

JOHN CHARLES FREMONT.

[To accompany bill H. R. No. 474.]

JULY 14, 1854.

Mr. ORR, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the memorial of John Charles Fremont, praying payment for beef cattle furnished by him to G. W. Barbour, United States Indian commissioner, for the use and subsistence of the Indians in California, report:

That by an act of Congress, passed 30th September, 1850, the President was authorized to appoint "commissioners to hold treaties with the various Indian tribes in the State of California." He exercised the authority confided to him by appointing three commissioners, Messrs. McKee, Barbour, and Wozencraft. They arrived in California to enter upon their duties about the 1st of January, 1851. The instructions which they received from the Indian department, at Washington, were very general in their terms, and the negotiations to be made with the Indians were, in a great measure, committed to the *discretion* of the commissioners themselves. Under date of the 15th of October, 1850, the acting Commissioner of Indian Affairs says: "The board will convene, and after obtaining whatever light may be within its reach, will determine upon some rule of action which will be most efficient in attaining the desired object, which is, by all possible means, to conciliate the good feelings of the Indians, and get them to ratify those feelings by entering into written treaties with them. You will be able to judge whether it will be best for you to act in a body or separately, in different parts of the Indian country." And subsequently, Commissioner Lea says: "What particular negotiations may be required, it is impossible for this office to foresee; nor can it give any specific directions on the subject; much must be left to the discretion of those to whom the business is immediately intrusted." These extracts, with many others that might be quoted, show that the largest discretion was confided to the commissioners, individually and collectively, in supervising Indian affairs in California, and negotiating treaties with the numerous tribes in that State.

On their arrival in California, the commissioners learned that a general Indian war had commenced about the first of December, and that its course was marked by extreme cruelty and destruction of life and

property, in the valleys of the San Joaquin and Tulare rivers. The troops of the United States, who had not deserted the army for the gold fields, were in small detachments and wholly inadequate to the task of conquering and subduing the hostile savages. The State authorities had ordered out the militia to aid in suppressing the Indians, and the commissioners at once proceeded to the theatre of the war for the purpose of opening negotiations and restoring peace.

These negotiations were not likely to terminate in the restoration of peace, unless the cause of hostilities should be removed. What was the cause which led to the outbreak? It was hunger and starvation which drove them first to rob, and afterwards murder. The rapid influx of miners into the San Joaquin valley and its tributaries, which was Indian country, and the lawless character of many of these adventurers, had driven the Indians back into the mountains, where there were no means of sustenance; they then began driving off the horses and cattle of the miners, which provoked the whites, who retaliated by destroying the stores of actors collected, and which, with a few fish, taken on the streams from which the Indians had been expelled, furnished their only subsistence. So general did the war become, and so formidable were the Indians, that the operations of the miners were seriously impeded, and in some localities entirely suspended. The starving condition of the Indians is attested by Captain Day, of the United States army, and by other highly intelligent citizens. Another reason why the Indians commenced hostilities is, they found their own land and country suddenly filled up by trespassers, who appropriated the same to their own uses, without permission or consideration. Could any people have had better cause of war than these Indians? First, expulsion from their own homes; and second, the destruction, by the whites, of the only food which they could rely upon to live for the year.

It was desirable that peace should be restored, and that the miners should be allowed to retain and work the "rich diggings;" that the Indians should remove from the gold region, and settle in some locality less productive of the precious metals; and, above all, that the gnawings of hunger should be appeased, before any hope of permanent peace could be cherished. The sequel will show that the commissioners sought to attain these results with enlightened humanity and a wise discretion. They negotiated treaties with twenty-one tribes, stipulating for the surrender by the Indians of the rich gold-bearing regions, their removal and permanent settlement on reservations of land of little mineral value, and an immediate allowance of such quantities of beef to them as would sustain life during the remainder of the year 1851 and for the year 1852. These treaties, however, did not embrace all the hostile tribes in that part of the State; but the presence of commissioners being considered necessary in other parts of the State, where the Indians were committing depredations, in a few days after their negotiations, they (early in May) divided the State into three districts, and one commissioner was assigned to each district. This they had the authority to do, from the extract already quoted from the Indian department at Washington. The southern district fell by lot to G. W. Barbour, esq.; and, during the months of May and June, he concluded treaties similar to those negotiated by the board with some thirty-five

additional tribes residing on the San Joaquin, Fresno, Mercede, Tuolumne, Stanislaus, King, and Fearn rivers.

By these treaties, peace was restored, and the Indian title to an immense tract of country, embracing not less than eighty thousand square miles, was extinguished.

The miners resumed their labors, and their monthly earnings of millions of dollars demonstrated how important had been the services of Barbour in restoring peace.

It is conceded by all who were familiar with the transaction, that the treaties could not have been negotiated, or if negotiated, their provisions would not have been observed, but for the stipulation in each treaty to furnish *immediately* a sufficient quantity of food to save them from starvation. The Indian department at Washington sympathized fully in the views of the commissioners in California. In acknowledging the receipt of a copy of the first treaty, Commissioner Lea says: "The department fully appreciates the difficulties with which you have had to contend in executing the important trust confided to you, and is highly gratified with the results you have thus far achieved, especially with your energy and despatch in procuring a location for the several tribes of Indians, and promptly removing them to it. The provisions of the treaty, a copy of which is acknowledged, are approved of," &c.

The peace has been permanent with most of these tribes; the food they received under the treaties removed the causes of the war, and it ceased. The State authorities of California were enabled at once to remove and disband the State troops which she had been maintaining at an onerous cost.

The honorables Messrs. Weller, Gwin, McDougall, and Latham, in a letter to the chairman of this committee, which is hereto appended, say: "These supplies were intended for the support of the Indians in the San Joaquin valley, where, at this time, the State was maintaining a battalion in active service against the Indians, in addition to the government force employed in the same district. This supply of food contributed largely towards putting a stop to the war, and opening the country to the miners. Throughout all this section, extending southward from the Stanislaus river about two hundred and fifty miles, and occupied by many tribes of Indians, peace has been uninterrupted since the period in question, when they were furnished with food."

Commissioner Barbour, to execute the stipulations of the treaties, made a contract with Colonel J. C. Fremont to furnish the requisite amount of beef. This contract, however, was not concluded until the commissioner ascertained that Fremont's proposals were the lowest of all those offered. There was no express authority of law to make the contract, and yet the general authority with which he was clothed to treat, coupled with the emergencies of the occasion, fully justified him in assuming that the legislative and executive departments would sanction his purchase, which was to terminate the war, and save the Indians from perishing. The emergency was too pressing for him to await instructions from the department, or for the Congress to meet and make the necessary appropriation, and your committee believe that the government should recognise the act of this agent, when it is manifest that he acted in good faith, and as most humane, discreet men

would have done under similar circumstances. The liability was incurred before the treaties were submitted to the Senate, and yet it was not for the personal benefit of the agent. The government derived great benefit from the purchase; it secured our citizens in the unmolested enjoyment of the rich "gold diggings," and it saved from ruin and death the Indians whom our citizens had despoiled of their homes, and destroyed their only means of subsistence. Having derived all these advantages from the purchase which made this liability, would it be generous or just to one of our agents or citizens to refuse its payment, because an appropriation had not been previously made? Or will it be pretended, if Congress had been in session at the time and had been made fully acquainted with the emergency, that it would have refused the appropriation?

It would be unjust to our national reputation to suppose that the Congress would have allowed those Indians to perish from hunger after our own citizens had despoiled them. It was cheaper to feed than fight these starving savages, and the food furnished by Barbour was better economy than to have maintained battalions and regiments to subdue the Indians. Was Barbour trustworthy? for upon this, in a measure, depends the answer to the question whether he acted in good faith, and from a laudable desire to advance the interests of the public. Your committee attached so much consequence to this point in the case, that they sought, by inquiries directed to persons who were acquainted with him, for information which would enable them to speak positively upon that subject.

Letters hereto appended from the Hon. Archibald Dixon, senator, and from Hon. William Preston, and other representatives from the State of Kentucky, contain the fullest endorsement of agent Barbour's integrity and trustworthiness. In one of Barbour's despatches to the department he says: "The commissioners, urged by the calls of humanity, and the voice of the whole country, could do nothing less than agree to *furnish provisions* stipulated in the different treaties." Again he says: "After consulting with some of the officers (U. S.) in command of the escort, and reflecting on what had been done, and knowing as well as I did the necessity for something to be done to secure the peace of the country, and save not only the lives and property of the citizens, but the Indians, from destruction, I determined to make a conditional contract with Col. Fremont." In a letter to Fremont, he says: "I have had many proposals offered me to furnish such supplies; but regarding your offer as the lowest and best of any yet made by a responsible man, and believing, as I do, that your offer is a fair one, I have concluded to close with your proposition," &c.

The contract with Fremont was, that he should furnish beef at fifteen cents per pound, for the use of the Indians, and to comply with the stipulations of the treaties. The price was *reasonable* at that time and place; this fact is fully established. Colonel Fremont purchased a large number of beef-cattle in the southern part of the State, and hired drivers at a heavy cost to drive them to the designated place. The cattle were drove upwards of three hundred miles in the heat of summer—in the dry season—at great labor and exposure, and some four hundred head were lost or died on the route. He delivered to agent

Barbour, and took his receipts therefor, one million two hundred and twenty-five thousand five hundred pounds of beef on the hoof, (1,225,500 lbs.) and accepted in payment drafts drawn by agent Barbour on the Secretary of the Interior, amounting to one hundred and eighty-three thousand eight hundred and twenty-five dollars, (\$183,825.) These drafts were protested on presentation; no appropriation having been made by Congress from which they could be paid.

Subsequently the treaties were rejected by the Senate, for reasons which have not yet been made public, and the Indians of California have been driven from their lands and homes, and have received no compensation from the government, save the beef furnished them by Col. Fremont, and which he now asks the government to pay him for. The beef went into the hands of the agents of the government: whether it was all faithfully distributed among the Indians by the sub-agents, is not a question that is to affect the justice and equity of the claim of Colonel Fremont. He furnished the agents of the government with a large quantity of beef. Most, if not all of it, was used in feeding the Indians; it was furnished to comply with treaty stipulations; it stopped the war and restored peace to the country; and will the government now shield itself from the payment of this claim and devolve a ruinous loss upon *one* of its own citizens, upon the technical pretext that the agent had no specific authority to make the contract? We have received the advantages and benefits of the contract, and your committee believe that it is just that we should pay for it. They accordingly report a bill for the amount, and recommend the payment of interest at the rate of ten per cent. (California interest.)

WASHINGTON CITY, June 30.

SIR: In reply to your inquiry as to the condition of the Indians in California at the time of the arrival there of the Indian commissioners sent to negotiate treaties, in 1851, we have to say, that in the spring of 1851, the time referred to in the inquiry, the Indians generally throughout the State were at war with the whites.

The gold fields comprehended the heart of the Indian country, and their sudden occupation by the whites deprived the Indians abruptly of all their ordinary means of subsistence. This state of starvation drove the Indians into acts of aggression, and brought on a general frontier war, attended with great loss of property and life, and characterized by the usual Indian barbarities.

The first measure adopted by the commissioners was to furnish the Indians with food, and stop the war by removing its cause.

The undersigned are acquainted, as a matter of general notoriety, with the fact that supplies of cattle for this purpose were furnished by Col. Fremont to the commissioner for the southern district, Colonel Barbour. These supplies were intended for the support of the Indians in the San Joaquin valley, where at this time the State was maintaining a battalion in active service against the Indians, in addition to the government force employed in the same district. This supply of food contributed largely towards putting a stop to the war, and opening the country to the labor of the miners.

Throughout all this section, extending southward from the Stanislaus river about two hundred and fifty miles, and occupied by many tribes of Indians, peace has been uninterrupted since the period in question, when they were furnished with food. On the contrary, the north and northwestern frontiers, as shown by the journals of the day, have been constantly engaged in hostilities with the Indians, frequent robberies and murders on the part of the Indians provoking the whites to severe retaliation, and rendering frequent expeditions necessary, which have cost the State more than a million of dollars.

JOHN B. WELLER.
W. M. GWIN.
J. A. M'DOUGALL.
MILTON S. LATHAM.

To the CHAIRMAN
of the Committee on Indian Affairs, House of Representatives.

HOUSE OF REPRESENTATIVES, July 1, 1854.

SIR: You have requested me to state whether I am acquainted with Colonel George W. Barbour, of Kentucky, and his general reputation, as necessary in the consideration of a claim before you.

I have known Colonel Barbour for many years. He is a lawyer of eminence in the southern portion of Kentucky, and has filled important and responsible places in the State. He has been in the legislature and Senate of Kentucky, and has been employed in other offices of trust and importance. His character as a gentleman and man of integrity stands as high as that of any person in the circle of my acquaintance. It affords me pleasure to state that, in point of ability, integrity, and force of character, I esteem him one of the most worthy and distinguished citizens of the State.

I have the honor to remain, very respectfully, your obedient servant,
W. PRESTON.

Hon. Mr. ORR,
Chairman Com. Indian Affairs, House of Reps.

SENATE CHAMBER, July 1, 1854.

SIR: In reply to your request, relative to my knowledge of the character and standing of George W. Barbour, of Kentucky, I would state that I am personally and intimately acquainted with him. We have practised law in the same courts, and I know his standing as a gentleman and man of honor and integrity is very high, and as a lawyer and citizen of worth and intelligence, he occupies a very prominent position in Kentucky.

I have the honor to remain, very respectfully, yours, &c.,
ARCHD. DIXON,

Hon. Mr. ORR,
Chairman Com. Indian Affairs, House of Reps.

HOUSE OF REPRESENTATIVES, *July 13, 1854.*

DEAR SIR: In pursuance of a conversation with you as chairman of Committee on Indian Affairs, I have to state that I have known George W. Barbour, late agent of the United States government in California, for a number of years—that I have served with him in the Kentucky legislature—that I have known him by reputation longer than I have known him personally—and that I consider him a gentleman of perfect honor and integrity, and such I believe is his reputation wherever he is known.

Yours, truly,

JOHN C. BRECKINRIDGE.

HON. JAS. L. ORR,

House of Representatives.

SENATE CHAMBER, *July 13, 1854.*

DEAR SIR: In response to your inquiries about George W. Barbour, I have to say I know him, personally, but slightly. But his general character by reputation is unexceptionable. From unquestionable gentlemen, I have always understood his integrity, probity, intelligence, and general good character, highly, very highly spoken of, and I have no doubt he deserves such character.

Yours, &c.,

J. B. THOMPSON.

HON. J. L. ORR.

HOUSE OF REPRESENTATIVES,

Washington City, July 13, 1854.

DEAR SIR: I am personally well acquainted with Geo. W. Barbour, of Kentucky, and take pleasure in bearing testimony that he is a gentleman whose reputation is untarnished. Indeed he stands very high in his part of Kentucky, not only as a gentleman, but a politician; in other words, he is not only a *gentleman*, but an *intelligent gentleman*.

With high consideration, I am, &c.,

J. M. ELLIOTT.

HON. J. L. ORR.

WASHINGTON, *July 13.*

MR. ORR: Being informed that you wish to know the character of Mr. George W. Barbour, of southern Kentucky, I have no hesitation in saying that he is a reliable gentleman, and a leading man in said State.

Respectfully,

J. S. CHRISMAN.