

From: Dwight Mears <dmears@pdx.edu>
Sent: Thursday, February 1, 2024 2:01 PM
To: Jacob Carlson <Jacob.Carlson@sdlegislature.gov>
Subject: [EXT]: Fw: Feedback on Senate Resolution 701

Dear Jacob,

I saw you listed on the Senate Military & Veterans Affairs site-- I'm sending some feedback on SR 701 that I already provided to Sen. Bordeaux's staff, who I talked to yesterday.

Sincerely,
Dwight Mears

From: Dwight Mears <dmears@pdx.edu>
Sent: Monday, January 29, 2024 4:59 PM
To: shawn.bordeaux@sdlegislature.gov <shawn.bordeaux@sdlegislature.gov>
Subject: Feedback on Senate Resolution 701

Dear Sen. Bordeaux,

I'm a retired Army historian and medal expert, having written [a book on the Medal of Honor](#) (where I criticized awards approved after Wounded Knee), [a law review article on medal revocation](#), and a law review article forthcoming on revoking Medals of Honor for Wounded Knee in the *American Indian Law Review* (where I propose a review by scholarly historians). I agree with the effort to revoke the medals for soldiers who committed crimes at Wounded Knee Creek, or otherwise failed to qualify. However, there are several factual problems with your bill. I've attached my feedback:

1st line: the MoH was not for a deed "so outstanding that it clearly distinguishes the soldier's gallantry beyond the call of duty from lesser forms of bravery," as this requirement did not exist at that time. The 1889 regulations specified that "Medals of honor will be awarded, by the President, to officer or enlisted men who have distinguished themselves in action." Bravery was not a requirement for the medal in 1890 (although it was added in 1892 prior to a few of the officers' medals being approved). The "beyond the call of duty" language did not exist until years later. The precise quotation does not appear anywhere that I can find, so it's not a direct quotation from a period or modern regulation. The 1897 regulation is the closest, which says: "In order that the Congressional Medal of Honor may be deserved, service must have been performed in action of such a conspicuous character as to clearly distinguish the man for gallantry and intrepidity above his comrades—service that involved extreme jeopardy of life or the performance of extraordinarily hazardous duty." But since all of the Wounded Knee medals were issued prior to this time, it would not have applied to them.

4th line: Scholars would disagree with the claim that "no less than three hundred" Natives were killed in the massacre, as the precise number killed is unclear. Most scholars cite a figure

between 250 and 300. Also, most scholarship does not support the claim that Lakotas were stripped of "all belongings," only weapons.

5th line: there should be no brackets at the beginning of the quotation of Miles, as his words were already lowercase at that point the source document in the archives at Yale University. The full sentence was "Then the wholesale massacre occurred and I have never heard of a more brutal, cold-blooded massacre than that at Wounded Knee."

6th line: Modern scholarship demonstrated that these were not the words of Black Elk at all, but rather came from John G. Neirhardt, who wrote a book about Black Elk in 1932 and gave poetic license to Black Elk's words. See Sally McCluskey, "Black Elk Speaks: And So Does John Neirhardt," *Western American Literature* 6 (Winter 1972): 231-42.

7th line: MoH recipients did not exemplify courage at that time, as courage was not required for the award, so that obligation cannot be retroactively applied to them.

8th line: The total number of awards is wrong, which I believe is presently 3,536: Medal of Honor » Medal of Honor Historical Society of the United States (mohhsus.com). Further, this number does not include 859 Army medals of honor that were revoked in 1917 and never restored, which should be included if the argument is about revocation. That would make the total 4,395 medals. The numbers cited for the Korean War and War on Terror are also incorrect. The comparison with later conflicts is inappropriate because the Army's MoH statute was materially amended in 1918, making subsequent awards the same in name only, since it was a different medal after that point. The number of awards adjudicated for Wounded Knee is 19, not 20.

12th line: The MoH Roll is not a listing of recipients, but rather a pension listing that was not enacted until 1916. Since it required medal recipients to be 65 and not federal retirees to be listed, most of the WK medal recipients were never on the MoH Roll, making this inappropriate as a method of name revocation. Rather, the recipients' names should be removed from internal DoD medal lists, not the Roll.

Sincerely,

Dwight S. Mears, PhD, JD (he/him/his)
Reference Librarian
Portland State University