

ORVILLE BURKE.

JULY 1, 1886.—Laid on the table and ordered to be printed.

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

REPORT:

[To accompany petition.]

The Committee on Military Affairs, to whom was referred the petition of Orville Burke, have carefully considered the same, and report:

That his services were dispensed with properly under the law and orders from the War Department. That he was a good soldier is not questioned; but by his own admission he was not particularly adapted to the cavalry service, which he had selected.

The committee prints herewith his military history, together with the report from the Adjutant-General of the Army.

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, February 18, 1882.

Military history of Orrille Burke, of the United States Army, as shown by the files of this office.

VOLUNTEER RECORD.

Entered service November 6, 1861, as first sergeant Company H, Fourteenth Iowa Volunteers; promoted second lieutenant February 2, 1863, and captain November 19, 1864.

Service: With regiment until taken prisoner at the battle of Shiloh, Tenn., April 6, 1862; prisoner of war to March, 1863, and with regiment until mustered out with company August 8, 1865.

REGULAR ARMY RECORD.

Appointed captain Forty-first Infantry, 28th July, 1866; unassigned 15th May, 1869; assigned to Nineteenth Cavalry, 5th January, 1870.

Service: On regimental recruiting service from November 5, 1866, to August 6, 1867; on permission to delay joining regiment to November 23, 1867; with regiment in Texas to June 25, 1869, when relieved from duty with his regiment, having been placed on awaiting orders at his own request; on duty at Newport Barracks, Ky., from June 30 to July 13, 1869; on recruiting service at Toledo, Ohio, to January 13, 1870; joined his regiment (Tenth Cavalry) February 14, 1870, and served with it at Fort Arbuckle, Ind. T. to May 9, 1870, and at Fort Sill, Ind. T. to January 24, 1871, when he was relieved from duty having been honorably mustered out by General Orders No. 1, of January 2, 1871, from this office (copy herewith), under section 12, act of Congress approved July 15, 1870.

R. C. DRUM,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE,
February 18, 1882.

SIR: I have the honor to return herewith the petition of Orville Burke, late captain Tenth Cavalry, to be placed on the retired list of the Army, and to transmit, in connection therewith, a statement of his military services as requested in the indorsement of Hon. George W. Steele, of the Committee on Military Affairs, House of Representatives, and a copy of the order transferring Captain Burke to the list of supernumerary officers, and honorably mustering him out of service, January 1, 1871, under section 12, act of July 15, 1870.

The selection of Captain Burke as one of the many officers the President was compelled to muster out under the act referred to, was, as stated in the petition, based on the report of the commanding officer of the Tenth Cavalry, that the officer named was totally unfit for the position of captain of cavalry.

It does not appear from the records that Captain Burke was a proper subject for the action of a retiring board at the time of his muster-out.

It was not alleged at that time that his unfitness for cavalry service was the result of any disease or injury; and unless he was incapacitated for service by reason of disease or injury, he was not eligible for retirement under the laws which then existed, and which remain in force at the present time (see sections 1251 and 1252, Revised Statutes, founded on act approved August 3, 1861.

Captain Burke alleges that he was not unfit for his position, except that he was unskilled in horsemanship, and "that the nine years' hard service, together with his age, with the accumulated infirmities incident to said service and age, had somewhat impaired his health and officer-like appearance on horseback;" but he states also that he is now forty-nine years old. If this be so, he was only thirty-eight years old when mustered out, and the records do not show that he was sick at any time during the entire period of his service.

According to the record of his age in this office, taken from his letter of acceptance, he was about forty years of age when mustered out.

Had Captain Burke remained in service, he could not be placed on the retired list, except upon the finding of a retiring board that he is incapacitated for active duty (see sections 1246 to 1252, Revised Statutes, governing the retirement of officers for disability.

Very respectfully, your obedient servant,

R. C. DRUM,
Adjutant-General.

The SECRETARY OF WAR.