

SENATE . . . No. 274.

Commonwealth of Massachusetts.

IN SENATE, May 10, 1866.

The Joint Special Committee on Equalization of Bounties to whom were committed the Petitions of James B. Monroe and one hundred and six others, of West Stockbridge, and of E. K. Williams and sixty others, of Alford, praying for the passage of laws to re-imburse to men drafted during the war the commutation money which they paid, and also to re-imburse to cities, towns and individuals the money paid by them for the purpose of filling quotas, submit the following

R E P O R T :

The first prayer is for a law to re-imburse commutation money to drafted men.

These men, as citizens of the United States, were bound to render military service, whenever the government should call upon them. As a sufficient number of volunteers could not be obtained, the president, under the law, directed that a draft should be made. Certain citizens, liable to do military service, were drawn. Under the very lenient provisions of the law, payment of a certain sum of money excused a drafted man from service. Some of these men, of their own motion, and for reasons satisfactory to themselves, availed themselves of that

privilege, paid their money to the officers of the United States, and were excused from service. They now ask the State, out of its treasury, to re-imburse them for the money with which they bought their exemption. The Committee are unable to see any reason why such an extraordinary request should be granted.

But the conclusive answer to the petition is that the supreme court, in the town of Sutton case, decided that such a law as is here prayed for would be unconstitutional.

The second prayer is for a law to re-imburse to cities, towns and individuals, the amount paid by them for the purpose of filling quotas.

It will be remembered that towns and cities paid bounties before there was any law authorizing them to raise money for such purpose; but, on the twenty-seventh of February, 1863, a law was passed ratifying their acts. On the seventeenth of March following, a law was passed providing for the payment of bounties by the governor, but expressly forbidding towns and cities thereafter to expend any money for the purpose of paying bounties; and, on the twenty-ninth of April following, the same legislature passed a law re-imbursing to cities and towns the sums paid for bounties in 1862, to an amount not exceeding one hundred dollars for each volunteer. It will be seen that the effect of this legislation was, 1st, to ratify the acts of the cities and towns in offering and paying bounties, which would otherwise have been illegal; 2d, to re-imburse to the cities and towns the sums which they had paid, to an amount not exceeding one hundred dollars for each volunteer; and, 3d, to declare that thereafter, although the governor was authorized to pay bounties in behalf of the State, cities and towns should have no authority to pay them.

But after the legislature adjourned in 1863, there came the great campaign of the summer and autumn of that year, which rendered necessary fresh calls for volunteers, and when the legislature of 1864 assembled it was strongly urged upon them to pass a law, permitting towns and cities to pay bounties. Such laws, accordingly, were passed on the eighteenth and twenty-eighth of March of that year; but, mindful of the fact that in the preceding year a re-imbursement Act for bounties up to that time had been passed, they incorporated into both of

these laws a section providing that no city or town should ever receive from the State any re-imbusement for the expenditures which they might make under these Acts. They announced distinctly by this provision that while cities and towns might pay bounties, they should do it knowing that they could not rely on future re-imbusement from the State treasury.

The Committee cannot believe that the legislature will at any time direct a re-imbusement of expenses incurred by the cities and towns after the distinct and deliberate notice that they should never be re-imbursed. They do not think it necessary, therefore to consider in detail the other forcible objections that may be urged against the passage of a re-imbusement Act. It would do gross injustice to such places as filled their quotas, without large bounties, through the peculiar public spirit, energy and patriotism of their citizens, or to such as managed their affairs with peculiar prudence and economy, while the benefit of the Act would be specially felt by those municipalities in which there was the least public spirit and the greatest mismanagement. It would add many millions to the present heavy debt of the State, and increase the burdens of the people, already great enough, in paying the ordinary expenses of the government, and the extraordinary indebtedness which the war has imposed.

For the reasons thus briefly presented, which are conclusive in the minds of the Committee, of the impolicy and injustice of granting any of the prayers of the petitions, they report that the petitioners have leave to withdraw.

By order of the Committee,

R. M. MORSE, JR., *Chairman.*

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