

W. C. SPENCER.

FEBRUARY 11, 1876.—Laid on the table and ordered to be printed.

Mr. TERRY, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the petition of Capt. William C. Spencer, have had the same under consideration, and beg leave to report :

That it appears that Captain Spencer entered the military service of the United States in 1855, as second lieutenant in the Second Infantry ; that he served with marked gallantry during the Sioux troubles in Minnesota in 1857, and continued in the Army on the northwestern frontier until the spring of 1861. In August, 1861, he was promoted to a captaincy in the Seventeenth Infantry. In the spring of 1862 he was on duty with the army under General McClellan in the Peninsula in Virginia, and while in the advance on Richmond he heard of the arrest of his uncle, Judge Richard B. Carmichael, of Maryland, under circumstances of cruelty and outrage which greatly incensed Captain Spencer. He sought redress through the commanding general, which was denied ; he then tendered his sword to his commanding officer, and was placed in arrest ; and being still under arrest, at the second Bull Run, in August, 1862, he performed gallant and highly meritorious service in the field. His health becoming impaired, a sick-leave was granted him, and he remained absent till the 1st of December following, when he was ordered to report for trial, but owing to the absence of one of the witnesses the trial was postponed. Captain Spencer then proceeded to Washington City, and tendered his resignation, which was accepted December 12, 1862.

An imputation of disloyalty seems to have been cast on Captain Spencer, growing out of the indignation he expressed and resentment he showed for the cruel and unwarranted treatment his uncle had received. But this is clearly disproven by the evidence on file with the petition. The question presented in the case is this : should Captain Spencer, even taking into consideration his meritorious conduct as an officer in the service of his country, be restored to his rank in the Army ? In the first place, the justice and propriety of his restoration to the Army is not for the legislative, but peculiarly for the executive department of the Government to determine. The legislative department of the Government should invade the province of the executive department in the matter of restoration or appointment, only in extreme cases, which the facts here do not seem to constitute. In the second place, while the circumstances attending the arrest of Judge Carmichael were well calculated to excite in the breast of his nephew a feeling of indig-

nation, yet they did not warrant either the tender of his sword to his superior, or his subsequent resignation. The fact, therefore, that Captain Spencer voluntarily surrendered his commission, when it appears from his own showing, it was entirely in his power to have maintained his rank in the Army and fully vindicate his honor, does not warrant the exercise of legislative interposition in his behalf.

The committee, therefore, report adversely to the prayer of the petition.

All of which is respectfully submitted.