36TH CONGRESS, 1st Session. } SENATE. { REP. COM. No. 66.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 20, 1860.—Ordered to be printed.

Mr. PUGH submitted the following

REPORT.

The Committee on Public Lands, to whom was referred the petition of Allen Gaylord and other citizens of the State of Ohio, in favor of granting bounty lands to the heirs of militia men killed in the Indian wars, and in the war of 1812, *with Great Britain, has considered the same, and ask leave now to report:*

The subject of granting bounty lands for military service is one which the committee has had frequent occasion to examine, and in regard to which the policy of the government ought by this time to have been clearly understood.

In the cases of certain revolutionary officers and soldiers, and of non-commissioned officers and soldiers in the war of 1812 and the Mexican war, lands were promised as part of the contract of enlistment or service; and, in such cases, the faith of the government having been pledged, this committee has constantly recommended the fulfillment of the promise so made. But, in other cases, where the government truly kept all its engagements with the officer or recruit, and where lands are asked as mere bounty for past services, the committee has felt itself constrained to adopt a definite and reasonable system. The principles of that system sufficiently appear in the act of March 3, 1855, (Statutes at Large, vol. 10, pp. 701, 702), and the supplementary act of May 14, 1856. (Statutes at Large, vol. 11, pp. 8, 9).

Often as the committee has reëxamined the subject, since those statutes, has it arrived at the conclusion, unanimously, that no extension of the system of bounty lands ought to be made. The particular request of the petitioners was the subject of a prolonged and able debate in the Senate, at the first session of the 34th Congress, and the result was its entire and absolute rejection by both Houses of that Congress, and by decisive majorities.

The committee does not care to enlarge upon the measure of gratitude due to the officers and soldiers who have defended the interests and the honor of the country against foreign nations or Indian tribes, but if such gratitude requires any further expression, by the government of the United States, a wise policy demands that appropriations of the public domain shall not be the form of expression or recognition.

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Already, the new States and the Territories are crippled by reason of the large tracts of unimproved lands within their respective limits, owned by non-residents; and this grievance inflicted on them, by the action of Congress, has now attained the utmost limit of toleration.

The committee adopts entirely the opinions of the Commissioner of Pensions, as expressed in his letter of February 1, 1860, herewith submitted, and recommends that the prayer of the petitioners be not granted.

PENSION OFFICE, *February* 1, 1860.

SIR: I have the honor to return herewith the petition of Allen Gaylord and others, which you left with me on yesterday, and in compliance with your request, to submit my views very briefly in reference thereto.

The prayer of the petitioners is for the enactment of a law granting bounty land to the *heirs-at-law* of deceased soldiers of the various Indian wars, since 1790, and that of 1812 with Great Britain. The existing legislation in this respect, being supposed to present an unjust distinction between those who served in the militia during said wars, and the soldiers who served in the war with Mexico.

It may be proper to state, in the first place, that it is an error to assume that the act of February 11, 1847, grants land "to the *heirs* of the soldiers who merely engaged to serve in the Mexican war." The law as to them, provides that in the event of the death of any such soldier "during *service*, or after his discharge," and before the issuing of the warrant, it shall enure, first, to his widow and children; second, to his father; third, to his mother; and fourth, to his brothers and sisters; but here it stops. The act of March 3, 1855, restricts the benefit of the gratuity granted to the soldiers of the war of 1812, and of the Indian wars since 1790 to the soldier, his widow, and such of his children as may have been under the age of twenty-one years at the time of its enactment. This constitutes the only difference between the acts referred to in respect to the recipients of their benefits. By reference to the provisions of these acts, it will be further seen, that to entitle any of the parties named in the act of 1847 to one hundred and sixty acres of land, the soldier must have served at least twelve months, a shorter period entitling him to only forty acres. On the other hand, a service of only fourteen days entitles the recipients of the gratuity provided by the government to one hundred and sixty acres, under the act of 1855. But a very marked distinction exists in the whole course of the legislation of Congress upon this subject, which so far from working injustice to the militia of our several wars, would seem strongly to savor of injustice to the soldiers of the Mexican war, and the enlisted soldiers of the war 1812. The act of 1847, and the several bounty-land laws passed immediately preceding and during the war of 1812, promised land in the nature of a *bounty* as in incentive to enlistment. The land thus promised, upon the fulfillment of the obligations of the soldier, became absolutely due, and as clearly earned as his pay, pro-

vided for by other laws. The grants of land to the militia, after the service had been rendered and paid for, by the acts of 1850, '52, '55, and '56, were, on the other hand, *pure gratuities*. Yet the soldiers of the regular army who had received land in virtue of *obligations voluntarily entered into by the government, prior to their enlistment,* have been expressly excluded from the benefits of these late laws. In other words, neither the regular soldiers of the Mexican war and the war of 1812, nor their heirs, nor any class of their representatives, have to this day, received a single acre of land *as a gratuity* from the government, even for service throughout the entire war with England, while the soldiers of the militia, their widows and minor children have been allowed one hundred and sixty acres as a token of the nation's gratitude for the brief service, in many cases, of fourteen days only.

Without at all putting in question the propriety of the laws granting land to the soldiers who served in the militia in the several wars in which the country has been engaged, it seems clear to my mind that an extension of them cannot be justified by the suggestions contained in the memorial; and that, if other than existing legislation upon this matter be contemplated, it would seem that it should take a wider and different range from that asked for by the memorialists.

I am, sir, with much respect, your obedient servant,

GEO. C. WHITING,
Commissioner.

Hon. GEO. E. PUGH,
Senate of the United States.