

That the matters herein brought to the notice of your Excellency may be fully and in detail laid before you by a gentleman well informed and of reliable authority, I have commissioned Mr. P. Rodgers, Esq., a citizen of this State, well acquainted with our Indian relations and the character of our Indian enemies, on the part of this State, to make all proper representations and give all required information, and on the part of this State to aid in the execution of such measures (if any) as your Excellency may think proper to adopt for our relief.

I have the honor to be, with great respect, your obedient servant,
JOHN McDOUGAL.

To his Excellency MILLARD FILLMORE,
President of the United States.

No. 9.

WAR DEPARTMENT,
Washington, April 30, 1851.

SIR: Your Excellency's letter of the 1st ult., directed to the President, has, together with the documents accompanying the same, been referred to this Department, and I am directed to make the following reply.

The Department had already been apprized that the Indian tribes in California had recently manifested a more hostile attitude than they had hitherto exhibited, but all the information it has been able to procure in relation to these Indians, had induced a belief that they were neither as warlike in character, nor as numerous as your Excellency seems to consider them. It had been represented to the Department, indeed, that the hostile disposition recently manifested by them was, in a great measure, provoked by encroachments of the white population on territory hitherto in their exclusive occupancy, and perhaps also by wrongs perpetrated on them by straggling parties who roam through the country in quest of gold. Hopes were entertained, therefore, that when the agents recently appointed to negotiate treaties with them shall have accomplished their mission and procured treaties, whereby fixed and determinate boundaries shall be assigned to their territory, that hostility which your Excellency considers as the necessary consequence of the two races being "brought into sudden and close contact" would be avoided. The President would be very reluctant to conclude that a state of perpetual war between the Indians and the white inhabitants of California is inevitable, and that the wise and humane policy by which the more warlike tribes on the eastern side of the continent are held in peaceable subjection, would be found impracticable on the Pacific.

Be that as it may, however, the Executive can only employ such means as Congress has placed at its disposal. As large a force is stationed in California as could be spared from other points where troops are more urgently necessary. If, as your Excellency states, this force has, in consequence of the frequent desertions, "been almost reduced to nothing" — that is an evil for which no adequate remedy has yet been found. Indeed, if the opinion expressed by your Excellency — an opinion as you say "derived from personal observation and experience," that, "no aid to be derived from the present military system of the United States will meet the present necessities of California; and further, that the regular troops of the

United States are unfit for a desultory Indian war to be carried on among the fastnesses of (your) our mountains" be correct, it matters little what number of troops of this description are sent there.

Your Excellency suggests that the militia of California alone are adapted to this warfare, and recommends that that description of force be substituted for regulars and that *authority be given to your Excellency to call out and organize the requisite number of troops*, the number to be determined by you, and to be called out as emergencies shall arise, to be disbanded by you immediately upon their services becoming unnecessary, and to be equipped, provisioned and paid by the general government.

The President does not feel authorized to adopt this suggestion. The laws confer upon him no power to authorize the Executive of the State to call out and organize the militia thereof at such times and in such numbers as such Executive may deem proper. The only law upon this subject is the act of 1795 which empowers him to call forth the militia of a State in such numbers as *he* (the President) may deem proper, "whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe."

Whether California can properly be said to be "in danger" of invasion from the Indians may admit of a doubt. But supposing such to be the fact, the only authority conferred on the President would be to call the militia into *the service of the United States*, in which event they would be subject to the articles of war and be entitled to receive only the pay of regular troops.

This is not what your Excellency proposes should be done.

In his last annual message, the President strongly urged upon Congress an augmentation of the military force of the country, with special reference to the protection of the frontier against the Indians. Congress did not adopt this suggestion, and it is understood that considerations of economy exercised no small influence on their determination. Indeed, considerations of this character weighed so strongly with them, that the appropriations for the support of the army as it now stands, were reduced much below the amount estimated by the department to be necessary. Experience has shown that volunteers are every where more expensive than regular troops, and there is reason to believe that the difference between them would be greater in California than elsewhere. Your Excellency is silent on this subject, but this department has learned from other sources entitled to credit, that the pay stipulated to be paid, both to the officers and men belonging to certain volunteer companies in California recently raised, by what authority I am not prepared to say, is exorbitant and beyond any thing ever known in this country. For these reasons the Executive would not feel justified in authorizing the calling out of the militia in the mode recommended by your Excellency. There are other objections to the plan. Is there not some reason to fear, if that plan were adopted, that in a population like that of California, where there are so many ardent young men, the love of adventure with some and the high pay with others, would operate as inducements to perpetual collisions with the Indians? Your Excellency can best determine whether there be any ground for this apprehension, but this department is not left entirely to conjecture on this point. Independently of its experience in other parts of the country, it has been informed that a partial and temporary adoption of the plan recommended by your Excellency has already produced these results in California. The President deems

it his duty to make these suggestions, not doubting that your Excellency will do all in your power, to prevent abuses as injurious to the State as they are revolting to humanity.

The demand made by your Excellency for the quota of arms to which California is entitled, has been anticipated. The act of 1808, which authorizes the distribution of arms among the States, appropriates an annual sum of two hundred thousand dollars "for the purpose of providing arms and military equipments for the whole body of the militia of the United States," and provides that "the arms shall be transmitted to the several States composing this Union and territories thereof, to each State and Territory respectively, in proportion to the number of the effective militia in each State and territory." A regulation of the department requires that the distribution shall be based upon actual returns required by the act of March 2d, 1803, to be made to the President by the Adjutant-General of the State of the number of the militia actually enrolled. In view, however, of the peculiar condition of California, and at the earnest solicitation of the Honorable Mr. Gwinn, the department determined to dispense with this condition in her case, and to assume that the number of her militia was one hundred thousand men, the number at which they were estimated by Mr. Gwinn, and as it now appears by your Excellency also. Directions were accordingly given that the quantity of arms equivalent to the proportion of California upon this estimate and of the description recommended by Mr. Gwinn, should be forthwith sent to San Francisco and delivered to your Excellency's order. The executive has no power to furnish arms to the several States, except that which is conferred by the above act.

The President directs me to assure you, that he has seen with pleasure, the rapid strides of California in all the elements of prosperity, and would regret exceedingly if any injury or inconvenience should result to her citizens for want of adequate protection against the Indians. While he is disposed, on his part, to exert all the powers vested in him to arrest these evils, they must bear in mind that every State in the Union has in time been exposed to them, and that in the case of California they are in some measure occasioned by the very rapidity of her advance.

Very respectfully your obd't servant,

C. M. CONRAD,
Secretary of War.

Scanned by KJD - 2009 To his Excellency JOHN McDUGAL,
Governor of California, San José, California.