that either at the time of providing payment for the principal or subsequently the United States has invariably assumed and paid such interest.

As before stated, the claim of the State of Nevada, provided for in this bill, has been thoroughly examined by a board of Army officers appointed for that purpose. The evidence upon which this claim was founded was submitted to said board, and the evidences of payment found by them to be correct; but said board of war-claims examiners, while finding these facts, did not, under the very restrictive and prohibitory provisions and conditions of the acts of June 27, 1882, and August 4, 1886, recommend an award to Nevada of the amount of money which they found that Nevada had actually expended for the use and benefit of the United States and in the manner as set forth in the claim as presented by Nevada for the examination of and allowance by the Treasury and War Departments; and under the terms of these acts, as construed and declared by the Secretary of War, the proper accounting officers of the Treasury could not allow Nevada any sum, either as principal or interest, not allowed by the War Department as assisted by said Army board of war-claims examiners.

#### COST OF TRANSPORTATION OF ARMY SUPPLIES FROM FORT LEAVENWORTH WESTWARD IN 1864-'66.

It is evident that the supplies and services furnished could not at the times and places have been obtained on more reasonable terms. And in support of this statement your committee refer to the report of the Secretary of War made during that period, and in reference to a region of country much more favorably situated than was even Nevada at that time, to wit:

The troops operating on the great western plains and in the mountain regions of New Mexico, Colorado, Utah, and Idaho are supplied principally by the trains of the Quartermaster's Department from depots established on the great routes of overland travel, to which depots supplies are conveyed by contract.

Travelers by the stage from Denver to Fort Leavenworth, a distance of 683 miles, in the month of July, 1865, were never out of sight of wagons trains belonging either to emigrants or to the merchants who transport supplies for the War Department, for the Indian Department, and for the miners and settlers of the central Territories.

The cost of transportation of a pound of corn, hay, clothing, subsistence, lumber, or any other necessary from Fort Leavenworth—

To Fort Riley is.....	\$0. 0244
To Fort Union, the depot for New Mexico .....	. 1425
To Santa Fé, N. Mex.....	. 1635
To Fort Kearny.....	. 0644
To Fort Laramie.....	. 1410
To Denver City, Colo.....	. 1542
To Salt Lake City, Utah.....	. 2784

The cost of a bushel of corn purchased at Fort Leavenworth and delivered at each of these points was as follows:

Fort Riley.....	\$2. 79
Fort Union .....	9. 44
Santa Fé .....	10. 84
Fort Kearny.....	5. 03
Fort Laramie.....	9. 26
Denver City .....	10. 05
Great Salt Lake City.....	17. 00

(Secretary of War's report, 1865-'66, part 1, pages 23 and 112; also see General Halleck to Adjutant-General, and General McDowell to Adjutant-General U. S. Army, report of Secretary of War, October 18, 1866, pages 31 and 32.)

This table is cited to show the costs of maintaining troops in that section of the country, and also to show the comparative costs of furnishing troops and supplies in Nevada and the points immediately east thereof during the periods of time involved herein.

The details concerning the peculiar and difficult and expensive service on the plains and mountains by the troops doing military service, similar in all respects to those performed by these Nevada volunteers, are fully set forth in the report of the Secretary of War respecting the protection of the overland mail and emigrant route to the Pacific from the molestations and depredations by hostile Indians, and set forth in Ex. Docs. Nos. 9 to 24, second session Thirty-ninth Congress, 1866-'67.

#### CONCLUSIONS AND RECOMMENDATIONS.

Nevada has not demanded a bounty, nor presented a claim against the United States for re-imbursement of any expenditure she did not in good faith actually make for the use and benefit of the United States, and made, too, only subsequent to the date of the aforesaid appeal of Secretary Seward to the nation, and made, too, in consequence of said appeal and of the subsequent calls and requisitions made upon her then scanty resources and sparse population, and wherein the good faith of the United States was to be relied upon to make to her ungrudgingly a just re-imbursement whenever the United States found itself in a condition to redeem all its obligations.

Nevada has been diligent in making her claim known to Congress, but she has not with an indecorous speed demanded her pound of flesh, but has waited long and patiently, believing upon the principle that the higher obligations between States, like those among men, are not always "set down in writing, signed and sealed in the form of a bond, but reside rather in honor," and that the obligation of the United States due her in this case was as sacred as if it had originally been in the form of a 4 per cent. United States bond, now being redeemed by the United States at \$1.27 upon each \$1 of this particular form of its unpaid obligations.

Nevada has not solicited any charity in this case, but, on the contrary, by numerous petitions and memorials she has respectfully represented to Congress why the taxes heretofore levied upon her people and paid out of her own treasury to her volunteer troops in gold and silver coin to aid the United States at its own solicitation to protect itself and maintain the general welfare should be now returned to her by the General Government.

Congress should not forget that during the long period of the nation's peril the citizens of Nevada, like those of California (when not engaged in the military or naval service of the United States) not only guarded the principal gold and silver mines of the country then discovered, and prevented them from falling into the hands of the public enemy, but also worked them so profitably for the general welfare as to enable the United States to make it possible to resume specie payment, and to redeem its bonds at 27 per cent. above par, and to repay all its money-lenders at a high rate of interest, and that, too, not in the depreciated currency with which it paid Nevada's volunteer troops, but in gold coin of standard value.

As these expenditures were honestly made by the Territory and State of Nevada, your committee do not think that, under all the peculiar and exceptional circumstances of this case, the action of the Territory and State of Nevada should be hewn too nicely or too hypercritically by the United States at this late date. These expenditures were

all made in perfect good faith and for patriotic purposes, and secured effectual aid to the United States which otherwise could not have been obtained without a much larger expenditure. The State of Nevada in good faith assumed and paid all the obligations of the Territory of Nevada to aid the United States, and issued and sold its own bonds for their payment, upon which bonds it has paid interest until the present time. The only question now for consideration is, shall the United States in equal good faith and under all the circumstances herein recited relieve the State of Nevada from this obligation, or shall the United States insist and require it to be paid by the people of that State alone?

#### CALIFORNIA.

The total amount paid by California, as shown by said report of said war claims examiners, is \$4,420,891.96. Of this amount \$1,500,545.86 was interest, and \$468,976.54 was expended on account of militia. Deducting these amounts and we have the expenditure of California, excluding interest and expenses of militia, \$2,451,369.56.

#### OREGON.

The total amount paid by Oregon, as shown by said report of said war claims examiners, is \$356,271.61. Of this amount \$110,626.35 was interest, and \$21,118.73 was expended on account of militia. Deducting these amounts and we have the expenditure of Oregon, excluding interest and expenses of militia, of \$224,526.53.

#### NEVADA.

The total amount paid by Nevada as principal and interest, as shown by said report of said war claims examiners, is \$404,040.70.

With these amendments your committee therefore recommend the passage of this bill, which, so amended, is as follows, to-wit:

---

A BILL to re-imburse the States of California, Oregon, and Nevada for moneys by them expended in the suppression of the rebellion.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sums hereinafter mentioned to re-imburse and to be paid to the States of California, Oregon, and Nevada for moneys by them expended in aid of the United States in the war of the rebellion, to wit:

To the State of California, the sum of two million four hundred and fifty-one thousand three hundred and sixty-nine dollars and fifty-six cents.

To the State of Oregon, the sum of two hundred and twenty-four thousand five hundred and twenty-six dollars and fifty-three cents.

To the State of Nevada, the sum of four hundred and four thousand forty dollars and seventy cents, being the sums of money shown by the reports of the Secretary of War to have been paid by said States in the suppression of the rebellion.

○