GRANTS FROM THE PUBLIC DOMAIN
AS REWARD TO THE
WAR VETERAN

by

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FOREWORD

Nations depending upon citizens to fill their armies and navies for their warfare are continually faced with a question of reward. Such nations have always been anxious that they do not appear ungrateful to the select class to which fall the specialized and sometimes hazardous responsibilities of representing the nation in war. It is a vexatious problem to reward deservedly in proportion to service.

Land has always been a means of reward to a nation's fighters. Men of the Roman legions went through the ardors of their long service with the thought of the parcel of land which the republic would bestow when that service was complete. Western Europe sent men from its warrior class out to the frontiers on the east, giving land to develop and hold against invasion. In the New World Britain did much the same, offering quantities of land on its colonial frontier to men who would serve as a buffer between the coastal settlements and the interior Indian tribes.

This land policy had nearly irrevocable precedent when the British North American colonies established themselves as a sovereign nation. With such a custom so firmly rooted in the past and with a continent whose development extended indefinitely into the future, it is not at all strange that the young republic, which had a strong distaste for mercenary or professional armies, should express gratitude

to its warriors by ample rewards of land.

Disposal of the public domain and reward to veterans have been intertwined continually since the Revolution. The American republic, in this present decade, but upon a limited scale is still adhering to the old honored custom of putting land into the hands of its veterans.

Land given to veterans has a merit of being more than mere gratitude or high class charity. It is the bestowal of opportunity more than the granting of a gift. In this type of reward the community gains from the development of the land and the reward is then something in the shape of an investment.

The full merit of using land is hard to assess. Where the veteran actually received land, made a home from it, contributed to the growth of his community, then the system is vindicated. In this manner land is a reward superior to those which furnish momentary help and contribute nothing to general society.

The public domain was a readily available source from which to draw rewards for veterans. But its use bred other problems. Whatever the merits of giving land, it somewhat impeded a uniform disposition of the domain. The use of the public domain furnishes a demonstration of the workings of a young republic attempting to justly recognize its warriors, but at the same time not losing sight of the general good. There were no static conditions for adjustments were constantly being called forth.

The United States has tended toward over generosity to be safe from appearing ungrateful.

CHAPTER I

HISTORICAL OUTLINE OF THE PUBLIC DOMAIN

Cheap and fertile land owned by the government of the United States acted during the first century of the republic's existence as a vast vacuum always attracting the restless, the ambitious, the distressed, and the dissatisfied. With the exception of Russia there has been no nation in the modern era with an unoccupied continent to place at the disposal of its people. This continental domain, which the people always considered as a special preserve for satisfying their land-hunger, has been the most important single factor in American expansion.

The public domain, which is that land in the nation whose title rests with the United States and over which the federal government exercises a direct proprietary control, was not inherited directly by the central government from Great Britain. Substantial and conflicting claims on the Crown land of Britain were maintained by seven of the thirteen colonies in the area ceded to the United States by the Treaty of Paris in 1783.

Agitation initiated by the landless states brought cessions of the state claims in favor of the Confederation government. The negotiations were long, involved and delicate lasting twenty years or more before Georgia completed the cessions in 1802. Seven states---

Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, and Georgia---gave up their rights thereby placing under the title of the central government the first bloc of land to constitute the public domain.

The lasting achievement of the Confederation government was its public land policy. Its soundness has never been challenged. Of prime importance was the idea that the United States would convey an alodial title (that is one free of any service, rent or acknowledgement) with any land it sold or granted. Another basic principle determined by the Confederation was that the United States would convey no land until the government itself held a clear title. This would mean that any deeded land in territory acquired from a sovereign power would have to be confirmed to its owners, that the Indian title, however vague, would have to be extinguished, and a system of survey and legal description adopted.

Two systems of surveys existed in the colonial era. In New England land was laid off in rectilinear townships bounded by compass lines. In the South land survey was by metes and bounds. There was no regularity to these "indiscriminate locations" as each landowner "gerrymandered" his lines to give his land the best possible lay. Such a method did not allow systematic description, and there was a constant source of litigation over conflicting boundaries.

The Land Ordinance of 1785 established, after long debate, the New England rectilinear survey for use on the public domain. For orderliness, for title description, and for uniform disposal of the

public domain the New England survey was undoubtedly the better.

Insistence upon the extinguishment of Indian title and survey before sale and settlement involved the government in misunderstandings with its own peoples. The land-hungry on the forward edges of the migrations did not discipline their hunger by a concern for the niceties of Indian claims or the need for systematic survey. To the frontier people this unoccupied land was practically a God-given gift for those who would settle it.

Migrants were often way ahead of the surveys and often on Indian land. These settlers never understood the government's concern for Indian rights, and bitter feeling ensued from rare attempts of the government to keep down trespassing on public domain or Indian lands.

The original public domain consisted roughly of the area between the Appalachians and the Mississippi river and between the thirty-first parallel and the Great Lakes, with certain exceptions (many of them arising from colonial military grants). Major acquisitions were effected in a short fifty years from 1803 with the Louisiana Purchase from Napoleon to 1854 with the Gadsden Purchase from Mexico. Between 1803 and 1854 was added: Florida, the Oregon country, and the Mexican cession of the Southwest.

Texas never formed a part of the public domain. It entered the Union from the status of a sovereign republic retaining its undeeded lands. The United States purchased from Texas lands outside the present state upon which Texas laid claim.

The largest single acquisition was the Louisiana Purchase of

432,987,520 acres. The estimated acreage of the other additions were:[1]

Florida	32,332,160 acres
Oregon	166,083,840 "
Mexican Cession	324,995,280 "
Texas (outside the present state)	70,995,520 "
Gadsden Purchase	14,508,800 "

Alaska, which has as yet to play its full role, was added to the public domain by purchase from Russia in 1867.

For various reasons, one fiscal, another economic, the public lands were looked upon as a source of direct revenue. This was particularly so in the first decades when the cash assets of the republic were negligible. Those who feared that cheap land would menace the eastern labor supply wanted the public domain tightly held as a source of revenue.

The Confederation government made three big land sales for continental certificates and military warrants. The largest, of five million acres to the Scioto company, was never satisfactorily completed. The Scioto company was strictly speculative in character, involving Congressional members. It grew out of the Ohio Associates which made a legitimate purchase of a million and one-half acres. Another one million acre sale was made to John Cleves Symmes. All these transactions were for land in the Ohio country.

First land sales under the Federal government were under a

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[1] Benjamin H. Hibbard, A History of the Public Land Policies (New York: MacMillan Co., 1924), p. 51.

law of 1796 "providing for the sale of lands of the United States in the territory northwest of the river Ohio, and above the mouth of the Kentucky river." The minimum price was two dollars an acre. Half the townships were sold in quarter townships and the other half were sold in 640-acre units.

Under pressure rising in the Ohio valley the Harrison Land Law of 1800 was enacted. William H. Harrison, Congressional delegate from the Northwest Territory, influenced the passage of this act reflecting frontier attitudes toward the public lands. The unit of sale was reduced to a half-section (320 acres) and payments were split into four annual installments. The minimum price, if the land did not sell at a three week auction period, was still two dollars an acre.

The Harrison law, as so many of the land laws, entangled Congress in a course of remedial action. The credit system was not successful. Four years was just not enough time in which to convert land from a wilderness to a farm producing a saleable surplus with which to pay off the land debt; and the greatest proportion of the settlers had little or no capital to sustain them.

The minimum sale unit was reduced in 1804 to the familiar quarter-section. In 1820 the credit system was abandoned in favor of the sale at a minimum reduced to one dollar and a quarter per acre in cash. This long remained the government minimum. Even in 1820 there was growing on the western frontier the desire to acquire public land free of all cost to the actual settler. There were forty years of

constantly mounting pressure against a background of sectional interest before free land to the settler became an actuality.

The argument that the public lands were held in trust to pay the national debt and support the government revenue lost force in the 1830's when the treasury amassed an "embarrassing" surplus. Legislation was proposed to give one-eighth of the revenue derived from the sale of public lands to the states in which the land was sold and the rest to be divided among all the states. This was vetoed by Andrew Jackson.

This same proposal later passed when it was tied in with a general preemption law so heartily endorsed by the West. The right of preemption was a right granted to an actual settler upon unsurveyed land to have the first opportunity to purchase that land at the minimum price when it was finally surveyed and ready for sale. In the strict legal sense it was sanctioning an illegal act---granting a right to persons who within the strict letter of the law were trespassers. However, the right to settle and cultivate where fancy, not legal consideration, dictated was a dynamic one that could not be cowed by legislation. Law therefore bowed to custom.

Frontier society did not, however, wait for relief in a preemption law. In keeping with western adaptability to conditions, claims associations were formed to protect the interests of individual members. When a tract was offered for sale, the association bid in for each member his quarter-section at the minimum price. It was plain physically dangerous for a non-member to attempt to outbid the association.

A precedent of significance was set in 1850 when Stephen A. Douglas of Illinois prevailed upon Congress to grant land to a railroad, later the Illinois Central, to subsidize its construction. The government thereupon embarked upon a program of using its public domain to encourage and finance railroad construction, particularly for the trans-continental lines.

In 1854 another policy, graduation, long sought by the West was instituted. The act called for the successive lowering of price on lands remaining unsold for given periods. Preemption and graduation were to the West, however, just way points to the real goal---free land to the settler. Sentiment for free land had always been strong in the West, but until the Civil war political balance never afforded an opening for conversion to law. The homestead movement had been roundly advocated by very able men in the twenty years preceding its adoption. It was as strongly opposed on a sectional basis. The East feared the actual or potential threat of free land to its labor supply. In the beginning the South had seen eye to eye with the West on homesteads. The South turned against the homestead movement when it was seen as unlikely that slavery would expand into the new territories and thus only the free-holding farmers of the North and West would profit by it.

The promise of homesteads had been an integral part of the Republican campaign in 1860. The promise was made good in 1862 with the passage of the homestead act, which would give to the head of any family or anyone twenty-one years old 160 acres of the public domain if he would live upon it and cultivate it five years. His only cost would be

the filing fee.

Lincoln in a presidential message to Congress summed very well the idea underlying the homestead movement:

> It has long been the cherished opinion of some of our wisest statesmen that the people of the United States had a higher and more enduring interest in the early settlement and substantial cultivation of the public lands than in the amount of direct revenue to be derived from the sale of them.[1]

After the Civil war the first land legislation peculiar to the needs of the Far West was enacted. There was in 1873 a timber culture act to promote tree culture on the prairie. It was a law with a good end in view, but its operation was fraught with fraud. Its provisions granted 160 acres to a qualified person who would plant and raise trees on forty of the acres. The acreage was later reduced to ten. Fraud was perpetrated through lenient interpretations of what constituted a growing healthy tree. Tree claims allowed cattlemen by strategically locating them (or having them located by dummy entries) to control choice land at little cost for a period of years even if the claim were never proved up.

Irrigation endeavors were encouraged under private individual enterprise by the Desert Lands act of 1877 which provided for the sale of sections at one dollar and a quarter an acre if after three years the claimant had irrigated it. This law, too, was evaded and was the source of general frauds. In 1891 the acreage under desert lands entry was reduced to 320 acres and requirements were made more stringent. Irri-

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[1] Messages and Papers of the Presidents, ed. James D. Richardson (New York: Bureau of National Literature, 1897), Vol VIII, pp. 3387-88.

gation projects were more effectively organized as federal endeavors under the Newlands Reclamation act early in the twentieth century.

An era came to an end in the Theodore Roosevelt administration when huge areas of the remaining public domain were withdrawn from entry to be placed in the national forest reserves. This move generally marks the termination of the government policy to transfer its lands as expediently as possible to its citizenry for development.

Aside from its grants to the railroads the federal government used its domain in support of many worthy projects. Thomas Jefferson's interest in the promotion of education manifested itself in the Ordinance of 1785 which provided that the sixteenth section in every township should be retained for school use. This was the federal government's start in using its public lands for the support of an educational program. It made grants for state universities as new states entered the Union and through the Morrill Act made definite provisions for the land grant colleges to promote agriculture and mechanical arts.

The patrimony was used again to foster internal improvements in construction of roads and canals. Lands were turned over to the states at their admittance into the Union. And a great use of the public domain was made to reward the citizens who had served in the military establishments.

As many and as varied as were the projects to which lands of the United States were offered for support, these grants were but a handful in comparison to the requests. Almost any activity which could be construed as promoting the general good (and any activity short of

downright criminal ones can easily be shown to be contributing to the general good) had its backers who pressed for a grant of public land.

The inexpensiveness of government land and the promise of a tremendous increase in price with settlement nurtured three waves of speculative fever during the nineteenth century. A gigantic acreage was withdrawn from the domain by these speculations absolutely out of proportion to the settlement rate. Undoubtedly many men made tidy fortunes from speculation but others did not. Payment of interest and taxes, and later the competition from homesteads and the railroad lands, made the lot of the speculator, like the transgressor, a hard one.

Despite evils of fraud and speculation and the evasion of the true intent of several of the land laws, the prediction of those who held that the enduring interest of the public was settlement and development of public land rather than sale for revenue has been excellently borne out.

Of the many means employed to convey land from the public domain one of the greatest and most interesting in its operation was that of the military land bounty. The administration of the land bounty laws and the special privileges accorded veterans under the homestead acts as a means of reward for military service to the United States will be the objects of the following short study.

CHAPTER II

CONTINENTAL CONGRESS AND LAND BOUNTIES

In offering a land bounty to be given at the close of the Revolutionary war, the Continental Congress in September, 1776, was not breaking new ground. There was in North American colonial development ample precedent for granting land in connection with military service.

Beginning in the seventeenth century the various colonies offered tracts of land on the frontier to disbanded soldiers. These offers, however, were not so much inducements to enlist but rather (on the Roman model) attempts to strengthen a hold on the Indian frontier by placing experienced border fighters along it. Both the Crown of Great Britain and the colonies gave land bounties.

The Proclamation of 1763 (more famous for its restriction against western expansion) extended George III's gratitude to his men and officers and implemented that sentiment by a land grant. And a generous grant it was, too, for field grade officers. The amounts ranged from fifty acres for a private to 5000 acres for a field officer.[1]

With such a tradition to follow it is not at all surprising that the Continental Congress when it came to organize its regular

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[1]This colonial precedent for military land bounties is treated by Amelia C. Ford, Colonial Precedents in our National Land System as It Existed in 1800, in Bulletin of the University of Wisconsin No. 352, pp. 103-107.

military establishment should turn to land as an inducement for enlistment. Congress, with a feeling that it would someday acquire the Crown lands of Britain, was not loath to promise land.

Previous to September, 1776, the military forces of the rebelling colonies were the militia and volunteers of the several colonies. General George Washington was thoroughly dissatisfied with this. He considered, with some cause, the militia undependable. Writing after the defeat at Long Island and the withdrawal from Manhattan in late summer 1776, he wrote:

> I am persuaded, . . . that our liberties must of necessity be greatly hazarded, if not entirely lost if their defense is left to any but a permanent standing army. I mean one to exist during the war . . . . . I cannot find that the bounty of ten dollars is likely to produce the desired effect; when men get double that sum to engage for a month or two in the Militia, and that Militia frequently called out, it is hardly to be expected. The addition of land might have considerable influence upon a permanent enlistment.[1]

This was written September 2, 1776. Congress acted on September 16, 1776, to create a permanent establishment of eighty-eight battalions. In the resolution a land bounty was authorized, "such lands to be provided by the United States" and whatever expense shall occur

> shall be paid and borne by the states in the same proportion as the other expenses of the war, viz to a colonel, 500 acres; to a lieutenant colonel, 450 acres; to a major, 400 acres; to a captain, 300 acres; to a lieutenant, 200 acres; to an ensign, 150 acres; to each non commissioned officer and soldier, 100 acres.[2]

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[1] American Archives, ed. Peter Force (Washington; M. St. Clair Clarke & Peter Force, 1848) Series V, Vol. III, p. 121.

[2] Journals of the Continental Congress, ed. Worthington C. Ford, Vol. V, p. 763. Hereinafter cited as Journals.

This resolution may be considered the basic land bounty act of the Continental Congress.

This land bounty was announced to the Northern Army by Horatio Gates, its commanding general, in the general orders of October 24, 1776:

> This noble bounty of forty dollars and one hundred acres of land at the end of the war, is such an ample and generous gratuity from the United States, that the General is convinced no American will hesitate to enroll himself to defend his country and posterity from every attempt of tyranny to enslave it.[1]

It is somewhat ironic, however, to note that the first land offered by the Congress was not to its own soldiers but to German mercenaries as an enticement to quit the service of George III. Members of Congress waxed eloquent in holding out land to Hessians to stop waging war. A month before they provided a land bounty for American soldiers, by a resolution of August 14, 1776, Congress announced:

> that these states will receive all such foreigners who shall leave the armies of his Brittanic majesty in America, and shall chuse to become members of these states; that they shall be protected in the free exercise of their respective religions, and be invested with rights, privileges and immunities of natives, as established by the laws of these states; and moreover, that this Congress, will provide, for every such person, 50 Acres of unappropriated land in some of these states, to be held by him and his heirs in absolute property.[2]

Two years later Congress laid before the European peasantry in the German regiments the beauties of life in the new republic plus the prospect of land. By resolution, April 29, 1778, the following

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[1] American Archives, Series V, Vol. III, p. 531.

[2] Journals, Vol. V, pp. 654-55

broadside was written by Congress, ordered printed in German upon tobacco paper, and distributed among the German troops.

> To officers and soldiers in the service of the King of Great Britain, not subjects of the said King:
>
> The citizens of the United States of America are engaged in a just and necessary war. They contend for the rights of human nature, and, therefore, merit the patronage and assistance of all mankind. . . . . .
>
> Considering, therefore, that you are reluctantly compelled to be instruments of avarice and ambition, we not only forgive the injuries which you have been constrained to offer us, but we hold out to your acceptance a participation of the privileges of free and independent states. Large and fertile tracts of country invite and will amply reward your industry.[1]

The body of the resolution offers those who accept before September 1, 1778, land and animals. There is a fine appreciation of rank. A captain who brings forty men will receive 800 acres of good woodland, four oxen, one bull, three cows, and four hogs. If a captain brings a lieutenant, the lieutenant will receive 400 acres of woodland (not specified as in the case of a captain as good) two oxen, two cows, four hogs. A sergeant accompanying his captain will receive 200 acres, two oxen, one bull, one cow, three hogs. The private soldier will receive fifty acres, one ox, one cow, two hogs.

The invitation rolls to a peroration:

> Disdain, then, to continue the instruments of frantic ambition and lawless power. Feel the dignity and importance of your nature. Rise into the ranks of free citizens of free states. Desist from the vain attempt to ravage and depopulate a country you cannot subdue, and accept from our munificence what can never be obtained from our fear. . . . . .

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[1] Journals, Vol. X, pp. 405-409.

> In the name of these sovereign, free, and independent states we promise and engage to you that great privilege of man, the free and uninterrupted exercise of your religion, complete protection of your persons from injury, the peaceable possession of the fruits of your honest industry, the absolute property in the soil granted you to defend, unless you shall otherwise dispose of it, to your children and your children's children forever.

Then, as an anticlimax in contrasting and matter of fact terms, the Congress resolved:

> that it be recommended to the several states, who have vacant lands, to lay off with as much expedition as possible, a sufficient quantity of lands to answer the purposes expressed in the foregoing address; for which lands no charge is to be made against the United States.[1]

It is difficult to know whether the response was as enthusiastic as the appeal. It has been determined that there were approximately 5000 desertions from the German mercenary force.[2] How many applied for and received land is not of record.

The Congressional resolution establishing the Continental Army was transmitted by its President, John Hancock, to the states on September 24, 1776. Over the land bounty Maryland opened the vexatious question on the national ownership of vacant lands. On October 9, 1776, the Maryland legislative body decided to pay ten dollars in lieu of the land bounty set forth in the resolution of September 16. The legislature further resolved:

> that this state ought not to comply with the proposed terms

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[1] Ibid., p. 409.

[2] Edward J. Lowell, Hessians in the Revolution (New York: Harper's Brothers, 1884) p. 300. Lowell has found that two Hessian lieutenants came into Washington's camp in August 1778 in answer to the offer. One Hessian officer later asserted that no born Hessian officer deserted, but Lowell thinks a few did. There were 29,867 German soldiers brought to the colonies to fight in the Revolution.

> of granting land to the officers and soldiers, because there are no lands belonging solely and exclusively to this State; the purchase of lands might eventually involve this State in an expense exceeding its abilities; and any engagement by this State to defray the expense of purchasing this land, according to the number of its souls would be unequal and unjust.[1]

Although objecting in 1776, Maryland in 1779 offered fifty acres to a soldier enlisting for three years and 100 acres to a recruiting officer signing twenty men within a specified time.[2]

Maryland's concern about promising a bounty, when it did not have the expectation of paying, seems reasonable enough. However, its solution by paying cash in lieu of land was detrimental to the Continental Congress because it threw out of balance the cash bounty systems arranged by the other states. A state granting a greater cash bounty was apt to attract men into its quotas, thus denying them to battalions of other states.

Maryland's balk on land bounties led ultimately to the negotiations whereby the states relinquished, with certain exceptions (these being often their military land promises), their claims to the lands west of the Appalachian range. These relinquishments gave the United States a public domain administered directly by the Congress.

It is significant that, following the months when the Continental army was being formed (with all the adjustments which had to be

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[1] American Archives, Series V, Vol. III, p. 120

[2] Laws of Maryland Since 1763, 1779, Chapter 36, quoted in Matthias N. Orfield, Federal Land Grants to the States with special Reference to Minnesota, The University of Minnesota Studies in Social Science No. 2 (Minneapolis: Univ. of Minnesota Press, 1915) p. 23.

accomplished between the several states), land bounty discussion drops completely from official records. Not until victory was more clearly in sight and consequently the time for making good the land promises drew nearer, does the land bounty come again to the official attention of the legislators.

In 1780 two more land bounty resolutions of basic nature were passed. The land offer was extended by resolution of August 12, 1780, to a major general in the amount of 1100 acres and to a brigadier general 850 acres.[1]

In a reorganization of the continental medical department the land bounties were extended to that department with this schedule: the director to receive the quantity allotted a brigadier general; the chief surgeon and purveyor the same as a colonel; physicians, surgeons, and apothecaries the same as a lieutenant colonel; hospital and regimental surgeon's mates the same as a captain.[2]

Congress faced in 1783 the problem of sending home the army and arranging to make good on its land commitments. This meant for Congress the untangling of a very tangled skein of affairs. The Congress possessed no land in its own right. There followed the negotiations to induce the states with claims west of the Appalachians to relinquish them to the central government.

There were areas where the Indian title had not been clearly extinguished. The desire of both Congress and the states to grant lands

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[1] Journals, Vol. XXII, p. 727 [2] Ibid., p. 847

west of the mountains and in western New York was forcing a clarification of the Indian rights.

Before the grants could be made there was also the matter of survey and legal description to be settled. The two colonial systems---New England's arbitrary township lines and the Southern "indiscriminate" metes and bounds---could not both be used on a domain belonging to a central government. The Ordinance of 1785 embodied the New England rectilinear survey.

It took a vast amount of time, discussion and communication to reconcile all the conflicting claims and interests. In the meanwhile the army men had to wait.

Although speaking particularly about the difficulty of paying off cash arrears a contemporary in 1785 very adequately expresses the Congressional inability to make good at that moment on their promises.

> I fear there will be much Difficulty in the Business of the Army as Our Means of sending them Home satisfied are small though our Wishes are favourable and sincere. Our Circumstances afford an odd Contrast to those we have heretofore experienced. The Difficulty which heretofore oppressed us was how to raise an Army. The one which embarrasses us is how to dissolve it. Everything Congress can do for the Satisfaction of our Deserving Soldiers will be done. But an empty Purse is a Bar to the Execution of the Best Intentions.[1]

An important obstacle to the settlement of the western land problem in general and the bounty land problem in particular was overcome when Virginia on March 1, 1784, signed its deed of cession to its western claims.[2] Two reservations in the deed concerned the land

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[1] Richard Peters to Baron Steuben, Letters of the Members of the Continental Congress, ed. Edmund C. Burnett (Washington: Carnegie Institution, 1902) Vol. VII, p. 150.

[2] Journals, Vol. XXVI, p. 117.

bounties. A reserve of 150,000 acres was to be laid off for bounties to the men of the George Rogers Clark expedition "in such place on the northwest side of the Ohio, as a majority of the officers shall choose." Another tract north of the Ohio between the Little Miami and Scioto rivers was reserved for the warrants of the Virginia Continental and State establishment.[1] The reservation for the Clark expedition was subsequently located near the falls of the Ohio.[2]

In the legislative mill after almost a year the famous Land Ordinance of 1785 was adopted by the Confederation Congress on May 20, 1785.[3] This ordinance ". . . for Ascertaining the mode of disposing of Lands in the Western Territory" provided that

> . . . the Secretary at War, from the returns in his office, or other sufficient evidence as the nature of the case may admit, determine who are the objects of the above resolutions and engagements [the land bounty resolutions], and the quantity of land to which such persons are entitled, ... and cause the townships . . . . to be drawn for in such manner as he shall deem expedient to answer the purpose of an impartial distribution.

The last paragraph of the ordinance was a guarantee that no land would be alienated from the district provided in the Virginia cession of 1784 until provision had been made satisfying claimants.

Although the procedure had been set up, no land under its

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[1] Ibid., p. 115

[2] American State Papers, Public Lands (Washington: Gales & Seaton, 1834) Vol. I, p. 24. Hereinafter cited P.L.

[3] Ibid., Vol. XXVIII, p. 380.

terms passed into the hands of veterans. Henry Knox, Secretary at War, in a letter April 22, 1787, brought the land bounty question back into Congress.

> Sir: The incessant inquiries respecting the lands due to the late army, and a conviction of the perfect dispositions of the United States in Congress assembled, to render ample justice to their late military servants, are the reasons, and I hope will be my apology, for my present address. . .. .It is sufficient to observe that the army were convinced that had Congress possessed the ability, the payments would have been completed. Too many have been compelled, . . . to sell the evidences of their public debt, for a small portion of the nominal sum. These unfortunate men now consider the lands promised them, as their only resource against poverty in old age, and therefore are extremely solicitous to receive, immediately, their dues in this respect. Uninformed of, or not comprehending the cause which prevent a delivery, they pine and murmur at a four year delay.
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> The present object of this letter is to respectfully submit to Congress the consideration of the propriety of assigning a part of the lands, bounded by the Ohio and some river which empty into the smae, sufficiently extensive to satisfy the claims of the late army, and direct some effectual mode free of expence by which individuals may receive their rights.
>
> In any plan for the disposal of the western territory, if a tract for the army be not assigned, they will be prevented from the benefits intended by Congress. Circumstanced as they are generally they cannot enter into competition with rich speculators which in some degree must be the case, if they shall not have a particular tract assigned to them, ...[1]

The Knox suggestion had far-reaching effects. It was the genesis of the United States Military District created under the federal government. In October 1787, acting on the Knox suggestion, Congress reserved two tracts for Revolutionary land bounties. One of these was in the present state of Ohio and the other in Illinois in the triangle formed at the

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[1] Journals, Vol. XXII, pp. 242-43.

confluence of the Mississippi and Ohio rivers.[1] This was the last major act of the Confederation Congress on the land bounties.

Except as they set precedents and obligations the actions of the Continental and Confederation Congresses were indecisive. Except for land indirectly conveyed through sale of several large tracts to private companies neither of these governments turned over an acre to its soldiers. They had promised liberal amounts, in good faith, but without an immediate means of meeting their promises. Acquiring that means was a tedious process where many a conflict of state interest, Indian relations, and fiscal affairs all played a part.

Be it to Congressional credit that their promises were sincere. They were confronted with a difficult task in providing a going military establishment to wage the Revolution. Their financial means were limited and the nature of the compact between the colonies made for indirect methods. Congress never once hedged on its commitments.

The problems of administering a public domain were knotty ones, not given to quick and easy solution. Although no lands were directly conveyed to veterans during its existence, there were lasting benefits from the Confederation's lengthy deliberations. The rectilinear survey and the clear title to the public domain, which Congress insisted that the United States possess before granting or selling tracts, were solutions whose wisdom has proven worthy of the consideration put forth to arrive at them.

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[1] Ibid., Vol. XXVIII, p. 696.

CHAPTER III

REVOLUTIONARY VETERANS AND THE LAND SETTLEMENT BEYOND THE APPALACHIANS

The vast continental expanse stretching west from the Appalachians was, in the decades before the American Revolution, the object of grandiose land promotions. The Revolution was hardly over when the scheming was again taken up with ardor.

One important source of this new speculation came from the Army. Although the Confederation Congress itself never conveyed directly any land to its veterans, through two of these land settlement sales a substantial acreage was turned over to private individuals as settlement of the land bounty debt.

Petitions and letters poured in upon Congress very shortly after the Revolution urging development of the western lands. One such petition was from two hundred odd officers of the Continental line. The petition, June 16, 1783, asked that an area west of Pennsylvania, south from Lake Erie to the Ohio river and bounded on the west generally by the Scioto and Miami rivers be assigned to satisfy the land claims.[1]

The hopes and expectation of the petitioners were more fully detailed by Brigadier General Rufus Putnam in a letter to General

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[1] Journals, Vol. XXXIV, p. 421.

Washington transmitting the petition. This plan of systematic colonization on the western frontier was reminiscent of the border marches of medieval Europe or the military colonies of Rome.

Putnam outlined the plan as it was conceived by the officers:

> The whole tract is supposed to contain about 17,418,240 acres. . . . . The land to which the army is entitled by the resolves of Congress. . . . according to my estimate, will amount to 2,106,850 acres, which is about an eighth part of the whole; for the survey of this they expect to be at no expence, nor do they expect to be under any obligation to settle these lands, or do any duty to secure their title to them; but, in order to induce the army to become settlers in the new government, the petitioners hope Congress will make a further grant of lands, on condition of settlement, . . . , it will require about 8,000,000 of acres to complete the army, and about 7,000,000 will remain for sale.

The petitioners fear monopoly and are therefore opposed to large tracts being granted to individuals. They would want a curtailment to individual holdings.

> These, sir, are the principles which gave rise to the the petition. . . ; the petitioners, at least some of them, conceive that sound policy dictates the measure, and that Congress ought to lose no time in establishing some chain of posts as has been hinted at, and in procuring the tract . . . . of the natives, for the moment this is done, and agreeable terms offered to the settlers, many of the petitioners are determined, not only to become adventurers (backers) but actually to remove themselves to this country; and there is not the least doubt but other valuable citizens will follow their example, and the probability is that the country between Lake Erie and the Ohio will be filled with inhabitants, and the faithful subjects of these United States so established on the waters of the Ohio and the lakes as to banish forever the idea of our western territory falling under the dominion of any European power, the frontier of the old states will be effectually secured from savage alarms, and the new will have little to fear from their insults.[1]

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[1] William and Julia Cutler, Life, Journals and Correspondence of Reverend Manasseh Cutler (Cincinnatti: Robt.Clarke & Co.1888) Vol.I, p.171.

George Washington heartily endorsed this proposal in his letter to the president of Congress accompanying the officers' petition. Washington, it might be remembered, had more than academic interest in the western lands. In his youth he had surveyed there; he had fought the French for their possession; he had a keen interest in their development and was himself a western land owner. He wrote:

> I am induced to give my sentiments thus freely on the advantages to be expected from this plan of Colonization, because it would connect our Governments with the frontier, extend out settlements progressively, and plant a brave, a hardy, and respectable Race of People as our advanced post, who would be willing (in case of hostility) to combat the Savages and check their incursions. . . . . .
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> Much more might be said of the public utility of such a Location, as well of the private felicity it would afford to the Individuals concerned in it. I will venture to say it is the most rational and practicable Scheme which can be adopted by a great proportion of the Officers and Soldiers of our Army, and promises them more happiness than they can expect in any other way.
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> The Settlers being in the prime of life, inured to hardship, and taught by experience to accommodate themselves in every situation, going in a considerable body, and under the patronage of Government, would enjoy in the first instance advantages in procuring subsistence, . . , superior to any common class of emigrants, ... They may expect, after a little perserverence, Competence and Independence for themselves, a pleasant retreat in old age, and the fairest prospects for their children.[1]

These early proposals culminated in the organization of the Ohio Company which purchased a large tract in Ohio from the Confederation government. Manasseh Cutler, a New England clergyman of many

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[1] The Writings of George Washington, ed. Worthington C. Ford (New York: G.P.Putnam's Sons, 1891) Vol. X, pp. 268-270.

interests and accomplishments, was a main spring in the Ohio Company. He spent many weeks at Congressional sessions maneuvering for the sale of a large block of the public domain. The land promises were one of the levers for moving Congress to action. A part of the Ohio company plan called for payment up to one-seventh of the total purchase price in land warrants.

In a letter written toward the close of negotiations Cutler pleads the disservice which former soldiers would incur if Congress did not make a concrete provision for them.

> If these terms are admitted we shall be ready to conclude the Contract. If not we shall have to regret for a numerous Class of our Associates, that the Certificates they received as Specie, at the risque of their lives and fortunes, in support of the Common cause, must, for a considerable time longer, wait, the tedious and precarious issue of public events; (although they are willing to surrender their rights in them on terms advantageous to the public;) and the United States may lose an opportunity of securing in the most effectual manner, as well as improving the value of their western lands, whilst they establish a powerful barrier against the irruptions of the Indians, or any attempt of the British power, to interrupt the security of adjoining states.[1]

Without outlining the details of the negotiations it suffices that Congress approved a contract July 23, 1787, for the sale of this Ohio Company tract. Included was the provision that:

> . . . . such of the purchasers as may possess rights for bounties of lands to the Late Army be permitted to render same in discharge of the contract, acre for acre, provided

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[1] Journals, Vol. XXXIII, pp. 428-429.

> the aggregate of such rights shall not exceed one seventh part of the land to be paid for and provided also there shall be no further claim against the United States on account of the said rights.[1]

A tract down the Ohio from the Cutler purchase was made under a similar contract, including the land warrant agrangement by John Cleves Symmes of New Jersey.[2] The ostensible price in these sales was one dollar per acre with one-third per acre allowed off for bad lands. However, the medium was the continental certificate worth on the market about twelve cents.

The federal Congress in 1792 granted the Ohio Company an additional 214,285,000 acres if it would turn over within six months military land bounty warrants sufficient to cover that amount.[3] In the same year a similar arrangement was completed for the Symmes tract. An additional 106,857 acres was to be granted to Symmes if he could turn over warrants to cover that amount within six months.[4] Through the Symmes and Ohio sales 238,694.66 acres of the military bounty obligation was met.[5]

One reason for a certain amount of discreet maneuvering by Cutler when approaching Congress had been the opposition of certain western states which had lands in their own back country for sale and development. These states obviously would not cherish the promotion of

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[1] Ibid., pp. 400-401

[2] Ibid., Vol XXIV, p. 565.

[3] Act of April 21, 1792, Statutes at Large, Vol. I, p. 257.

[4] Act of May 5, 1792, Ibid., pp. 266-267.

[5] P. L., Vol. I, p. 119.

any settlements west of the Appalachians which might deprive them of revenue and the manpower to develop their own back country.

Those states having lands at their disposal had been generous in their land offerings to the soldiers and sailors of the state establishments. Connecticut in 1776 promised 100 acres to all who should serve during the course of hostilities.[1]

Maryland, which early in the Revolution hesitated to promise land, offered in 1779 fifty acres to a soldier enlisting for three years and 100 acres to a recruiting officer signing twenty men within a specified time.[2]

Pennsylvania in 1780 conferred bounties ranging from 200 acres for a private to 2000 for a major general, with the further provision that the grants be exempt from taxation during the grantee's lifetime if he kept possession.[3]

Aside from giving 500 acres for a three-year enlistment New York sought to enroll negro slaves by promising the master 500 acres and the negro his freedom after three years in service. To any one who would furnish an able-bodied man for three years would be given 600 acres.[4]

Virginia, which gave up its claims to western lands only on the

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[1] Records of the State of Connecticut, 1:66 quoted in Orfield, op. cit., p. 23.

[2] Laws of Maryland Since 1763, 1779, Ch. 36, quoted Ibid., p.23.

[3] Laws of Commonwealth of Pennsylvania, 2:80-90, 272, quoted Ibid., p. 23

[4] Laws of New York, 1:350-51, 432, quoted in Ibid., p. 24.

assurance that its military land obligations would be honored upon the public domain, adopted a bounty system for the state military and naval bodies in 1779. It subsequently increased the grant to 500 acres for a private and by other acts authorized as much as 15,000 for a major general.[1]

North Carolina in 1780 authorized 200 acres for a man serving until the end of the war, and increased the amount in 1782 to 640 acres with liberal provisions for officers. Major General Nathaniel Greene was voted 25,000 acres.[2] These North Carolina bounties were taken up in what is now Tennessee. The North Carolina deed of cession of its western lands had made the land bounty reservation in Tennessee an exception to the rights of the United States. Thomas Jefferson reported in 1791 that 1,239,498 acres had already been conveyed and warrants issued for another 1,549,726 acres, making a total at that time of 2,789,224 acres in North Carolina bounty commitments.[3]

Georgia land bounties took four forms in accordance with the service performed. For continental enlistment a "continental certificate" was issued; for militia duty a "minute man certificate" was issued. To those who had fled their homes were given "refugee certificates." And

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[1]Hening's Statutes at Large of Virginia, 10:24, 331, 375 quoted in Ibid., p. 24.

[2]Records of North Carolina, XXIV,359,342, quoted in Allan Nevins, The American States During and After the Revolution (New York: MacMillan Co., 1924) p. 672; Orfield, op.cit.,p. 24.

[3]P.L., Vol. I, p. 24.

those citizens who maintained their American allegiance when others fled were rewarded for their steadfastness by a "citizen certificate" for 250 acres. A "marine certificate" went to those of Georgia in naval service.[1]

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[1] Steven's Laws of Georgia to 1820, Vol. II, ch. 2, quoted in Allan Nevins, op. cit., p. 672.

CHAPTER IV

FEDERAL CONGRESSIONAL ACTION ON LAND BOUNTIES REVOLUTION

Early in its existence the Congress of the United States took action in accordance with the agreement with the Commonwealth of Virginia to provide lands northwest of the Ohio River for the Virginia military bounties. This tract was created north of the Ohio river between the Little Miami and Scioto rivers in 1790.[1] The stipulation that the United States assume the Virginia land obligations was an integral part of Virginia's cession of its western land claims.

Administration of the Virginia Military District involved Congress in a long course of legislation and negotiation with Virginia. There were from 1790 to 1845 nineteen acts specifically dealing with the Virginia bounties; of these eleven were acts to extend the time limits for the location and surveying. As late as 1860 Congress was passing acts to close its Virginia warrant business.

Virginia, on December 9, 1852,[2] in consideration of a scrip law of August 31, 1852,[3] ceded the unlocated portions to the United

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[1] Statutes at Large, Vol. I, p. 182.

[2] Thomas Donaldson, The Public Domain, Its History with Statistics (Washington: Gov't Printing Office, 1883) p. 235. Hereinafter cited Donaldson.

[3] Acts of August 31, 1852, Statutes at Large, Vol. X, p. 143.

States. Up to that time 3,770,000 acres had been patented.[1]

In 1796, twenty years after the original land bounty resolutions, Congress reserved a tract in the Ohio country for the satisfaction of the Revolutionary warrants other than those of Virginia.[2] The reservation was in the same area but of larger dimension than the similar one allocated by the Confederation Congress. This reservation was the result of the idea put forth a decade before by Henry Knox, then Secretary at War. Not so named in the act the tract became known as the United States Military District. Illustrative of the diverseness of applications upon the largess of Congress, the same act granted land for "the Society of the United Brethren for propagating the Gospel among the [illegible]."

All land granted under the Revolutionary warrants was located in this district until 1830, when scrip was issued which could be used for the purchase of certain lands in Ohio, Indiana, and Illinois.[3] There were 2,095,220 acres patented in the United States Military District during its existence.[4]

This district also involved Congress in a good bit of legislative adjustment. The original act set a time limit for location, but

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[1] Donaldson, p. 233.

[2] Act of June 1, 1796, Statutes at Large, Vol. I, pp. 490-491.

[3] Act of May 30, 1830, Ibid., Vol. IV, pp. 422-423.

[4] Donaldson, p. 233.

successive extensions of the limit were made in view of the many warrants outstanding upon each limiting date. As late as the 1840's Congress was passing acts making adjustments for the final location of these warrants.

A special bid upon government generosity in connection with military lands was the case of certain Canadians who had supported the Colonies in the revolt against Britain. These people had fled their homes and in cases fought in the colonial armies. In recompense Congress passed a broad act in 1798[1] to supply them with land "in proportion to the degree of their respective services, sacrifices and sufferings, in consequence of their attachment to the cause of the United States." The grants were not to exceed, in the most exemplary cases, 1000 acres. The investigations were made and the land reserved also in Ohio for their location.[2] Under this act 58,260 acres were granted.[3]

Another special grant devolving from military service was one to the Marquis de LaFayette. LaFayette, who had served as a major general in the Revolution had never come under any of the land bounty provisions, because it had never been determined to just what part of the heterogeneous military establishment he had belonged. Congress approved in 1803 a bill with the involved title:

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[1]Act of April 7, 1798, Statutes at Large, Vol. I, p. 548.

[2]Act of February 18, 1801, Ibid., Vol. II, p. 236.

[3]Donaldson, p. 236.

> An act to revive and continue in force an act in addition to an act intituled 'An act in addition to an act regulating the grants of land appropriated for Military Services and for the Society of the United Brethren for propagating the Gospel among the Heathen', and for other purposes.[1]

One of the "other purposes" of this act was the granting to LaFayette of 11,520 acres in Ohio.

Another grant not made within the provisions of the general bounty laws but of a military bounty nature was one for the Lewis and Clark expedition. After their return from the Pacific coast Congress in March 1807 bestowed on Meriwether Lewis and William Clark each 1600 acres and granted the thirty-two men each 320 acres plus double pay for the months they were on the expedition.[2] This was the only exploring expedition thus rewarded.

WAR OF 1812

Congress, when it set itself to organizing the military establishment for the War of 1812, could naturally deal more self-assuredly with land bounties than its predecessor in the Revolution. It held a huge public domain which was an indisputable possession of the United States. The land bounties for the War of 1812 were more systematically promised and awarded.

Strengthening the regular army as the second war with Britain loomed featured a land bounty as an essential part of the authorization

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[1] Act of March 3, 1803, Statutes at Large, Vol. II, p. 236.

[2] Act of March 3, 1807, Ibid., Vol. VI, p. 65.

acts. Late in 1811 Congress, in authorizing that the army be brought up to a previously determined strength, offered a land bounty of 160 acres and three months' extra pay at completion of five years' service or less if deemed proper by the government.[1]

Three months' additional pay and the 160 acres land award to soldiers and non-commissioned officers was standard throughout the War of 1812 until its very close, when in one act the bounty was doubled. There was a good bit of agitation over this, but officers of the War of 1812 received no land bounty until the middle of the century.

In January 1812, Congress authorized an increase in the regular establishment.[2] The 160 acres and three months' additional pay were to be given at the end of five years unless a shorter term was authorized by the government. The cash and land would go to a widow or heir should the soldier be killed or die in the service of the United States.

By an enactment in February of the same year the President was authorized to receive the services of companies of volunteers not to exceed fifty thousand.[3] By this act a soldier would have to die or be killed before his services would bring recognition in land. To the heirs of such a volunteer 160 acres would accrue. The volunteer himself at the end of his twelve months' service "if of the artillery or infantry shall be presented with a musket, and bayonet. . . . and if

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[1]Act of December 24, 1811, Ibid., Vol. II, p. 669.

[2]Act of January 12, 1812, Ibid., Vol II, p. 672.

[3]Act of February 6, 1812, Ibid., p. 677.

attached to the cavalry, with sabre and pistols. . . . as public testimonials of the promptitude and zeal with which he shall have volunteered in support of the rights and honour of the country."

Congress promptly followed up their land bounty commitments by reserving six million acres "fit for cultivation, not otherwise appropriated and to which the Indian title is extinguished."[1] The six million acres were set aside: two million in Michigan Territory; two million in Illinois Territory north of the Illinois river; and two million in Louisiana Territory between the St. Francis and Arkansas rivers (in the present state of Arkansas). The lands in Michigan proved not fit for cultivation. New reservations were made in 1816: one of 1,500,000 acres in Illinois Territory and another of 500,000 acres in Missouri Territory north of the Missouri river.[2]

In these districts the salt springs and lead mines were reserved for the United States and the sixteenth section of each township was designated for school support. More important to the individuals were the provisions on the assignment of warrants.

Congress was anxious that the lands go only to veterans and, if need be, they would serve as a new start in life. On this the Act of May 6, 1812, was quite specific:

> . . . . no claim for the military bounties aforesaid shall be assignable or transferable in any manner, until after a patent shall have been granted. . . . . All sales, mortgages, contracts, or agreements of any nature whatever, made prior thereto, for the purpose, or with the intent of alienating,

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[1]Act of May 6, 1812, Ibid., Vol. II, pp. 729-730.

[2]Act of April 29, 1816, Ibid., Vol. III, p. 332.

> pledging or mortgaging any such claim, are hereby declared null and void; nor shall any tract. . . , granted as aforesaid, be liable to be taken in execution or sold on account of any such sale, mortgage, contract or agreement, or on account of any debt contracted prior to the date of the patent, either by the person originally entitled to the land or by his heirs or legal representatives, or by virtue of any process, or suit at law, or judgement of court against a person entitled to receive his patent as aforesaid.

Four other enlistment acts passed in 1813 and 1814 offered the standard 160 acres to soldiers and non-commissioned officers.[1] An act of December 10, 1814, reflects a seeming need to increase enlistment interest, for the land bounty was doubled to 320 acres for able-bodied effective men eighteen to fifty.[2] The land for those killed or dying in the service could not pass to collateral relatives. Written consent from parents was no longer needed for those under twenty-one, but in consideration of their age those under twenty-one could within four days withdraw from their enlistment. A further provision was that a man, by furnishing a recruit under this act, would himself be exempted from militia duty and the recruit would be entitled to the land bounty as any regularly procured soldier.

In one of its attempts to relieve citizens who had suffered particularly by their service to the United States Congress in 1816 passed an unfortunate act. To the United States citizens living in Canada before the War of 1812 who returned to the United States, with

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[1] Act of July 5, 1813, Statutes at Large, Vol. III, p. 5
" " Jan.28, 1814, Ibid., p. 96
" " Feb.10, 1814, Ibid., p. 97
" " Feb.24, 1814, Ibid., p. 98

[2] Act of December 10, 1814, Ibid., pp. 146-147.

certain losses, to serve in the Army Congress granted another land bounty graduated according to rank: a colonel to receive 960 acres; a major 800; a captain 640; subalterns 480; non-commissioned officers, musicians and privates 320.[1] The locations were to be in Indiana Territory. The granting of these generous amounts to the officers of the Canadian volunteers was highly resented by the officers of the regulars and volunteers not recognized with a land award.

The act was too general and inclusive and not at all satisfactory. In 1817 Congress realized its mistake and toned down the generosity and tightened the requirements of evidence. There must have been attempts at fraud. One Congressman in reporting an investigation of Canadians humorously remarked:

> In referring to muster rolls of the corps called the Canadian volunteers, it appears to have consisted of nearly the full complement of field and staff officers for a regiment, with a very small number of privates---not at any time exceeding thirty-eight as present---that very little service could have been rendered by them to the government.[2]

The new act, of March 3, 1817, required that six months service must have been given the United States and the name of each claimant must appear upon the muster role. The schedule was reduced as follows: to a colonel 480 acres; a major 400 acres; a captain 320 acres; a subaltern 300; a non-commissioned officer and private 160.[3] The act was

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[1] Act of March 5, 1816, Statutes at Large, Vol. III, p. 256.

[2] Annals of Congress 1816-1817, p. 463

[3] Act of March 3, 1817, Statutes at Large, Vol. III, pp. 393-94.

in force only one year. Under the first Canadian bounty 76,592 acres were turned over to claimants.[1] Under the second act 267 warrants were issued.[2] The officers of regulars and volunteers waited until 1850 for their land bounty and then it was for 160 acres.[3]

By 1835, 4,452,760 acres had been granted in War of 1812 bounties all in the following four states:[4]

Indiana	67,960 acres
Illinois	2,878,720 "
Missouri	468,960 "
Arkansas	1,037,120 "

The next legislation of critical import was in 1830 when Congress provided for the exchange of the Virginia land warrants for land scrip which could be applied for the purchase of lands open to sale in Ohio, Illinois, and Indiana.[5] This scrip was assignable. A means was now open to add to the speculation in unsettled lands. In anticipation of monopolistic practices which might arise under this act no one individual was allowed to purchase more than 260,000 acres using such scrip.

Two other acts converting military warrants to scrip passed in the early 1830's. By acts of July 13, 1852, and March 3, 1853,

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[1] Donaldson, p. 236.

[2] P. L., Vol. III, p. 486.

[3] Act of September 28, 1850, Statutes at Large, Vol. IX, p. 520.

[4] P. L., Vol. VIII, p. 4.

[5] Act of May 30, 1830, Statutes at Large, Vol. IV, pp. 422-423.

Revolutionary and Virginia warrants were converted to scrip used to purchase land from the public domain.[1] Under the 1832 act 500,000 acres were extracted from the public domain and by the 1833 act another 200,000 acres.[2]

The setting aside of definite tracts for location of the military warrants was abandoned in 1842. Both warrants from the Revolution and the War of 1812 were to be honored for any land opened to private entry.[3] The warrants were still unassignable.

MEXICAN WAR

In organizing for the War with Mexico the public domain was once again to be a means for inducing men to enlist in the military establishment. Each soldier who served twelve months was entitled to 160 acres of any lands open for public sale.[4] This acreage could not be seized for previous debt or contracts. Awards of land did not work a uniform benefit to veterans. To accept the land often meant leaving his home community and repairing to a frontier. If he did not choose to do so, or if he could not, then he received no benefit from the Congressional acts. Congress had long been under pressure to equalize this. It

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[1] Act of July 13, 1832, Ibid., p. 578.
Act of March 2, 1833, Ibid., p. 665.

[2] Donaldson, p. 236

[3] Act of July 2, 1842, Statutes at Large, Vol. V, p. 497.

[4] Act of February 11, 1847, Ibid., Vol. IX, pp. 125-126.

did so in the Act of February 11, 1847, by giving a soldier the option of land or treasury scrip of one hundred dollars bearing six per cent interest. From the construction of the law it would not seem that this scrip issue could be used for the purchase of land.

For men serving less than twelve months forty acres or twenty-five dollars in scrip was proffered. There were several modifications of this basic Mexican war bounty act in the following months. A man did not lose his right to land which would accrue to him for enlisted service when he was commissioned from the ranks.[1] Marine Corps soldiers who served with the Army in Mexico were placed on the same footing as to land bounties.[2]

Immediately following the Mexican war the approach to land bounties shifted. In the preceding decades land was an inducement to joining. It now became an expression of gratitude for military service from the slightest upward.

The first of these inclusive bounty acts was in 1850. To each of the surviving:

> commissioned and non-commissioned officers, privates whether of regulars, volunteers, rangers or militia in the War of 1812 or any Indian war since 1790 and to each commissioned officer in the War with Mexico

or their widows or minor children was granted land graduated according to term of service: for nine months, 160 acres; for four months, eighty

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[1] Act of May 27, 1848, Ibid., p. 233.

[2] Joint Resolution, August 10, 1848, Ibid., p. 340.

acres; for one month forty acres. To be eligible a claimant could not be a deserter or have been dishonorably discharged, nor could he be eligible for bounty land under any previous act of Congress.[1]

A measure of immense consequence was enacted in 1852. All military bounty land warrants heretofore issued and those to be issued were made assignable.[2] The huge acreage withdrawn from the public domain under these various bounty acts of the 1850's (some thirty million acres by one act alone) was thrown into the speculative arena. This same act also extended the Act of September 28, 1850, to include for the War of 1812 "militia, volunteers, State troops of any State or Territory whose services were paid by the United States."

Later in 1852 a start was made toward closing out the account with the Commonwealth of Virginia on its Revolutionary warrants. The outstanding warrants were to be converted to assignable scrip which could be used for the purchase of any land open to public sale. This act was to be the full and final adjustment for all land claims of Virginia, provided Virginia would relinquish all claims to the Virginia Military District, which it did December 9, 1852.[4] Scrip was issued for 1,041,976 acres.[5]

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[1]Act of Sept. 28, 1850, Ibid., Vol. IX, p. 520

[2]Act of March 22, 1852, Ibid., Vol. X, p. 3.

[3]Act of August 31, 1852, Ibid., p. 143

[4]Donaldson, p. 233.

[5]Ibid.

Land bounty legislation rolled to a great crescendo in the bounty act of 1855. In this all-inclusive act 160 acres was granted to each of the surviving:

> commissioned and non commissioned officers, musicians, privates, whether of regulars, rangers, or militia, who were regularly mustered into the service of the United States and every officer, commissioned and non-commissioned, seaman, ordinary seaman, flotilla man, marine, clerk or landsman in the navy, in any of the wars in which this country has been engaged since seventeen hundred and ninety, and the survivors of the militia, or volunteers, or State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States.[1]

Also listed as coming under its grant were wagon masters and teamsters, volunteers at the Battle of King's Mountain in the Revolution; volunteers at the Battle of Nickojack "against the confederated savages of the south"; volunteers against the British attack on Lewistown, Delaware, in the War of 1812 and the chaplains in all the wars.

Eligibility called for at least fourteen days service or participation in one battle. Indians were not to be denied a reward as "the provisions of this act and all bounty land laws heretofore. . . . shall be extended to Indians, in the same manner, and to the same extent as if said Indians had been white men."

Fourteen days of service might seem a short period for the granting of a bounty. It must be remembered that in early wars the republic depended upon short term volunteers, whose service was sporadic but often as decisive as that, for instance, of the volunteers who

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[1] Act of March 3, 1855, Statutes at Large, Vol. X, p. 701.

poured into New Orleans to defend the city in 1813-14.

This act of 1855 might be called the grandfather of all bounty laws. Over half the sixty odd million acres offered as rewards for military service were patented under this act.

It would seem that such an all-inclusive act would need no extension of the classes it covered. There were, however, several more acts for special cases. In 1856 those who had served at least fourteen days in any war as volunteers with the armed forces "subject to military orders but not mustered" were included in the benefits of the 1855 act.[1] The men and officers of Major David Bailey's Battalion of the Cook County (Illinois) volunteers in the Black Hawk war were defined as being under the privileges of the 1855 act.[2]

All the millions of acres embraced in the 1855 act were thrown open to speculation when, in 1858, the warrants were made assignable.[3] As negotiable instruments the military warrants were subject to forgery and counterfeiting. And there must have been cases of such activity, for Congress made it a federal felony to forge or counterfeit military warrants or the other documents connected with the transfer of public domain under bounty laws.[4]

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[1]Act of May 14, 1856, Ibid., Vol. XI, p. 8.

[2]Act of March 3, 1857, Ibid., p. 250.

[3]Act of June 3, 1858, Ibid., p. 309.

[4]Act of February 5, 1859, Ibid., p. 381.

Summary of Land Located Under Various Bounty Acts[1]

	No. Warrants	Acreage
Act of 1812	29,013	4,807,520
Act of 1847	86,307	12,956,520
Act of 1850	184,390	12,864,200
Act of 1852	11,759	680,600
Act of 1855	251,498	32,627,010
Total	562,967	63,935,850

[1] Report of the Commissioner of the General Land Office (Washington: Gov't Printing Office, 1907) p. 193. The report is through the year ending June 30, 1907.

CHAPTER V

MILITARY LAND BOUNTY LAWS IN OPERATION

SPECULATION

The yet-to-be settled lands of a continental expanse furnished an omnipresent magnetic attraction, whose force could hardly be resisted, for speculative ventures. The Crown lands of Great Britain and the public domain of the United States were looked upon as means, through cheap procurement, to sizeable fortunes. In these endeavors the military land warrant was a facile device to withdraw land from the public domain and place it in the speculative whirl.

Although sometimes argued differently, the underlying principle of the military land bounty was the granting of a homestead to the individual veteran for his and his family's security and to place the development of the nation in the hands of individual freeholders. As far as placing a freeholding veteran upon the land, this principle was far from fully realized. The negotiability of the land warrant militated against it. Lacking either the desire or means (or both) to migrate to the western edges of the nation the veteran sold his warrant for what cash it would command at a given moment.

Speculation was practiced in all degrees from the claim-maker who sold his claim to a relative newcomer to the syndicates of eastern

and foreign capital which used their cash resources to purchase land bounty warrants in great numbers and then located extensive blocs.

Some men went right to work themselves to increase the value of their land by actively stimulating settlement, while others were content to hold their blocs and allow general settlement to give them the price increase they sought. Those purchasing land warrants in an open market had this distinct advantage, the warrants had a definite ceiling of $1.25 per acre which was the standard price of government land for several decades. Military warrants or military scrip as negotiable instruments had a fluctuating market value which was quoted in newspapers and financial journals. In this fashion military land was under-selling government land which could not be disposed of below the $1.25 minimum.[1]

The operations of the Ohio Company and Symmes were speculative ventures which made use of military warrants. Washington left in his will a three thousand acre tract of Ohio land purchased through military bounties, although he had refused a Virginia grant of 20,000 acres.[2]

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[1]In speaking of military lands and speculation two terms have to be understood. One, the warrants issued to soldiers authorized the land offices to locate and patent a specified number of acres. Until 1852 these were not assignable. However, several acts of Congress authorized the conversion of warrants to scrip worth a specified sum of money when received at the land offices for the purchase of government land. Warrants were made assignable in 1852.

[2]Writings of Washington, ed. John C. Fitzpatrick (Washington: Government Printing Office, 1931) Vol. XXXVII, p. 299.

Action against the speculative features of the military bounties began in the public land states of the west.

The reservations for the bounties of the War of 1812 went pretty largely to speculators who held them without development. These choice lands stood for years as islands of wilderness as surrounding sections were brought under cultivation.

As early as 1820 there were movements against the reservations. One Congressman advocated allowing soldiers to locate eighty acres wherever government land was available thereby saving the government half in acreage and allowing the veteran to have land nearer his home community. It would also save states from the blight of great undeveloped tracts

> which converted so much of the State of Illinois at least into temporary wilderness; that delightful body of land lying between the Illinois and Mississippi rivers, . . . , has to such an extent fallen into the hands of speculators, who bought it for a mere trifle, that it will be uninhabited for years. . . . . The bounty of the Government, owing to the manner of conferring it, has thus done little good to the soldier, and established a nuisance in that flourishing State.[1]

Issuance of assignable military land scrip began in the 1830's. In this decade the amount purchased through scrip was sizeable, but as nothing compared to that in the 1850's. Public land subject to sale by military scrip in the early 1830's was located in Ohio, Indiana, Illinois, and Michigan Territory. In the year ending December 31, 1833,

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[1] Annals of Congress, 16 Cong. 1 Session, pp. 1490-91.

land was purchased through military scrip in the following amounts:

Ohio	$169,018.84
Indiana	143,158.79
Illinois	32,008.01
Michigan	21,566.66

The total value of land purchased was $4,972,284.84.[1] The military scrip then accounted for the payment of approximately seven per cent of the land sales that year. In 1831 military scrip procured $229,798.27 worth of public land compared to the $3,557,023 in cash sales. Estimates vary greatly as to how much of this land went directly to the veterans. There is no doubt, however, that it was a relatively small amount.

Speculation in western lands rose especially in the 1830's and 1850's to an intense mania. Paper profit and potential profit already counted were so great from these land manipulations that men half jokingly considered relegating to the poor house men not worth $10,000. The military warrant played a singular role in speculation and particularly so in the decade after the Mexican War.

One of the more prominent professional speculators was Jonathan Sturgis, who made his start by buying in 1836 and 1837 bounty scrip given for the Virginia warrants and locating it in the region where the Illinois Central was later to run.[2] Land along anticipated railroad

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[1] P. L., Vol. VII, p. 327.

[2] Roy Robbins, Our Landed Heritage (Princeton: Princeton Univ. Press, 1942) p. 194.

right-of-ways were always the objects of special speculative attention.

Although military bounty land had been closely connected with speculation in the preceding decades, they became after the Mexican War the chief means of land transfer from the public domain. The bounties located by the War of 1812 warrants amounted, in round figures, to four million acres. This was but a drop in the bucket compared to the grants of the '50's when warrants were issued and located for fifty-six million acres.[1] For several years during the '50's the amount of land taken up by bounty was one-third again as much as that sold. The Secretary of the Interior reported in 1851 that in the preceding year 2,454,000 acres had been conveyed by warrants in comparison to 1,846,847 sold for cash.[2]

These warrants were assignable and by their use almost entire states were patented to individuals and companies. A military land warrant was a valuable bit of paper which could for its holder (that is a broker or entrepreneur) produce a nice return in several ways. One such way did not even involve an actual land location. Warrants were purchased in eastern population centers, where their volume made them cheaper, and shipped west to the public land states, where other men anxious to make locations would buy them at a slightly higher price. Of course, the differential was small, just a few cents an acre, but the volume would produce a tidy interest.[3]

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[1] See Chart, page 44.

[2] Congressional Globe, 32 Congress 1 Sess., Appendix, p. 10. Hereinafter cited as Globe.

[3] Such transactions alluded to in Letters of J.W.Denison in Iowa Journal of History and Politics, Vol. XXXI, p. 96.

A national legislator struck out at warrants as being means for men of capital to evade usury laws. He described the workings in his western state: preemptors were approached by agents of men holding warrants (purchased on the market for less than $1.25 per acre), a deal would then be struck for the warrant owner to purchase by warrant the preemption and at the same time execute a contract for its resale to the actual preemptor at the minimum $1.25.[1]

Such uses as these were just instances of gaining nice interest. Other speculators dreamed of seeing their cheaply procured land treble or quadruple (at the least). This spectre of large tracts of choice lands held by absentee owners haunted the western peoples and their representatives in Congress.

Western legislators were most vocal in their denunciations of speculation. And in the '50's they saw the bountiful land gratuities as cursed schemes to pry land from the public domain to withhold it from the actual settler. Charles Durkee of Wisconsin in debate upon the 1850 act, the first of the general acts, voiced this strong feeling against eastern and even foreign speculation:

> Why, sir, give me capital enough, and under the operation of such a law. . . . I could purchase all the choice public lands in Wisconsin, give away one-fourth of them to actual settlers, and make a thousand per cent on the balance. Sir, the temptation to the capitalist is already so great that large investments have been made in the state where I reside, an English nobleman has purchased forty thousand acres in one of our western counties. A firm in New York city has purchased

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[1] Globe, 31 Cong. 1 Sess., p. 1708; Hibbard, op.cit., p. 128.

> forty thousand acres in the county of Sheybogan, besides something like fifty or sixty thousand acres in other counties.[1]

In the same speech the representative goes on to dwell on the evils of the British land-owning aristocracy, implying that he wants none of them here.

Those wishing to make land warrants assignable advanced the argument that unless they were assignable only those who would migrate could benefit. With some men this argument was sincere, but with others it was very probably a screen to get land into circulation. This argument was countered by western legislators, whose contention was: if a man did not want to bother to take up his land, that was his lookout. The western states wanted truck only with bonafide settlers.

Active in the senatorial debate in presenting this western view was Isaac Walker of Wisconsin. In one of the lengthy debates on the 1850 bounty act he summed up the western feeling:

> If this be an act really to benefit the soldier, and not the speculator. . . . it is well to protect him as fully as we may be able, in the possession of the warrant. I know, indeed, what will be answered to this. I know it will be asked, 'Will you tie up the hands of these soldiers, and not permit them to sell their warrants should they be disposed to do so?' I say you ought either to do that or not to pass the law, for we know full well that but little benefit has resulted to the soldier under the act giving bounty lands to those serving in the Mexican War. We know that, in eight cases out of ten, and that is a fair calculation, the speculator and not the soldier, has been the party chiefly

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[1] Globe, 31 Cong. 1 Sess., p. 1275. Another reference to British activity in western land in Globe, 30 Cong. 1 Sess., p. 172.

> benefitted. I understand this bill to be to provide a homestead for him who has periled his life for the benefit of his country. Then let that be the foundation of it, and not one on which he raises a few dollars which are soon to be spent, and he again reduced to destitution. Now the true recommendation of this amendment [to curtail assignability] is, that by it the soldier will get the benefit of the land. If he wants it, all he will have to do to save himself from want, will be to make a selection among some of the rich lands of the West, and to settle it. . . . . We are interested [in the Western states] in having settlers on these lands who will not transfer them to those who take up lands in vast quantities and hold them as it were in mortmain, so that they can not be improved. And we desire that if warrants are issued at all, they may go into the hands of they they are intended to benefit.[1]

An amendment to this same 1850 bounty act was proposed in the Senate making void any prior assignments because a Senator understood that after passage of the bill in the House men rushed out through the interior ahead of the news to purchase warrants and powers of attorney for twenty to fifty dollars. The Senator wanted men, when the bill was passed, to have time to review their prior sale.

Giving homesteads to veterans who would actually utilize them and at the same time keeping out the evils of speculative activity was almost, if not wholly, impossible. "I suppose that whatever regulations were adopted," said one legislator, "unless we adopt the law of primogeniture, and deny to holders. . . . the right of conveying it away or selling it this effect [speculation] will follow. . . . ."[2]

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[1] Ibid., 31 Cong. 1 Sess., Appendix, pp. 1685-86.

[2] Ibid., p. 1686.

Just such a thing was emphatically advocated by Thomas H. Benton on two instances. He offered an amendment to the bounty act of 1847 which would not honor any assignment prior to patenting nor for five years thereafter, with the provision that the grantee or his heirs could repossess at any time "without let or hindrance from any statute of limitation, . . . , from any pretended purchaser or holder. . . . and shall recover damages for rents and mesne profits for the whole time that said land may have been in possession."[1]

Benton was even more drastic in 1850. He strengthened an amendment against assignability by providing that should land be assigned "the heirs at law, or widow, may at any time, recover possession of said premises, with returns and mesne profits, by merely proving on trial the fact of heir ship or widowhood."[2] "I follow out the words of Jefferson," Benton said, "that the homestead ought to be secured to the working part of the community, and so secured that it can not be taken from him 'by any juggle of the law'."

It is somewhat ironic that Benton, who said in one bounty speech that he stood where Jefferson stood for the independent freeholder, advocated the entailment of property when Jefferson engineered its abolition in Virginia. The Benton proposal was attacked upon two counts. Congress generally doubted the advisability of granting a title

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[1] Ibid., 29 Cong. 2 Sess., p. 192

[2] Ibid., 31 Cong. 1 Sess., Appendix, p. 1686.

with restrictions. And it was further pointed out that the inability of a soldier to convey a fully clear title could be used to talk down the price of his land should he be trying to sell it.

Benton in his characteristically emphatic manner declared at another time that he did not mean "by any act whatsoever to admit the existence of an assignee,"[1] In a House debate (where Benton was serving after leaving the Senate) on the 1855 bounty act he commented humorously upon the extent of land involved in the act.

> There is not enough land in our America to satisfy the endless claims to be bred under this bill. We shall have to make new annexations and perhaps advertise for another Columbus to come and discover a new continent for us to enable us to meet these demands. And all for the benefit of speculators.[2]

Opponents of the bounty were making exaggerated predictions on the amount of land which the bill would involve. Even so the thirty-two million acres it granted were far in excess of the settlement rate. Opposition to this bounty bill was purely sectional. It passed in the House 135 - 39. With three exceptions the negative votes came from western and southern states. The act passed the Senate thirty to fifteen, with dissenting votes also from the west and south.[3]

During the 1855 debate a proposal to ameliorate the speculative

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[1] Ibid., 30 Cong. 2 Sess., p. 265.

[2] Ibid., 33 Cong. 2 Sess., p. 997. Benton charged also in this debate that the 1855 bounty act was being railroaded through the House in disregard to proper procedure or consideration.

[3] Ibid., p. 1004.

evil was brought into the discussion. One Congressman would limit the number of contiguous acres to 640 located by one person, with a further limitation of 1280 acres per township.[1] Cash in lieu of land was frequently suggested. But no such action was taken, and seemingly veterans themselves were more interested in land. The 1847 Mexican War bounty act gave a choice between land and treasury scrip. An 1850 report of the Secretary of the Interior indicates an overwhelming preference for land. Land claims had been allowed for 70,390 men against 2,992 for money.[2] However, the scrip had a face value of $100 and men interested only in cash might have judged that they would receive more by taking a 160-acre warrant and selling it even below the $1.25 minimum. And then, too, many must have taken a warrant thinking there might be a possibility, even though remote, that they would actually take up the land.

It is difficult to untangle motives in the land bounty debates of the 1850's. The previous enlistments acts were passed forthrightly as means of recruiting soldiers. The men anxious to promote speculation never came out, of course, to say so openly. Consequently it is not easy to determine whether concern for getting land to the 'old soldier' through these broad acts is genuine or whether the main interest was in prying land from the public domain.

One little incident in promulgation of the 1852 act making warrants assignable reveals a definite speculative interest at work.

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[1] Ibid., p. 170.

[2] Ibid., 31 Cong. 1 Sess., Appendix, p.21.

One amendment was offered making valid "any sale or assignment. . . . heretofore made for valuable consideration . . . . as though such warrant had been assignable at the time of sale or assignment."[1]

The amendment and remarks in the discussion indicate strongly that warrants were being assigned extra-legally if not illegally. Recognition of prior assignments was, of course, directly in favor of those who had purchased them hoping, if not actively planning, that Congress would make them assignable.

One western Senator charged in 1856 that the House of Representatives (where he was serving in 1852) had a direct stake in the assignment of land warrants, because the members had "their pockets full of land warrants." He further charged that all the clamor and furor over extension of bounties was at the instigation of speculators.[2]

Not alone did western legislators, but also editors, lash out at the bill to permit assignment of warrants. One Minnesota editor took the measure to task as

> . . . . an infamous scheme of Eastern speculators to inflict a lasting curse upon our Territory. . . . . Nearly 200,000 land warrants yet remain to be located. If assignable, no more than one-third or one-fourth. . . . will be located by the original holders. Land sharks will swallow all the rest, and disgorge them polluted by their blighting touch, upon the fairest portions of our Territory. . . . . If the Bill. . . . passes Congress, there is but one course . . . . that will secure us from the evils we have deprecated---let our legislature pass an act taxing the lands of non-residents so highly as to amount to a prohibition of purchase.[3]

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[1] Ibid.,32 Cong. 1 Sess.,p. 500.

[2] Ibid.,34 Cong., 1 Sess., pp.928-29.

[3] Quoted in George Stephenson, Political History of the Public Lands (Boston: Richard Badger, 1917) p. 102.

The period of the mid-century migrations to the prairie states, especially Iowa, coincided with the tremendous influx of warrants onto the market. It is no surprise then that Iowa was largely patented into private hands through the land warrant. More land was patented in Iowa through land warrants than in any other state. Other prairie states, Illinois and Missouri, followed as second and third. Over fourteen million of the thirty-six million acres in Iowa went to individuals as military grants.[1]

More military warrants were used in the large purchases in the forty years of active land sales in Iowa than cash. One such military purchase went over a quarter million acres and another to 200,000 acres. The largest land sale in Iowa, 344,578 acres, was secured partly by warrants and partly by cash.[2]

A view of the workings of the land bounty system in Iowa in the 1850's can be gleaned in the extant reports of a land agent to his company in Rhode Island.[3] In these letters of a retired minister turned land agent are seen the every-day activities of warrant location: making friends in the land office who could do little favors, the maneuvering to get county seats placed upon particular sites, the long rides across

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[1] Roscoe L. Lokken, Iowa Public Land Disposal (Iowa City: State Historical Society of Iowa, 1942) p. 149.

[2] Ibid., p. 141.

[3] Letters of J. W. Denison in The Iowa Journal of History and Politics, Vol. XXXI, pp. 87-126; 275-301.

the prairies in winter to study locations while competing agents stayed close to the fires.

J. W. Denison, this minister who turned to the outdoor task of location agent for his health, not to mention money, represented the Providence Western Land Company---a group of New England men of means. He was probably fairly typical of the better speculator. Denison, whose name remains as the name of the county seat whose site he influenced, planned the development of this tract. His plan included building stores and mills and the systematic sale of land to substantial farmers of the east who would come to a frontier if a good start toward community life could be demonstrated.

At the time Denison was making his locations, the middle '50's, the military land warrant was commanding $1.10 per acre, which, considering the number in circulation, indicates a heavy demand. Warrants had been as low as sixty cents an acre.

In Iowa a local scheme was inaugurated to give advantage to the small locator, or more properly to take advantage away from the big locators. A man locating thousands of acres at one crack could nullify the prospective locations of numerous small operators. Consequently a lottery was worked out whereby a man drew numbers and could locate only 640 acres at one time. For further locations he would have to wait for his number.[1]

The Panic of 1857 put a crimp in land speculation in Iowa and

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[1] Lokken, op.cit., p. 148.

in all public land states. This panic ended the big splurge in military warrant speculation, for no major bounty acts were passed after 1855; and the homestead act of 1862 offered free land in competition to land controlled by speculators.

Insofar as accomplishing the original intent the bounty acts were completely perverted by their connection with speculation. One land commissioner writing in the '60's after the big rush of warrant locations, wrote officially that not one location in five hundred was by the original grantee.[1]

Considering the extent and the acknowledged bad effects of speculation it is easy to over-state the case against the speculators. In the first place, speculation was not confined to a particular class. It was engaged in by many and to all degrees from quarter-sections to tracts of hundreds of thousands of acres. And many a speculator paid for his "sinning" in the Panics of 1837 and 1857. Many of the speculative schemes failed, although there were few tears shed in the West when they did.

No general judgment, good or bad, can be passed on speculation with military warrants. Where the men who made the purchases at low prices by way of the warrant worked out their investment by actively managing their lands, organizing towns at feasible points, selling their land to efficient and responsible people and otherwise being on the scene to work out their profit, then the speculation (even though the intent

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[1] Globe, 40 Cong. 2 Sess., p. 424.

of the bounties was side-stepped) could be defended as being within the accepted American tradition that the nation would benefit most by turning over parts of the public domain for private development.

Where these speculators were absentee owners, some as far away as Britain, and did nothing to develop their land but depended upon labor put forth by local men on surrounding land to lift their land in value, then speculation was an undoubted evil and a complete, direct perversion of the intent of the bounty acts.

Exercising the all-knowing powers of hindsight it might be said that Congress should have granted land bounties to those who would actually settle them; and if it felt that it still needed to reward those who did not want land, it should have paid a cash bounty. All the evils connected with throwing land upon the market in quantities far in excess of the settlement rate then would have been avoided, yet the freeholding veteran would have had his reward.

FRAUD

As in any measure affecting so many men in a cross-section of the nation, there was bound to be fraud. At one time the frauds were so numerous the Pension Office (which handled at one time the issuance of warrants) closed down completely to check on the frauds being worked through it.[1]

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[1] Globe, 30 Cong. 2 Sess., p. 265.

Liberality of the government encouraged fraud. Legislators and administrators were anxious that no one having a real claim be denied it on technical grounds. Consequently this willingness to give the benefit of the doubt left room for fraudulent impositions.

Also in many cases marked fraud the intent was probably not so much fraud as an attempt to stretch a bounty law to cover a particular case. In the early years the military establishment was heterogeneous and valuable services were sometime performed not strictly within the establishment; and many claims undoubtedly smacked of fraud that were mere attempts to gain the bounty for vague services.

There were genuine cases enough of direct fraud against both the government and individuals. An early Congress ran into this problem when it came to light that Revolutionary warrants had been issued to men impersonating the rightful owners. The government's position was rather adequately expressed by a Congressional committee report when it could not grant relief to the petitioner. The committee suggested that judicial relief was the only recourse.

> The committee cannot doubt but that, in some instances, the soldiers of the revolutionary war have been defrauded out of their bounty lands. But they believe it is now as difficult to provide a safe remedy for such wrongs as it was formerly to adopt regulations entirely to prevent them; had a degree of evidence been required. . . . to be produced. . . . so as entirely to have prevented impositions, the effect must have been to render it difficult, and, in some instances, impracticable, for persons rightfully entitled to have substantiated their claims. It is not the opinion of this committee that the regulations. . . . were insufficient or defective, or that the Government are accountable for the frauds that may have been committed.

> The committee are informed that numerous applications are made at the War Office for land warrants on claims which it appears by the records have been already satisfied. To authorize a second warrant to be issued whenever it is alleged by the original claimant that the first had not been issued by his order, or to his assignee, would be to sanction the principle that the public record is not conclusive evidence; the admission of which. . . . would expose the public to extensive impositions.[1]

Fraud was practiced to such a wholesale extent in the operation of a 1791 grant to militiamen of Kaskaskia that Congress appointed a commission which went out to study each and every grant before confirming title. The comments chosen at random from their report on claims denied are revealing: "No proof", "This man in 1790 (when supposedly serving in the militia) only ten years old as per church record", "Deed forged", "Right previously sold and confirmed", "Man only seven in 1790", "No such man", "Deed forged and testimony suspicious".[2]

In this same inquiry the commission had reason to believe that speculators were buying up testimony. On a re-examination the testimony of several witnesses who had made a goodly number of depositions was thrown out with caustic comment upon the character of the witnesses: "This poor wandering wretch, equally destitute of morality or character . . . . has, we believe, been willing to testify, on moderate terms, for any man would pay him for it." Of another the commission found him a man "without property and fond of strong drink, without character". There

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[1] P. L., Vol. I, p. 911.

[2] Ibid., Vol. II, pp. 155-56

were also cases of substantial men, whose testimony would have weight with the board, being impersonated.[1]

A very decided tendency toward fraudulent or inadequate claims is seen in a report covering Revolutionary claims filed between 1801 and 1824, where 4,455 out of 5,622 claims were rejected as not being entitled or previously satisfied.[2]

Throughout bounty debates and reports are charges that speculators purposely kept information about bounty lands from veterans and that misrepresentations were made to veterans as to the difficulty of actually getting warrants located. All this aimed at the very easy procurement of the warrant.[3]

That men sold their discharges and that these were frequently presented fraudulently was an assertion often made.[4]

Another Senator once reported that ex-soldiers bothered him for years with letters seeking relief because they had sold their warrants for two, three, and five dollars. Forgery was another art practiced. Congress was at one time called upon to pass a law specifically making forgery of warrants a felony. An indictment had been quashed in Ohio because there was at the time no specific law against it.[5]

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[1] Ibid., pp. 125-126. [2] Ibid., Vol. IV, p. 51.

[3] Globe, 30 Cong. 2 Sess., p. 265.

[4] Ibid., 34 Cong. 1 Sess., p. 925.

[5] Ibid., 32 Cong., 1 Sess., Appendix, p. 9.

ADMINISTRATIVE ATTITUDE

In the administration of bounty land acts the government showed the utmost in consideration to the individual veteran. Committee reports and recommendations of administrative officers all indicate a desire to see the veteran receive his due, if his claim was genuine. In fact, the government probably laid itself open to petty fraud in the leniency with which it would accept some of the evidence if it was felt the claimant had a case. On the other hand, these men were not wishy-washy about protecting the interest of the United States.

There were passed numerous acts for the re-issuance of lost warrants. One law passed in the 1850's went even so far as to admit oral testimony as to service if no record evidence was available.[1] A great amount of condescencion was certainly practiced by legislators in the very numerous acts passed to extend the time limits set for locating warrants. As late as 1860 Congress was still making extensions for Revolutionary warrants.

One Congressman, who had had experience with locating the North Carolina bounties, did not like the extensions and suspected fraud in the late locations. "The practice", in North Carolina,"seemed to be that when you located one and satisfied it, it produced a couple more."[2]

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[1] Act of May 14, 1856, Statutes at Large, Vol. XI, p. 8.

[2] Globe, 31 Cong. 1 Sess., Appendix p. 1694.

The government was approached with some vague and fanciful claims under the bounty laws. One gentleman petitioned Congress for a grant in lieu of one he could have gotten from the Crown lands of Great Britain under the Proclamation of 1763. The petitioner was given leave to withdraw his petition, with the notation that the United States did not intend to honor any such commitments of the British King and that the petitioner had ample time to locate his grant while King George could still have given it.[1]

Another unique claim which went the rounds of Congressional committees involved the services of a slave. The slave was enlisted illegally for the War of 1812 and died in the service. His master wanted the land which the slave's service had earned. The plea was turned down once on the ground that the enlistment was illegal. A later committee granted the land.[2]

Seemingly many locations were made from plats and not by personal inspection. Very often when the veteran arrived on his land he found it not fit for cultivation. Congress passed four acts between 1826 and 1853 to allow men to exchange their bad for good land. A Congressional committee one time reporting on this was very much in favor of aiding the soldier settler, but showed no compassion toward aiding any speculator caught with marginal land.[3]

A Jeffersonian concern for the independence of a freeholding

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[1] P. L., Vol. II, p. 121.

[2] Ibid., Vol. VI, p. 969.

[3] Ibid., Vol. IV, p. 480.

agrarian class manifested itself in the provisions against seizure of bounty lands, when held by the veteran, for previous debt. The government clearly wanted to afford veterans a clean start. This strong desire to support the frontier farmer led a Representative to propose in 1852 that military land bounties be extended to "such other persons as may have performed voluntary military duty in defending their homes on the frontier of the Republic against Indian invasion."[1] Granting land to the "hunting shirts---the minute men of the West---" would have amounted, in practice, to a general homestead law.

Naval service never brought the reward in land as did army service. Navy men were given prize money for enemy vessels captured. This was reason, or used as such, for not offering extensive land bounties.

Land bounties were a politically touchy subject. Legislators in dealing with them were always very careful to point out that their concern was always for the veteran. One of the few outspokenly opposed was Robert Toombs of Georgia.

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[1] Globe, 32 Cong. 1 Sess., pp. 494-495.

CHAPTER VI

VETERAN PREFERENCES UNDER THE HOMESTEAD POLICY

Enactment into law, in 1862, of the long clamored for homestead bill substantially altered the policy of land bounty grants to war veterans. The homestead principle was one of settlement and cultivation. Bounty grants were in direct opposition to this principle.

The fierceness of the struggle between these policies did not abate after passage of the homestead law. If anything, it grew more tense as the advocates of homesteading warded off all attempts to encroach upon the homestead policy.

The original homestead act of 1862 made only minor provision for the new generation of veterans produced by the Civil War. Under its terms any person who served not less than fourteen days would not be deprived of the benefits of the act because he had not attained the age of twenty-one.[1]

The land bounty system, too, had its staunch advocates, and it died a hard death. William Holman of Indiana was during the Civil War and in the immediate post-war years an active backer of land bounties.

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[1] Act of May 20, 1862, Statutes at Large, Vol. XII, p. 393.

It was he who introduced an amendment to the homestead bill to extend to veterans of the naval and military service of the Federal government the provisions of the 1855 bounty act,[1] an action which in the highest probability would have made the Homestead Act a dead letter from its beginning. His amendment was defeated, but Holman continued prominent in other attempts to get a land bounty voted through Congress.

Coincidentally the chairman of the House Committee on Public Lands, George W. Julian, was also of Indiana and a zealous advocate and defender of the homestead principle. Holman's argument for the bounty was that it had been granted in the past and that men had enlisted thinking it would be continued. He claimed that men were attracted by recruiting promises signed by high officials of his state that Congress would grant bounties. He never explained, however, why these high officials so generously anticipated Congress. Julian's answer and that of the homestead group was that the bounty system was vicious, harmful, did little if any good to the veterans, and that harmful mistakes from the past need not be repeated.

Julian later in the war introduced his own bill for veteran homesteads. His bill would confiscate southern estates, have them returned to the public domain and then be homesteaded out to the soldiers and sailors of the Union.[2] This bill passed the House.

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[1] Globe, 37 Cong. 2 Sess., p. 133.

[2] Ibid., 38 Cong., 1 Sess. p. 2233.

It was subjected to severe attack by Fernando Wood, Democrat of New York. Wood saw in it (because of a clause hidden within the bill to include laborers of the Army which meant the large number of Negro laborers) an attempt not to aid the soldiers and sailors but the colored slaves. He considered it a violation of property rights and denial of the possibility of reunion. He said:

> Again, it says in substance, that 'we will kill or seize the masters and give their estates to their slaves'. That is a very grave objection. Another objection is that if it be right to give homesteads to soldiers and sailors they should be given them from the public domain.
>
> Again, it is the black laborer and not the white soldier which excites the philanthropic concern of its framers.
>
> Finally, my objection to it is that it is based upon the assumption that the Union cannot and shall not be restored; and that it is a thing of the past; that the privileges and the obligations of the Constitution have been withdrawn from those states. Whether we design it or not we are making a decision to the effect that the penalty of rebellion is the subversion of all their rights and liberties as States; the right of governing themselves; the right of ownership of land, and their reduction to a condition below that of a dependent people in an ordinary Territory.[1]

Wood also attacked the measure as an appeal to the soldier "which would invite the worst passions of his nature."[2]

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[1] Ibid., p. 2254.

[2] Julian defended the right and practice to seize the land of rebellious citizens. And there is good historical precedent for the seizure of the valuables of rebels. Wood's argument on reunion was a strong one. If one considered the Confederacy a somewhat sovereign opponent, which it was in fact, then the seizure of the property of individuals within the system would be a violation of a long established principle of international law that the goods of private citizens cannot be taken directly as indemnity or reparation. Julian's view was the Radical Republican one of reducing the Southern states to some secondary status. Wood wanted a restoration to full status.
In the Revolution Rhode Island seized Tory estates to be parcelled out to the State soldiery.

Julian explained and defended his bill as a direct attack upon the slavocracy. He named Davis, Floyd, Toombs, and several others as the men he meant to punish with this act. He wanted the land-holding class directly and personally punished by breaking up their estates and planting in the "rebellious" area a cadre of loyal Union men and Negroes expected to be loyal.

Punishment of the Confederate land-holding class (whom Julian considered solely responsible for the Southern secession) and protection of the actual public domain were Julian's motives. He was an anti-monopolist. In this respect the bill would serve a double purpose; it would break up land monopoly in the South and ease pressure for land bounty or veteran homesteads on the public domain. And Julian was always sensitive to the fact that land legislation for veterans would result in repudiation of the homestead principle.

The principle was not repudiated, but it was modified in favor of veterans. There were two such modifications of importance. Entry to 160 acres was authorized in 1870 to the double premium reserved sections along the land grant railroad lines.[1] These were the prize portions of the public domain. Their minimum price was $2.50 per acre and an ordinary homesteader could enter only eighty acres. This then was a very favorable concession to veterans.

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[1] Act of July 15, 1870, Statutes at Large, Vol. XVI, p. 320.

Time in military or naval service (if more than ninety days) was, in 1873, authorized to be counted as time spent in residence and cultivation, with the proviso that at least one year's residence must be maintained upon the homestead entry.[1]

The homestead idea was still imperiled by supporters of the land bounty. Land bounties were tied directly with cash bounty equalization problem facing Congress. Toward the close of the war the cash enlistment bounties had been raised, and the men who enlisted earlier for less bounty were indignant. Congress was under fire to arrange some equalization. Some turned to the land bounty as this means. The guardians of homesteading rushed to battle.

Julian was again the leading spokesman. One proposal would have issued certificates at the rate of eight and one-third dollars per month of service to be redeemable in land---the issuance of land scrip. Julian estimated that 320 million acres or upward would be called into speculation by such a move.

> This immense area, . . . double the area of Great Britain and Ireland, . . , of picked arable land, is to be held from cultivation and productive wealth, in order that the soldier who needs his bounty now in money may at some future time get it in the price of his land, which is kept idle at the nation's expense, and to the cruel wrong of multitudes who long for homes.[2]

Julian predicted a new low in land warrant price with the influx

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[1] Act of April 4, 1872, Statutes at Large, Vol. XVII, pp.49-50.

[2] Globe, 40 Cong., 2 Sess., Appendix, pp.422-424.

of such scrip held by over two million men, plus land college scrip and military warrants still not located. It was his contention that any bill of this kind would supersede the homestead and preemption acts, as it would place the remaining arable land in monopolistic hands. He read from a report of the Committee on Public Lands:

> All the evils of land speculation, to an extent as alarming as it would be unprecedented, would be the sure result. Capital, always sensitive and sagacious, would grasp these warrants at the lowest rate. Land monopoly in the United States, under the national sanction, would have its new birth and enter upon a career of wide-spread mischief and depredation. Speculators would seize and appropriate nearly all the choice lands of the government, and these nearest the settled portions of the country, while homestead claimants and preemptors would be driven to the outskirts of civilization. . . . .[1]

In 1872 when the House had a soldier's and sailor's homestead bill under consideration, a bill was substituted to extend the 1855 bounty act to Civil War officers, soldiers, and sailors. At this time Julian countered with the suggestion that service time be counted for qualifying for a homestead patent. He estimated if only half of the 369 million acres entailed in the bill were taken up it would require every acre surveyed in the coming twenty-nine years. He declared that:

> . . . . in a word our land policy, which is working such grand results, would be radically revolutionized in the interests of monopolists, who would lavish curses innumerable upon coming generations. . . . . The committee would gladly favor him (the veteran) in any manner that shall not surrender the wholesome policy of the Government in requiring the actual occupancy and tillage of the land appropriated.[2]

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[1] Ibid.

[2] Ibid., 41 Congress, 3 Session, pp.728-29.

The argument that Ohio and Indiana men enlisted thinking there would be a land bounty was again advanced. The Grand Army Journal was cited as being opposed to land bounties.[1] This bounty proposal was voted down, 104 negatives, 85 affirmatives. The bill then passed 186 - 2 for allowing service time as residence upon a homestead.

Allowing each his own service time did correct one discrepancy. All bounty considerations had been vexed by the problem of graduating the bounty in accordance with service. Under the bounty system this was not feasible. In the homestead principle it was, for a man benefitted in direct proportion to the time he served.

In 1873 a vigorous attempt was made again to extend the 1855 bounty act for the Civil War. This time it passed the House. Its passage grew out of an attempt to further modify the soldier and sailor provisions in the homestead system. A bill was introduced to allow a soldier or sailor to assign his certificate of entry within twelve months of having made it. Such an assignee could purchase only certificates of entry to 320 contiguous acres. This assignment would exhaust the homestead right of both veteran and assignee.

The advanced motive for this bill was the old one that a veteran received no benefit unless he himself came out to take up the land. Its supporters held that it was a compromise between the bounty system and the homestead system. Assignment of certificates would allow all

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[1] Ibid., p. 854.

veterans to share to an extent in the homestead privileges, but at the same time by requiring occupancy by the assignee would not surrender the homestead principle.

Homestead men were fearful that it was a wedge to break up their long fought-for system; that once enacted evasions would be discovered. They argued and justly that any veteran truly desirous of a homestead was able to acquire one with a minimum of effort under the modified homestead acts. An amendment was a substitution passing by 118 - 54 granting 160 acres to all serving in the naval or military service over ninety days in the Civil War.[1]

The states whose members voted heaviest against the bill were Ohio, Michigan, Massachusetts, New York. Opposed also were the other southern and western states. The Massachusetts and New York vote expressed the opposition of an industrial section against the thread free land might hold to its labor supply.

This bounty grant was passed over in the Senate, probably because of an adverse report which marshalled a tremendous array of facts and conclusions against it. Such a grant would have involved 320 million acres, practically the extent of the then remaining arable public domain. The Commissioner of the Land Office was asked for a written opinion. He outlined a bounty policy from its inception and then cast an extremely critical opinion:

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[1] Ibid., 42 Congress, 3 Session, p. 167.

> This is practically the theory of this act, viz; ownership without residence, possession without community of local interest, and profit without labor. Would not this be to inaugurate upon a scale of magnitude hitherto unknown a system of absenteeism worse than that which has universally been pronounced to be the blight and curse of Ireland?[1]

The validity of the contention that this was an out-and-out speculative scheme was buttressed by the commissioner, as follows:

> I have shown, under another head, that the various issues of bounty-land warrants are well nigh exhausted . . . . . Do not these facts naturally reflect the suggestion that the speculators who have enriched themselves by traffic in this form of land obligation will speedily be left without 'stock in trade' unless this act become law.[2]

Julian again entered the fight. A part of the Senate report was a letter Julian had written to a newspaper. He repeated the usual arguments, saying:

> . . . . . The enactment of this bill would be practically. . . . organizing land monopoly and public plunder into an institution. It would inaugurate a scheme of national spoilation, in comparison with which our land grants to railroads, our Indian treaty swindles, and our swamp land thieving would become decent and respectable.[3]

He again suggested the cash bounty. In support of this measure the old cry was that of past grants and the veteran expectation.

However, it is hard to view this bill as anything but a land-grab in effect, whether or not by intent. The compromise of the original bill might have been equitable. Congress, though, had certainly made

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[1] Senate Reports, 42 Cong., 3 Sess., No. 482, p. 14.

[2] Ibid.

[3] Ibid., p. 16

ample provision under the homestead acts for its veterans. The shout of doing justice to veterans hardly rings true.

Under its provisions the homestead and preemption acts would undoubtedly have been made dead letters. Three hundred twenty million acres would have been "placed beyond the reach of the actual settler, unless he shall secure them through the speculator at such prices and at such times as he sees fit to sell."[1]

The two modifications of the homestead principle were the last important changes in the military land legislation program. With the exceptions of securing benefits to widows and minor children there have been few changes. The homestead privileges were accorded to veterans of the Spanish-American War and the World Wars, but the homesteading era was then past its hey day.

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[1] Globe, 41 Congress, 3 Session, p. 854.

CONCLUSION

A balance between public interest and veteran reward was most nearly achieved under the homesteading principle. It alleviated flagrant evils of the former bounty system. Land was not withdrawn from the public domain far in excess of settlement rate; the incentive and opportunity for undue speculation was curtailed; and the veteran could realize a life-long benefit from his homestead.

The bounty system, as laudable as its intent, largely failed of its purpose. Whatever the exact figure may be, it is certain that a small number of veterans ever benefitted materially by their grants. The system fostered withdrawal at a rate far in advance of the nation's growth. The general community did not benefit from such premature transfer to private hands; veterans benefitted very little. The only ones to gain were speculators and theirs was by no means a universal gain, although successes were numerous enough to keep hopes alive.

Had Congress insisted upon residency and cultivation from the inception, the disposition of the public domain would have been more orderly; the same general results would have accrued to the country without the confusion ensuing from the circulation of land warrants. The people would not have sacrificed the principle of turning over public lands for private ownership and utilization. The land would

have been transferred in pace with the need to answer national growth.

In awarding bounty land grants a handicap was placed upon the public. The military reservations made for the War of 1812 grants kept large areas from exploitation by the general populace and later speculative ventures accomplished the same. The government came to the homestead principle for veteran reward by the hard road of trial and error. But Congress' refusal to deviate from it after the Civil War was an absolutely sound one.

Use of the public domain to give momentary reward was fallacious. Ownership of land should be a long-time affair. Giving land to veterans merely that they might sell it for a small price to answer immediate needs was a dubious practice at best. The veteran received only a pittance and the administration of the public domain was unnecessarily disturbed. Cash settlement for those who did not want land would have been far more equitable and would have enchenced a more systematic disposition of public land.

The public domain as a source of reward by America is not confined to its past. A huge investment has been made by the United States in reclamation projects in western states in the past forty years. These projects are open to public entry. A privilege accorded veterans under contemporary law is a ninety day preference in filing upon land open for entry. This provision, considering the available acreage and the demand of a new generation of veterans, makes the projects, in practice, open only to veterans.

Reclamation land represents a considerable investment by the United States. Consequently besides the qualifications under the homestead law, veterans must be specially qualified by experience and with a certain amount of capital to go ahead with land development. These projects will ultimately repay the United States the construction cost plus interest.

The last area of largely unexploited public domain is Alaska. Even now there are stirrings indicating a desire to open parts of this Alaskan domain for veteran homesteading. It is fairly certain that as long as the United States has habitable land to distribute from its public domain the historical precedent of granting land to veterans will prevail. Considering public interest and true material benefit to the individual veteran, land, except for educational benefits, is the most worthwhile reward the nation is able to make.

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