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Heirs of Colonel Archibald Loughery.

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Report No. 605.

HOUSE OF REPRESENTATIVES.

HEIRS OF COLONEL ARCHIBALD LOUGHERY.

MAY 16, 1848.

Laid upon the table.

MR. GARNETT DUNCAN, from the Committee on Public Lands, made the following

REPORT:

The Committee on Public Lands, to whom was referred the petition of Archibald Loughery's heirs, make the following report:

It appears satisfactorily that Archibald Loughery, in 1781, raised a party of volunteers, in Westmoreland county, Pennsylvania, exceeding one hundred in number, with the purpose of joining Colonel George Rogers Clarke in some contemplated expedition against the Indians. That they went to Wheeling, and started down the river, and were attacked on the Ohio on the 24th August, 1781. That Mr. Loughery and about thirty of his men were killed, and the rest made prisoners by the Indians. No commission is shown; and there is no evidence that these volunteers were ever mustered into the service of Virginia. An application for bounty lands is made by Loughery's heirs, and the question presented is, whether this is a proper case for the special legislation asked.

The first charter for lands in Virginia was given by James I. to Thomas Gates and others, on the 10th of April, 1604. It comprehended all the coast from 34° to 45° N latitude, and extended back only fifty miles, (1st Henning, 57.) The second charter was of May 23, 1609, to the earls of Suffolk and Salisbury and others, including the first grantees, by the name of "the treasurer and company of adventurers and planters of the city of London, for the colony of Virginia." It embraced the coast for 200 miles north and 200 miles south of Point Comfort, "and all that space or circuit of land lying from the sea, west of the precinct aforesaid, up into the land throughout, from sea to sea, west and northwest; and also all the islands lying within 100 miles along the coast of both seas, of the

precincts aforesaid." (1st Henning, 88.) This charter was enlarged on 12th March, 1611, so as to include all islands within 300 leagues of the coast.

It is true that these charters were repealed, but a new patent issued for the government of Virginia, without making any alteration in the boundary. Those boundaries of Virginia were, however, curtailed by the grants to Lord Baltimore, to William Penn and for North Carolina; Virginia, by the ordinance of '76, having magnanimously released to them.

Without tracing those curtailments, it may be said that, by the ancient charters, her jurisdiction extended from 36° 30', at the North Carolina boundary, to 42° on Lake Erie, and with those parallels westward to the Pacific.

During the war of the revolution, Virginia raised armies by regular enlistment, by calls on the militia, and by receiving volunteers not only for the general defence of the United States, but also for the defence of the State; and she also raised and equipped a navy for the defence of her seaboard. Under the confederation, Congress called on her, as on the other States, for her quota for the common defence. That branch of the service was called the continental line; the other branch for the defence of the State was called the State line.

To the continental line *the United States* promised pay, clothing, bounty land, and to officers, half pay for life. The State of Virginia, rich in resources, and more noble than she was rich, engaged to give different rewards to her officers and soldiers to encourage them to enter her service, viz: Pensions of half pay for life to the widows of those officers and soldiers who were killed or should die in the service, (act 1777, 9th Henning, page 566,) bounty lands, half pay for life to generals, field officers, captains, chaplains, physicians, surgeons and surgeon's mates, who should serve to the end of the war, or who should become supernumerary, and who should again enter the service, if required to do so, in the same or any other rank; (10th Henning, 25;) and by the act of May 28th, (9th Henning, 454,) full pay for life was promised to disabled soldiers, who enlisted for three years or during the war. These provisions extended to both the continental and the State line; to the former, however, with the proviso that Congress do not make some tantamount provision for them. Congress, about the close of the war, commuted with the officers of the continental line by allowing five years' full pay, in lieu of the half pay for life that had been promised them. This commutation was not paid to the officers in money, but in certificates for the amount, bearing interest, which depreciated as all such currency must do, without funds provided for their payment. This depreciation went as low as 2s. 6d. on the pound. Congress made no provision to pay the continental line the bounty land promised by Virginia, and she was, of course, bound to the State line for bounty land, and to its officers for half pay for life; and to the continental line, for the bounty land. The half pay for life to the officers of the State line and the navy was never paid till Virginia authorised suits against the State, and it was decided

that they were entitled. After those decisions, Congress, by the act of 5th July, 1832, (8 vol., Laws U. S., Davis, 653,) provided for their payment. None of those provisions applied to the militia or volunteers, who were usually called out for short periods.

Virginia had a territory which, for its fertility, its climate, its extent, its harbors and its rivers, was sufficient of itself to make a magnificent empire. But she had corresponding difficulties to encounter, and corresponding burthens to bear, to maintain those territorial limits. The efforts that had been made to unite Canada with the Mississippi by a chain of fortifications, and to excite the savages to make inroads upon her settlements, demanded the exertion of her utmost strength. These Indian wars required energy, bravery, patience and patriotism, to a degree that none but those inured to the hardships, and accustomed to the wild adventure of that period, could have equalled. It was in these Indian wars that the orphan boy, who had, by a proud mother, been qualified for the station of a surveyor, developed those high qualities which afterwards placed him at the head of the American army, and enabled him to shed lasting honor and renown upon his country.

Among the great men that Providence seems to have crowded together in that generation, to accomplish wonderful purposes on this continent, was George Rogers Clarke. He, in 1777, in the midst of the revolution, conceived, undertook and accomplished the task of reducing the British posts of Kaskaskias and Vincennes. He raised, in Kentucky, a small regiment of volunteers, and, with resources that he seemed to spin out of his own prolific brain, made that brilliant campaign in mid winter; his men often obliged to wade, for miles, in water breast deep, carrying their guns on their heads. By the military skill, energy, boldness and strategy of George Rogers Clarke, unaided by cannon and the ordinary materiel of war, this northwest territory was reduced to the actual possession of Virginia. The British prisoners, taken in strong forts, greatly exceeded his whole force. It was doubtless owing to the wonderful efforts of Virginia, in those Indian wars, that we now hold the rich valley of the Mississippi, increasing every day with its mighty progress.

That regiment was raised and that campaign accomplished without even the promise, on the part of Virginia, of pension, or bounty land, or half pay.

In the fall of 1778, the legislature passed an act making the whole northwest territory *the county of Illinois*, and establishing a civil and military jurisdiction therein. By that act, provision was made for raising and keeping up a regiment of 500 men, and a small company of horse, for the protection of the county of Illinois. (See Henning, 9th vol., page 553.) At the spring session, 1779, they gave 200 acres of land to every soldier who enlisted in the corps of volunteers under Colonel George Rogers Clarke, and continued therein till the taking the several posts in the Illinois country; and by the same act, (10th Henning, 26,) they promised a bounty in land, of 100 acres, to those who should thereafter enlist in the Illinois regiment, for and during the war. It was not till the fall

session, 1780, that this Illinois regiment was placed on the same footing, as to pay, with the continental line. (See 10th Henning, page 389.) By an act, (see 10th Henning, 331,) the bounty land to every soldier enlisting in their service, for and during the war, was increased to 300 acres.

Colonel George Rogers Clarke could obtain nothing but continental money from the treasury of Virginia. That he immediately converted into land warrants, and the lands he had entered. That, with his own private fortune, and with the orders which his commissary (Shannon) drew on him, and which he accepted, constituted his means of conducting his original expedition.

The Virginia legislature had been liberal in granting to settlers in Kentucky lands, and she had made very liberal pre-emption laws. Under such circumstances, it was easy for brave, adventurous men to procure lands for themselves in that country; and many persons did descend the Ohio about that period, in large parties, with that as their main object. But so far as bounty lands were promised, that matter stood upon the before recited acts of '79 and '80, giving lands to the soldiers of that regiment, to encourage enlistment.

From this review of the events of that period, believed to be correct, it is clear that Colonel Loughery and his party never did enlist in the Illinois regiment: On the contrary, Colonel Loughery held no commission, and his volunteers never were in the service of Virginia. They were probably going down the river to offer their services in some particular expedition, contemplated at the time, to see that new country and obtain lands; and, if any of them liked the prospect, perhaps some of them intended to enlist in the Illinois regiment. But there certainly was no contract on the part of Virginia to give them either land or money. From the nature of the forces, no bounty land was offered. Colonel Loughery could not have expected to go into the regular service as colonel, for there was but one regiment of 500 men, and one company of horse, 32 in number, then authorised by law to be kept organized for the protection of that territory.

Loughery and his men could have no demand on the United States, because, under the confederation, they raised their armies only by requisitions on the States. Nor could these volunteers have any demands on the United States, for services rendered, or proposed to be rendered, to Virginia, by reason of any stipulations between that State and the United States, unless they had a right to make the demand against Virginia, as a part of her troops.

In this aspect of the case, the claim to land of Loughery and his men is not greater than, if indeed equal, to the claims of those who volunteered in Virginia and were actually mustered into her service, and performed duty in different Indian campaigns, including Wayne's, in 1794.

This committee do not consider it necessary, on this petition, for them to examine and report upon the terms of the cession of the northwest territory, to ascertain what obligations may thereby have been imposed upon the United States to give lands or pensions to

those engaged in those Indian wars, as this House has charged other committees with that matter.

In making this report, this committee do not intend to pass any opinion on the claims of those engaged in those Indian wars, nor upon the question whether any of the obligations, incurred by accepting the cession, have been overlooked.

Loughery and his men were of those brave and hardy and enterprising pioneers of the west, who deserved the high respect and sympathy of their countrymen; but they stand, so far as bounty land is concerned, certainly on no higher ground than all of those who, at that early day, lost their lives in attempting to settle the western wilderness, and to protect the settlements against the scalping knife of the Indians.

They report that the petition should lie on the table.