

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1890.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 2597.]

The Committee on Military Affairs, to whom was referred the bill (S. 2597) "to remove the charge of desertion against William S. Bennett," have had the same under consideration and report the same back favorably and recommend its passage.

There appears to be no relief obtainable for the petitioner under the general laws, and the equities are sufficient, in the judgment of your committee, to entitle Bennett to the relief asked.

The facts appearing to your committee are as follows:

William S. Bennett went into the service in the war of the rebellion quite young, being at its close hardly of full age. He enlisted in Company C, First Nebraska Cavalry, and was enrolled June 15, 1861; was honorably discharged and re-enlisted as a veteran volunteer January 1, 1864, and deserted while in confinement in the guard-house at Fort Kearney, Nebr., January 9, 1865, under the circumstances and for the reasons which will be stated.

He was in service, therefore, over three years and a half, and fought at Fort Donelson, Pittsburgh Landing, and in several lesser engagements, his record during all the time, until just prior to his confinement and desertion, was good, and his deportment as a soldier without blemish, and secures the commendation of his company officers.

The desertion of the petitioner was provoked by the unsoldierlike, tyrannical, insulting conduct of a captain who, while in the act of presuming to insult a young girl in the presence of her mother and sister, was discovered by Bennett, who was asked to remove the officer. Thereupon the officer denounced Bennett, called him a vile name, and was assaulted by Bennett therefor. This officer at the time appears not to have been on duty and was drunk. For this Bennett was arrested and placed in the guard-house (as he says) for two months or more *without trial*, and from which he then escaped.

The record of the officer assaulted shows that he tendered his resignation October 17, 1864, which appears to be about the time the assault was committed, which resignation was in effect forced, and was accepted. Colonel Livingston, approving his resignation, says:

The good of the service requires the *immediate* acceptance of this resignation. The captain has become the slave of liquor, and when intoxicated *always disgraces his uniform*. Neglect of duty, habitual drunkenness, and conduct, when under the influence of liquor, which is a scandal to the service, imperatively demand that he be allowed to leave the service.

The records also show that this captain "was placed in arrest November 12, 1864, and his limits strictly confined to his private quarters." He was released from arrest on approval of his resignation.

Your committee is of the opinion that under such circumstances the petitioner should have the relief he asks.

The following statements are from claimant under oath, and from his company officers, which your committee ask may be considered a part of this report. Colonel Livingston has been deceased several years.

STATEMENT OF W. S. BENNETT.

PAWHUSK, OSAGE NATION, INDIAN TERRITORY,
November 26, 1889.

I do say that while I was on duty as a guard at Fort Kearney, Nebr., about the last of October or the first of November, in the year 1864, I did go into an adobe house known as the post-office, at Fort Kearney, Nebr., and did see and find one Captain ———, captain of Company K, of the First Nebraska Cavalry, in the act of committing an indecent act in the presence of her mother and sister on one Jenny Nages (I believe was her name), she asking me to take him out. I told her I could not, as he was an officer. He seeing me in their presence told me in these words: "You get out of here, you son of a bitch;" then and there I assaulted him, knocked him down and pounded him good, for which I was arrested, kept in the guard-house for the period of two months or more; I don't quite remember. I broke out—I think it was some time in December—went to the mountains of Colorado, and did not return to be mustered out. During the war of the rebellion I was in the battles of Fort Donelson, Tenn., Pittsburgh Landing, Cape Girardeau, Mo., skirmishes in Jacksonport, Ark.; was disabled by the mumps in the month of October, 1861, while on duty on the Iron Mountain Railroad, Lawson's Station, Mo. This was the first charge that was preferred against me during my soldiering, and for which I think I did right in assaulting my superior officer. My first discharge by reason of re-enlistment as a veteran volunteer was sent to Nat Ward Fitzgerald, and I have not got it. My second discharge, marked by reason of desertion, is in the same hands. I will further state that Captain ——— was drunk at the time I assaulted him and was not doing duty as an officer of the regiment; also, at the time that Colonel R. R. Livingston, the one that preferred the charges against me, was my enemy at the time of trouble, did not think I would get a fair trial, and for this cause only I deserted.

You can ask of Governor Alvin Sanders, if he is living, as Senator T. W. Tipton got my release of him; did not get it before I left guard-house; also captain of my Company C, Thomas H. Griffon, also T. J. Majors, W. E. Majors, and a number of others of the old First Nebraska Veteran Volunteer Cavalry, if they are living, as to the truth of this statement.

WM. S. BENNETT,
Company C, First Nebraska Veteran Volunteer Cavalry.

Subscribed and sworn to before me this 26th day of November, 1889.

L. J. MILES,
U. S. Indian Agent.

STATEMENT OF COMPANY OFFICERS.

PERU, NEBR., February 19, 1890.

General MANDERSON, U. S. S.:

My attention has been called to your laudable effort to remove the stigma of desertion attached to the name of Wm. S. Bennett, a former soldier of my old Company C, First Nebraska Veteran Volunteer Cavalry.

I personally know Mr. Bennett to have been a good, brave soldier. The foundation facts which you present in your memorial for his relief are substantially true.

Captain ——— was insolent, arbitrary, and unreasonable while drinking. The trouble arose while he was in a maudlin state of intoxication.

Mr. Bennett did not resist an officer in the legitimate discharge of his official duties, but resented the insults of an intoxicated officer outside of his official capacity. It was therefore not insubordination on the part of W. S. Bennett, but the assertion of independent American manhood in the defense of a lady and himself that caused the difficulty which resulted in his leaving the army.

Mr. Bennett had served faithfully with his company and regiment for over three years, or until the war was practically over, and was then forced out with this blotch

upon his good name, rather than lie imprisoned to await a trial for insubordination, because of the unlawful and unjustifiable act of a drunken official. He should have the relief sought, and I hope you may be successful in freeing his name from the stain of desertion, which now mars his otherwise good record.

Very respectfully, etc.,

THOS. J. MAJORS,
Late Captain Company C.

The above statement we freely and fully verify as true, having no other interest than to do justice to an old comrade.

WILSON E. MAJORS,
Late Lieut., Company C, First Nebraska Veteran Volunteer Cavalry.
F. M. MEDLEY,
Sergeant, Company C, First Nebraska Veteran Volunteer Cavalry.
F. L. PROUTY,
Private, Company C, First Nebraska Veteran Volunteer Cavalry.

○